

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 30th November, 2011

The House met at 2.30 p.m.

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

PRAYERS

QUESTIONS BY PRIVATE NOTICE

MEASURES TO REDUCE PRICE OF MAIZE FLOUR

(Mr. Kiuna) to ask the Deputy Prime Minister and Minister for Finance:-

(a) Why has the price of maize flour not reduced yet the price of maize has gone down?

(b) What measures is the Minister taking to ensure that the price of the commodity is reduced?

The Temporary Deputy Speaker (Mr. Imanyara): Member for Molo! He is not in? We will revisit the Question a little later. Member for Baringo Central!

MONTHLY COUNTRYWIDE CONSUMPTION OF PETROLEUM PRODUCTS

(Mr. Mwaita) to ask the Minister for Energy:-

(a) Could the Minister provide a breakdown on consumption of all petroleum products in the country on a monthly basis?

(b) What criterion is used by the Energy Regulatory Commission (ERC) in determining the prices of petroleum products?

(c) What measures is the Minister taking to cushion Kenyans against the spiraling prices of petroleum products?

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, I have just been made to understand that Mr. Mwaita is in hospital. He was taken to hospital this afternoon. His Personal Assistant (PA) has just reported to me that he was expected to raise a Question here. However, because of that situation I wish to inform the Chair of it. I just got the information about 30 minutes ago.

The Temporary Deputy Speaker (Mr. Imanyara): In those circumstances, obviously, we cannot proceed with this matter. I will defer it to such time as the hon. Member will be out of hospital.

(Question deferred)

SUSPENSION OF LICENSING OF 14-SEATER *MATATUS*

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Transport the following Question by Private Notice:-

(a) Why has the Government halted the registration of the 14-seater '*matatus*' since January 2011?

(b) Is the Minister aware that the directive is already negatively impacting on the livelihoods of over 60,000 young persons, who are directly employed in the sector?

(c) Could the Minister consider rescinding the directive?

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, there is a small typographical error because the Question was meant to be on "licensing" but it is indicated as "registration". Fortunately, the answer is talking about licensing and registration.

The Temporary Deputy Speaker (Mr. Imanyara): The Question shall stand corrected. The Minister for Transport!

The Assistant Minister for Transport (Mr. Ogari): Mr. Temporary Deputy Speaker, Sir, I am not sure whether that correction will alter the answer which the hon. Member already has; all the same I will reply and then, maybe, he could raise issues later on.

I also wish to draw the attention of the House and the Chair to the fact that I answered a similar Question sometime back. This was Question No.820 by hon. Mithika Linturi of Igembe South. All the same, I will proceed to answer.

The Temporary Deputy Speaker (Mr. Imanyara): When did you answer the Question last time?

The Assistant Minister for Transport (Mr. Ogari): Mr. Temporary Deputy Speaker, Sir, it was Question No.820, but I cannot remember exactly when I answered it.

The Temporary Deputy Speaker (Mr. Imanyara): Was it within the last six months?

The Assistant Minister for Transport (Mr. Ogari): Yes, it must have been.

The Temporary Deputy Speaker (Mr. Imanyara): I need to get some clarification from the Clerks-at-the-Table on the circumstances under which it has come back onto the Order Paper. While I get that clarification, I will go to ordinary Questions. I need to satisfy myself that it is properly on the Order Paper.

ORAL ANSWERS TO QUESTIONS

Question No.1015

PROVISION OF FREE/AFFORDABLE CANCER TREATMENT

Mr. Mututho asked the Minister for Medical Services what measures the Government will take to provide free and/or affordable cancer treatment in the country, in view of a likely major upsurge of cancer due to various exposures, including aflatoxin, within the next decade.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The Ministry is implementing several short and long term measures to make cancer treatment accessible and affordable in the country. The short term measures are as follows: We have commenced the process of decentralizing cancer treatment. In this regard the following activities have been carried.

1. Two satellite oncology/cancer clinics have been established at the Coast and Nyanza Provincial General Hospitals and both are functioning. Other centres will be established in due course.

2. Eight medical doctors from provincial hospitals have been seconded to Kenyatta National Hospital (KNH) for training as radiation oncologists. Plans are also underway to train other technical support staff in the field. With regard to therapy technologists, these will raise the number of specialized oncologists, who will then be seconded to other peripheral cancer care centres.

3. The Government has recognized the threat caused by the non-communicable diseases that include cancer. In this regard, the Government has allocated Kshs300 million for procurement of cancer equipment in the current financial, year 2011/2012. This will assist the Ministry in decentralizing cancer treatment in the country. It is our expectation that allocation for cancer management will become a regular feature in the national Budget in the years to come.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kazungu, how long is that statement you are reading?

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Temporary Deputy Speaker, it is long. It has both the short and long term measures.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Assistant Minister! You know the Chair has ruled on many occasions that answers should be in a summary form. If you want to give a Ministerial Statement you can do so, but this is Question Time. So, the answer ought to be in summary. It has to be in a manner concise to enable the Questioner ask supplementary questions. If you give a ten-page answer to a Question, you do not do justice to the Questioner. Please, summarize your response within the next one minute.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Temporary Deputy Speaker, it is not possible to summarize because the Question is a bit detailed. I thought it would be unfair if I just touched on some of the issues.

The Temporary Deputy Speaker (Mr. Imanyara): In that case you will table your answer, so that the hon. Member gets time to go through it. Mr. Mututho, would you like to comment on that? It is the practice. The Chair has consistently said that Ministers must not take Question Time as an opportunity for giving Ministerial Statements.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I think you are right in a way because the cardinal---

The Temporary Deputy Speaker (Mr. Imanyara): It is not what you "think". I am telling him what the position is!

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I concur.

The Temporary Deputy Speaker (Mr. Imanyara): So, table the answer, Mr. Kazungu! The hon. Member will take his time; the Question will be put on the Order Paper---

Mr. Mututho: I am ready to proceed!

The Temporary Deputy Speaker (Mr. Imanyara): Table that answer!

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Temporary Deputy Speaker, Sir, I had given him a copy, but I can still table my copy.

The Temporary Deputy Speaker (Mr. Imanyara): Summarize your response and then table it!

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Temporary Deputy Speaker, Sir, basically, there are some facilities which are in operation. Some are in Coast Province and Nyanza Province. We were given about Kshs300 million in the Budget, which we are expected to use to buy equipment. We have already started the process of procuring this equipment.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister said that they will have only two oncology centres. He has not taken cognizance of the fact that we passed a Bill just this week on free cancer treatment. He has not taken cognizance of the fact that there are 28,000 cases per annum. Because of us abusing aflatoxins, GMOs and other stuff, we are likely to have, maybe – and God forbid – excess of 280,000 patients. The two centres are not adequate. Is it because you, Mr. Assistant Minister, are running a cancer centre in this whole exercise and you would like to continue being in business while Kenyans are dying?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, as an Assistant Minister, I do not run a cancer centre. The Minister for Medical Services has a foundation for cancer, and I do not know whether there is a conflict of interest in that or not.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, in his answer, the Assistant Minister says that arising from the National Cancer Control Strategy there is a draft Cancer Bill that is due for discussion by the Cabinet. We had passed a Bill here and the Ministry was in concurrence with it. Is the Assistant Minister saying that they are preparing another Bill?

The Temporary Deputy Speaker (Mr. Imanyara): Has it been passed or is it at some stage between Second Reading and Third Reading?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, it has passed the First and Second Readings. So, it is going to the Committee Stage.

So, is the Assistant Minister talking about a different draft Cancer Bill when the Government is supporting the Bill that has already been discussed in this House?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, before the Cancer Bill came to this House, we had already, as a Ministry, prepared a Bill, and it was to go to the Cabinet. Whichever Bill the House will approve we will accept it. We will take it as our Bill.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister said in his answer that the National Hospital Insurance Fund (NHIF) has plans to put up a specialist hospital at a plot in Karen to serve its members. Why should all the facilities be in Nairobi? Why can the Assistant Minister not consider shifting some of these facilities to another place? For example, why can they not build that cancer specialist centre in Tana River County?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, it is the Ministry's wish that now that we have devolved our services, each of the counties need to have a cancer facility. This, however, largely depends on the Budget the House is going to pass.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I refer to the answer by the Assistant Minister in which he said that there are two satellite oncology cancer clinics; one in Coast Provincial Hospital and the other at the Nyanza Provincial Hospital. The Assistant Minister must be aware that machines for early detection and treatment of cancer were installed at the Coast Provincial Hospital and also Nyanza Provincial Hospitals, but they were not operated because of lack of oncologists, that is, people who are trained to man these machines, until they became obsolete. Of what use are these centres if they cannot detect cancer early and enable patients to be treated?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, I said that we are training about eight doctors. They are currently undergoing training at the KNH. We will post them once they graduate. This is a specialist area.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, cancer is becoming one of the greatest killers in this country. We would like to see what the Ministry is going to do in terms of educating Kenyans, particularly on exposure causes. What is causing all these problems? What are you doing as a Ministry to educate Kenyans, so that they avoid exposing themselves to this problem?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, there is aflatoxin which actually--- We have written to the Ministry of Agriculture telling them that we should reduce aflatoxin in the genetically modified maize that has been imported into this country.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, considering that cancer is becoming endemic – it is increasing every now and then - so many poor people in the countryside are affected as well. What is the Ministry doing to subsidize, or, at least, pay for the poor patients who are victims of this disease?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, we have the Health Care Insurance Bill which is before the Cabinet. Once it is approved, it will come to this House. Once the House approves it, then we will arrest this problem. As a Ministry, we believe that we should arrest a problem even before it becomes an emergency.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has indicated that the Ministry has considered decentralization of cancer services to Coast and Nyanza provinces. What programmes does he have for the central region where we have a high population---

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Member! He dealt with that matter. He answered that aspect. Last question, Mr. Mututho!

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I concur with the Assistant Minister's answer. One of the principal causes of cancer in this country is cancer associated with change of genes. You heard the Assistant Minister mention GMO. This means reconstruction of DNA to that type that is favourable to the plant breeder. When are they going to ban GMO because the potential causes of cancer in this country--- We know that, that DNA changes are listed as the major causes of cancer.

The Assistant Minister for Education (Prof. Olweny): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that GMOs cause cancer? Could he give evidence of any GMO in this world that has caused cancer?

The Temporary Deputy Speaker (Mr. Imanyara): Order, Assistant Minister! If you want to assist your colleague in answering the Question, you are perfectly entitled to,

but the hon. Member is also entitled to ask the Assistant Minister his question. Proceed Mr. Mututho.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I have asked a question.

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, since there was confusion between the Government and the hon. Member, could he kindly repeat the question?

The Temporary Deputy Speaker (Mr. Imanyara): Yes, by all means.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, in the answer, the Assistant Minister has put it that what causes cancer are genes and the DNA. My understanding is that, there is interference with DNA. Genetically Modified-Organisms interfere with DNA and may cause cancer. To what extent do you plan to ban potential GMOs that can cause cancer?

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, the regulation of the importation of GMO is done by another Ministry. However, as a Government, it is our advice that we should not be taking GMO maize as it has a lot of aflatoxins.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question is by hon. Member for Mutito!

(Loud consultations)

Question No.1092

UNDERSTAFFING OF SCHOOLS
IN NZAMBANI/MUTITO DISTRICTS

Order, hon. Members, this is important for all! Letters addressed to the Clerk or the Speaker of the National Assembly of Kenya signed by personal assistants will not be treated as letters. Therefore, the letter purported to have been signed on behalf of Mr. K. Kilonzo by his personal assistant is rejected and it will be treated as not having been brought to this House. If you want your letter signed on behalf of yourself, please get a colleague. There are more than 200 Members of Parliament who are always available. Please, let it be signed by a Member of Parliament if you want the Clerk of the National Assembly to act on your letter. To that extent Mr. K. Kilonzo's Question is dropped.

(Question dropped)

Next Question is by hon. Member for Makadara!

Question No.1144

COUNTRYWIDE SHORTAGE OF ENGINEERS

The Temporary Deputy Speaker (Mr. Imanyara): Is the hon. Member for Makadara not here? I will come back to it later. The next Question is by the hon. Member for Mandera East, Mr. Mohamed Hussein Ali. We will come back to it later.

Question No. 1267

CONSTRUCTION OF SEWERAGE SYSTEM IN MADERA TOWN

Let us go back to Question No.1 by Private Notice. Mr. Kiuna!

QUESTIONS BY PRIVATE NOTICE

MEASURES TO REDUCE PRICE OF MAIZE FLOUR

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, first of all I do apologize for coming late.

I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) Why has the price of maize flour not reduced and yet the price of maize has gone down?

(b) What measures is the Minister taking to ensure that the price of the commodity is reduced?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry for Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, this matter came before the House last week and it had been directed to the Ministry of Trade. The Ministry of Trade then said that they were not competent to answer this Question and that it should be redirected to another Ministry. It was then directed to us as the Office of the Deputy Prime Minister and Ministry of Finance. The Ministry of Finance does not deal with maize. The issues of maize are squarely in the Ministry of Agriculture. This is because it is the Ministry of Agriculture which deals with production, storage and marketing of maize, including its by-products. Because of this, we have written to the Ministry of Agriculture and to Parliament asking them to deal with this issue. We could only have dealt with this issue if we were under a price control regime which is not the case. Since we do not control prices anymore, the issue of why prices should not go down or up is not dealt with by us. So, the Ministry of Agriculture deals with marketing. They are fully in charge and we have asked them to deal with this Question.

Mr. Kiuna: On a point of order, Mr. Temporary Deputy Speaker, Sir. You do remember that last week, I had asked this Question and the Government really avoided answering it. Several Ministries said that the Question was not within the mandate of their Ministries. The Chair on that date ruled that the Government should go and consult, then come up with a satisfactory answer. Today is Wednesday and the ruling that was made has not been fulfilled. Would I be in order to request the Chair to make a ruling on this Question because it seems that it is like a father who is avoiding to provide and protect his children? The Government has the responsibility to protect its citizens.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Last week, I am sure you were in the House when this matter was referred again on the same pretext that another Ministry should deal with it. This country has a Prime Minister who is the coordinator of Government affairs. How long is the House going to be treated to issues of “this Question does not belong here or there” and yet it can be referred to the

Prime Minister to coordinate just like he is coordinating the Government? They are taking the House for a ride. Are they in order?

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. We passed Monopolies Act here which is in possession---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Is it among the issues submitted by the Minister regarding this Question?

Mr. Mututho: Yes, Mr. Temporary Deputy Speaker, Sir. I am the Chairman of the Committee on Agriculture, Livestock and Cooperatives and the issue at hand here is not about maize but about maize flour commonly known as *unga*. The actual problem, as I said, is that just a few monopolies, about four, are controlling the prices. Monopolies Act---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mututho, you are on a point of order!

Mr. Muthama: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Minister misunderstood the Question itself. The Question is not about the shortage or storage of maize but about the high cost of flour. If the Ministry of Finance is not going to come up with an answer on how the high cost can be reduced, then I do not know how the Ministry of Agriculture will come up with an answer on the cost of maize flour.

The Temporary Deputy Speaker (Mr. Imanyara): Be that as it may, Mr. Mungatana last point of order on this!

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. Last week when this matter came before the House, the Chair directed that it is the Ministry of Finance that should come and give an answer in the House. There were very strong submissions from the Minister of Trade on that particular day. Therefore, with the directions from the Chair that this Question should be answered by the Minister for Finance and him failing to answer it today, will I be in order to ask the Chair to invoke Standing Order No.97 because now it is clear that the Government is playing? It is not willing or is failing to answer the Question.

The Temporary Deputy Speaker (Mr. Imanyara): I got what you are saying. Dr. Oburu, in order to end this ping pong between different Ministries, we are in the happy situation that we have a Prime Minister who coordinates and supervises Government activities. I am, therefore, directing that this matter together with the HANSARD of the three previous occasions that the Question has come before the House be placed before the Rt. Hon. Prime Minister today, for him to give directions as to which Ministry will answer this Question. The Question will be on the Order Paper next week on Thursday at 2.30 p.m.

(Question deferred)

The next Question is by the hon. Member for Juja, Mr. Kabogo. The Minister was going to establish whether, indeed, this is the Question that he answered less than six months ago.

Mr. Minister, what did you establish?

(The Clerk consulted the Chair)

Yes, I understand that it was not answered, so you may proceed.

SUSPENSION OF LICENSING OF 14-SEATER *MATATUS*

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Transport the following Question by Private Notice.

(a) Why has the Government halted the registration of the 14-seater *matatus* since January 2011?

(b) Is the Minister aware that the directive is already negatively impacting on the livelihoods of over 60,000 young persons, who are directly employed in the sector?

(c) Could the Minister consider rescinding the directive?

The Assistant Minister for Transport (Mr. Ogari): Mr. Temporary Deputy Speaker, Sir, I had earlier noted two issues; first that there was a similar Question earlier, but after consultations with the Clerk and the hon. Member, we have agreed that there are substantial differences between the two Questions. The earlier one was emphasizing on the motor vehicles themselves but the current Question by Mr. Kabogo is to do with the employment of the youth. Considering the interest elicited, we shall proceed and answer the Question. However, we have also noted that there is an error in the Question; instead of “licensing”, it is talking about “registration”. I am not aware of any roadworthy vehicles which are 14-seaters---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Kabogo said that it was an error.

The Assistant Minister for Transport (Mr. Ogari): Mr. Temporary Deputy Speaker, Sir, we have agreed that we revisit the issue as we consult further then I will come with the answer tomorrow.

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

Mr. Kabogo: It is partly correct, Mr. Temporary Deputy Speaker, Sir. He had indicated that he wants to come on Thursday but I am happy with tomorrow. There is also the error on the number of the affected youth. It is supposed to be 600,000 and not 60,000 assuming that there are 300,000 *matatus*.

The Temporary Deputy Speaker (Mr. Imanyara): So, the Question is deferred to tomorrow afternoon.

Mr. Kabogo: Thank you, Mr. Temporary Deputy Speaker, Sir. Much obliged.

(Question deferred)

The Temporary Deputy Speaker (Mr. Imanyara): The next one is Ordinary Question by the hon. Member for Makadara!

ORAL ANSWERS TO QUESTIONS

Question No.1144

COUNTRYWIDE SHORTAGE OF ENGINEERS

The Temporary Deputy Speaker (Mr. Imanyara): Is he not here? Then that Question is dropped!

(Question dropped)

The next Question is by the hon. Member for Mandera East.

Question No.1267

CONSTRUCTION OF SEWERAGE SYSTEM IN MANDERA TOWN

The Temporary Deputy Speaker (Mr. Imanyara): Is the hon. Member not here? Then that Question is dropped.

(Question dropped)

Next Order!

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Last week, I rose on a point of order and---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Mungatana was on a point of order!

Mr. Mututho: I am on Statements!

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mungatana, what is it?

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Clerks-at-the-Table have called for Statements and yet we still have one more Question under the Prime Minister's Time.

The Temporary Deputy Speaker (Mr. Imanyara): That will come at that opportune moment.

The Chair has just been informed that the hon. Member for Mandera East is actually on official Parliamentary business in Spain. So, rather than dropping the Question, I will defer the Question until the hon. Member comes back and approaches the Clerk to fix a time when the Question may come back on the Order Paper. So, it is not dropped, just deferred.

(Question No.1267 reinstated)

I want to extend the same generosity to the hon. Member for Makadara whom I have been informed is in hospital. If that is the situation and I have no reason to doubt the hon. Member who has brought that information to the Chair, that Question will also be deferred until the hon. Member for Makadara is out of hospital and he could approach the Clerk to have the Question relisted.

(Question No.1144 reinstated)

MINISTERIAL STATEMENT

QUALIFICATIONS FOR HIRING TEACHERS BY TSC

The Assistant Minister for Education (Prof. Olweny): On a point of order, Mr. Temporary Deputy Speaker, Sir. Sometime back, there was a Question here relating to the hiring of teachers, that is, the qualifications that the Teachers Service Commission (TSC) considers for the hiring of teachers. Then it was ruled that I bring to the House a copy of the policy on the qualifications that the teachers have to meet for them to be hired. So, I hereby table a copy of the policy document on how teachers are hired.

(Prof. Olweny laid the document on the Table)

POINTS OF ORDER

SETTLEMENT OF IDPs ON INHABITABLE LAND

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, last week I sought a Ministerial Statement from the Ministry of Lands. I want to know whether it is ready because it was supposed to be delivered today.

The Temporary Deputy Speaker (Mr. Imanyara): Was it supposed to be delivered today?

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

The Temporary Deputy Speaker (Mr. Imanyara): Clerks-at-the Table, where is the schedule of the Statements that are due this afternoon?

*(The Temporary Deputy Speaker (Mr. Imanyara)
consulted the Clerks-at-the Table)*

There is one from the Minister of State for Internal Security and Provincial Administration. According to the schedule, it is the only Statement to be delivered today.

QUARTERLY BUDGET REVIEW

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, there was also one on Quarterly Budget Review which may be missing. It was listed to be issued today. I see the Assistant Minister for Finance here. If he is not ready, maybe, he could give us an indication of when it will be ready.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Oburu, is that the position because the schedule for today does not indicate that you were due to make a Statement? Mr. Mungatana says you were to issue a statement today. Is that so?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry for Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I was not here when that undertaking was given. I did not promise to issue a statement today.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mungatana, once we get the HANSARD on this, we need to be a bit stricter regarding Ministers who undertake to

issue statements on particular dates and those statements are not delivered. So, I want to use the schedule to know which statement is due today. If any others were due today and they are not on schedule, then you better consult the Clerk, so that we can get things working properly.

Was there another one expected today that is not on the schedule of Ministerial Statements of today?

CONTROVERSY SURROUNDING JUSTICE
AND LEGAL AFFAIRS COMMITTEE

Mr. Baiya: Yes, Mr. Temporary Deputy Speaker, Sir. Yesterday, you issued direction that the Leader of Government Business issues a solution regarding the status of Departmental Committee on Justice and Legal Affairs.

The Temporary Deputy Speaker (Mr. Imanyara): So, Mr. Ojode, that is the only Statement due! Mr. Vice-President, as the Leader of Government Business, you may make that statement.

MINISTERIAL STATEMENT

CONTROVERSY SURROUNDING JUSTICE AND
LEGAL AFFAIRS COMMITTEE

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, thank you and I wish to make the following Statement: As hon. Members will be aware, the Departmental Committee on Justice and Legal Affairs has experienced operational difficulties dating way back to February this year. Many attempts have been made to resolve the problems and diverse parties have been involved for over a very long time and whose efforts were meant to bring normalization of the business of the Departmental Committee on Justice and Legal Affairs. The issue has remained a key matter for consideration during the Sittings of the House Business Committee (HBC) since April this year when it was first brought to its attention.

This situation has obviously taken inadvertently long to resolve and has clearly adversely affected the ability of the Committee to consider Bills, vetting of appointments and other legislative business. Moreover, the standoff has prevented the House from benefiting from the capacity, experience and a lot from this very important Committee, especially in matters related to the implementation of our Constitution.

During the Sitting held on Tuesday, 22nd November, 2011, the HBC was informed that the joint Government chief whips were having consultation on how to resolve the matter and they were making commendable progress and that they were to report the outcome of those consultations during the HBC Sitting of yesterday, Tuesday 29th November, 2011. Indeed, during our Sitting yesterday and you are a witness to this, the two Whips informed the Committee that after wide consultations, it had been decided that in order to bring normalcy to the operations of the Departmental Committee on Justice and Legal Affairs, and aware that the composition of the Committee was a matter that had been arrived at in line with the spirit of the Coalition obtaining in our Parliament at the time, the Committee will remain as currently constituted in terms of its membership.

The Committee noted with satisfaction the results of the consultation that had been held by the whips and based on the report of the whips, the HBC resolved to adopt an agreement reached by the whips in order to maintain the *status quo* in the membership of this very important Committee as follows:-

The hon. Ababu Namwamba, MP
The hon. Millie Odhiambo-Mabona, MP
The hon. Isaac K. Ruto, MP
The hon. Olago Aluoch, MP
The hon. Sophia Abdi Noor, MP
The hon. Amina Abdalla, MP
The hon. Mutava Musyimi, MP
The hon. Mohamed Abdikadir, MP
The hon. Eugene Wamalwa, MP
The hon. George Nyamweya, MP
The hon. Njoroge Baiya, MP

The Committee will be facilitated to expeditiously deliberate on the business falling within its purview in order to facilitate the implementation of the Constitution. In addition, the whips will have a consultative meeting with all the Members of this Committee tomorrow, Thursday 1st December, 2011.

I wish to urge Members of the Committee to put aside their past differences, build mutual trust and create a conducive working environment in the interest of the people of this great nation.

Thank you!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I am very surprised by this Statement from the Leader of Government Business. Under which order or powers does he force members who have actually resigned by writing letters to continue being members of this very important Committee? It is in public knowledge that Messrs Wamalwa and Namwamba have, in fact, resigned from that Committee. How does he want the Committee to function when we know that these hon. Members have resigned? Can he really force a Member of Parliament to do something if he does not want? Again, is he helping the House because we still need people to be vetted? I need a clarification on this.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Vice-President, let us listen to the other points of order and then you can respond.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, just like my learned friend, Mr. Mungatana, I am also surprised at this turn of events. As far as the House is concerned, the ODM as a party has withdrawn its membership from this Committee. To that extent, therefore, this Committee does not exist anymore. As things are now, it does not exist. It is illegal. What needs to be done would be for the names to be brought by way of a Motion to this House. To do that, we would have to comply very strictly with Standing Order No.160 as read together with Articles 1, 2, 4(2), 10, 94(4) and 124 of the Constitution.

Basically, the sections talk of procedure of nomination of Members to House Committees, looking at the strength each party. It is, therefore, not right that the Leader of Government Business should purport to reconstitute this Committee the way they have tried to do. That is not right. I kindly urge you not to accept the list that has purported

been brought to the House this afternoon, so that the Leader of Government Business goes back to the HBC, consults again properly and widely as was said by Mr. Kimunya last time and then brings the names, according to Standing Orders.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, although I agree with the Vice-President because he has made a statement of fact, the Committee is in existence only to the extent that if there is any hon. Member who has written a resignation letter and signed, that Member should immediately be replaced according to Standing Order No.169. It says such member should be replaced within seven days upon leaving the seat. Maybe, we need an apology from the HBC for not having replaced those people within seven days after they resigned.

I also want to correct an impression created that there was any mistrust amongst the Members of the Committee. There was never any mistrust! We simply moved a vote of no confidence in our Chairman according to the Standing Orders and we simply expected to proceed. Nevertheless, we are willing to let bygones be bygones and proceed with the important business of the House. I want to concur with the Vice-President and we should then be immediately facilitated to proceed.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, you are on record as having told us that if this matter will not look like it was moving forward, you will make a ruling. Having listened to the points of order and, especially the one by Mr. Olago, the time for you to make that ruling is now. He is not only a Member of this House, but he is also a Member of the ODM. He is also one of the Members who have been recommended by his party and he is saying that he is not aware. He says that he has not been consulted. That means that we are taking this House back to where it was those many months ago at the beginning when we could not have the Committee functioning. This being the case, let us accept that the Chief Whips are unable to do sufficient consultations, that the HBC has done its best. I urge the Chair to make its decision. If necessary, we will then ventilate on your decision.

I invite you!

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I would also like to acknowledge or appreciate the move by the HBC with regard to getting back to life this Committee. The only concern that I have is that the HBC should ensure that Standing Orders are clearly followed. I am not aware of any rule under the Standing Orders pursuant to which a political party having appointed its own members can withdraw them

(Applause)

There is no Standing Order saying so. The only issue that would arise is for Members who have actually resigned in writing. As far as I am aware, it is only one Member who has done so in writing and left. We will, therefore, also ask that the HBC ensures that as per the Standing Order No.176, the Member who has resigned in writing is replaced as soon as possible. Otherwise, there has been no disagreement as such within the Committee. It is Parliament itself through the HBC that literally paralyzed this Committee by depriving it even the secretariat services.

The Temporary Deputy Speaker (Mr. Imanyara): Before the Vice-President responds, I would like to hear what the two Joint Whips are saying with regard to the issues that have been raised.

Mr. Muthama: Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank the HBC for assisting us. The issue on the Floor of the House was exhaustively discussed. We came to an agreement, my co-whip and I, that the Committee should be reinstated and allowed to work as it was without replacing a name or making judgment. As to the letters that were written by some Members to say that they resigned, the HBC has come to a conclusion that we will not discuss those letters. The Committee should get back, sit down and deliberate on their business. Indeed, if there will be one Member who will not be interested to serve in that Committee, it is up to the Chairman or Vice-Chairman to inform the HBC that, that person is not willing to serve in that Committee. That is the agreement reached!

We should be given credit! This has been an outstanding issue for a very long time. It has turned out to be extremely difficult to resolve it but we have come up with a solution. There is a way forward and it is up to the Committee now to take the challenge, sit down and do their business. If there are problems, they should come back to us and we will be more than willing to deal with it. We have also had to get involved to bring these warring teams together. If there are difficulties, we will solve them. This is the way forward, but there are no difficulties.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I want to agree with my co-whip that after months and months of deliberations on this issue, we felt that it is only fair to the country to move forward. As I walked in, Mr. Baiya was submitting on the Floor something which I thought is not what we are trying to do. It is important to say, so that we know. What we have done, in summary, is to say that this Committee needs to sit down and work as it were. Therefore, to suggest that one Member resigned or one is not there, that is not my understanding and I will be disagreeing, but I do not wish to prolong this matter. If we are going to have this Committee as it was, it means the Committee – these are adults who understand issues facing this country - needs to sit down under the Chairmanship of one Ababu Namwamba. That is what *status quo* means! If it means something else, I will not be part of that but we want, wish and hope that this Committee and the individual Members rise above squabbles and guide this country for the remainder of our term and, especially with regard to the implementation of the new Constitution. But what we said and that is in the minutes of the HBC, that needs to be the *status quo* of the Committee. It important to note that even the said letter or any other letter were written in squabbles. There were many letters written and even Mr. Olago and Mrs. Odhiambo-Mabona wrote to me. They all said that they are not Members of that Committee. So, we are not solving anything if what I have heard Mr. Baiya trying to intimate is what they think because that way we will end up where we started. So, I wish that they can find it in their heart and know that they are not the only Members in this Parliament. This country is looking for leadership and they could help us so that we lessen the work of the sister Committee led by Mr. Abdikadir.

Thank you!

The Temporary Deputy Speaker (Mr. Imanyara): As you respond, there is a particular aspect of your statement that appears to suggest that the success of these efforts will be dependent on a meeting of that Committee that will take place. You can clarify that issue now, and specifically what will happen if that meeting does not take place.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, allow me to thank hon. Mungatana, hon. Oluoch Olago,

Isaac Ruto, hon. Dr. Khalwale who is a Member of the House Business Committee and hon. Baiya for their contributions. The Leader of Government Business is not standing and speaking on his own behalf. He is only conveying a very firm decision by the House Business Committee that progress has to be made. This is the case. If I can start with your concern, the decision I have just communicated and handed over to the Clerks-at-the-Table is final as far as the House Business Committee is concerned. It is on maintenance of *status quo*. We did not need a Motion as my friend, hon. Oluoch Olago, would like us to believe; that we should come back here with another Motion, when, indeed, we are saying the Committee as constituted should proceed. That is what the House Business Committee recommends. Therefore, we want to make progress. The country is watching. I think this matter has taken very long. I want to congratulate the whips because they have really tried. They have tried their best to get the work of this Committee going. One time I was able to meet with the Members of the Committee. I left them feeling that we had made progress only to find that it was like a see-saw kind of a game. This time round, this decision is final and it is a decision of the House Business Committee. We expect the Committee to get on, whether or not the whips meet with them tomorrow or not is immaterial. It is just that we think that it is a good thing that they meet and begin to work together. We, therefore, ignored any resignations, withdrawals and such like things.

My learned friend, Oluoch Olago, expressed surprise but I want to tell him that his own whip is the one who brought his name after consultations. We think that consultations, across the board, took place. I know that the Speaker who is currently in Bujumbura, Burundi wrote before he left and felt that we must bring this matter to a conclusion. He was otherwise, going to issue a communication, Mr. Temporary Deputy Speaker, from where you are sitting. I, therefore, think that the country should take it from us, in the House Business Committee, that we mean business. I want to urge the Clerk to facilitate expeditiously, the work of this Committee.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Thank you very much. Hon. Members will recall that yesterday, I indicated that this is not a matter that we should let go beyond today. The Vice-President and Minister for Home Affairs says that that Committee will be sitting. My direction is that the Committee sits today and submits their report to the office of the---

(off-record)

Hon. Members you will recall that yesterday, I indicated that we need to handle this matter once and for all. The country is waiting. We are behind in the implementation of the Constitution. Timelines have passed due to the inability of this House, through one or two of its Committees to perform its tasks in accordance with the Constitution. This is not a matter that we can let drag on beyond today. Therefore, I am directing that the meeting that the Leader of Government Business is referring to takes place this evening and a report is submitted to the Speaker of the House by 10.00 a.m. tomorrow so that further directions can be given tomorrow at 2.30 p.m.

The Rt. hon. Prime Minister, I seek your indulgence a little bit. There was a communication that the Speaker had indicated would be given in connection with matters that appeared last week. That communication, although has been prepared in draft form, I

have not had the privilege of going through it to see whether it needs any corrections. Therefore, the Rt. hon. Prime Minister, we seek your indulgence so that that statement can be made next Wednesday. However, today, you may continue with your time.

THE PRIME MINISTER'S TIME

QUESTION

Question No.QPM/016

USE OF DRUGS MONEY TO FUND KENYAN POLITICS

Mr. Mungatana asked the Prime Minister:-

(a) Could the Prime Minister clarify the extent to which Kenyan politics is being funded by drug money, particularly whether the funds are channeled to political parties or specific candidates and provide the names of such individuals or parties?

(b) What amounts are involved and what action has the Government taken to have this matter investigated and culprits brought to book?

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I beg to state as follows:-

(a) I am not in a position to clarify the extent to which Kenyan politics is being funded by drug money. These are illicit transactions for which there are no official and accurate records. I am not able to indicate, if any, which political parties and specific politicians have been beneficiaries of proceeds of drug trafficking. To do so would be speculative.

(b) There is no definitive study which has been conducted so far that indicates how much money is generated from the distribution and consumption of drugs in Kenya. There is equally no definitive study which provides evidence of the extent to which Kenyan politics is being influenced by drug money. It is also not possible to provide definitive proof that the activities of political parties or politicians are being funded with proceeds of trade in illegal drugs.

A recent study by Mr. Peter Gastrow of International Peace Institute entitled; "*Termites at Work: Transnational Organized Crime and State Erosion in Kenya*", published in September, 2011 indicates that several international drug trafficking networks operate in Kenya. The report further claims that there is a trend by these networks to use drug money to attain positions of influence, particularly, in the politics of Kenya.

The report, however, does not provide definitive evidence to support this claim except to refer, in a footnote to allegations contained in an unsigned article in *Kumekucha.blogspot.com*. The material in the blogosphere, which is not admissible in this House, the article which does not have the author's name or is entitled; "*Visa Ban and Drug Barons in Government*," makes the allegation that hon. John Harun Mwau funded the ODM and PNU campaigns in the year 2007 General Election.

Hon. Harun Mwau is a Member of this House and is free to confirm or deny these allegations. The article also makes allegations that hon. Kaluki Ngilu's 1997 presidential campaign was the best financed presidential campaign ever in Kenya having received money from very deep pockets in the United States of America. By targeting hon. Ngilu and hon. Mwau, two leading politicians from the same region, the article reeks of mischief.

Mr. Temporary Deputy Speaker, Sir, as indicated in the "a" above, there are no official records of the amount of drug money used to fund the Kenyan politics. The Government has established an Anti-narcotic unit of the Kenya police to deal with investigations of drug related offences.

The Government has also established the National Campaign Against Drug Abuse (NACADA) to spearhead the campaign against drug abuse. A study by NACADA dated March, 2010 on survey on drugs and substance abuse in Coast Province of Kenya provides important baseline information on drug abuse in districts of Mombasa, Kilindini, Kwale, Malindi and Lamu. The report outlines the widespread abuse of drugs in those districts and makes recommendations to the tackling of this drug menace.

Mr. Temporary Deputy Speaker, Sir, I will table the NACADA report. This has enacted several laws to deal with this menace such as the Narcotics and Psychotropic Substances Act and the Alcoholic Drinks Control Act. The Political Parties Act requires all political parties to declare to the public all sources of their funding, including money or donations received from its members and supporters, and to keep proper books and records of their finances.

Mr. Temporary Deputy Speaker, Sir, I beg to table the NACADA report and also the report by Peter Gastrow.

(Mr. Raila laid documents on the Table)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Mungatana, before I give you the opportunity to seek your clarification, I need to caution Members that the Hon. Prime Minister had made specific reference to two hon. Members of this House. I want to bring to your attention that there are provisions in the Standing Order that set out the manner in which you may debate the conduct of a Member of Parliament through a substantive Motion. So, as you seek clarifications from him, please, be alive to the Standing Orders of the House when you make any statement that impugne the character of a Member of Parliament.

Mr. Mungatana: Thank you, Mr. Temporary Deputy Speaker, Sir. Thank you, hon. Prime Minister, for your answer. I would like to state the background of this question which is allowed under the Standing Orders. It arose from remarks he made in Nairobi on 4th October, 2011 when he was launching the report that he referred to by Peter Gastrow, a report on Transnational Organized Crime and State Erosion in Kenya.

Mr. Temporary Deputy Speaker, Sir, I will table that report that he referred to---

Mr. Mwau: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, hon. Mwau?

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, I understand that the Members are trying to discuss the Report by Peter Gastrow titled: "*Termites at work*". That is a

matter that is already pending before the High Court. I would want to give a copy with a suit that I had filed. This particular notice of Motion was filed on 14th October, 2011 and it relates to the content that is contained in that report by Peter Gastrow. It is a reproduction of the earlier report which was tabled here on purported criminal complaint by Michael Ranneberger. This report was reproduced while this matter was still pending in court. So, it was *sub judice*. I believe to discuss the same report or to table that report before the House at this point is still *sub judice*.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mwau, would you like to table the document that you are holding so that the Chair may have a look at it.

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, allow me to table it.

(Mr. Mwau laid the document on the Table)

The Temporary Deputy Speaker (Mr. Imanyara): Yes, I need to see it. Hon. Prime Minister, I have looked at the documents that you have tabled, it is referred to as “uncorrected proof”. I do not know whether that is the document that you filed. If it is “uncorrected proof” then it might not meet the requirements of the Standing Orders. I would like to hear what you have to say before I make a ruling on it. It is understood, you may not have heard me. I said the Hon. Prime Minister has tabled a document here. It says:

“Uncorrected Proof, 9.28, *Termites at Work*, a report on Transnational Organized Crime and State Erosion in Kenya”

I just want to get a confirmation from him that it is, indeed, uncorrected proof, before I rule on the admissibility of this document.

With regard to the report of NACADA, on the face of it, it does appear to come from the NACADA. So, that one, I will allow it. However, I would like to hear your comment regarding this “uncorrected proof”.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, the document that you are holding is the one that I was given. That is the form in which it was given to me.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Mungatana you will appreciate that these are grave matters that the Chair----

(Mr. Mungatana stood up in his place)

I will give you an opportunity to be heard on it! Yes, may I hear you?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir.

Mr. Mwau: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Let me hear the point of order!

Mr. Mwau: Protect me, Mr. Temporary Deputy Speaker, Sir. As long as that report is a matter in court, we cannot discuss it!

The Temporary Deputy Speaker (Mr. Imanyara): Order! I want to hear, hon. Mungatana!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to make a comment on the issue raised by the Hon. Prime Minister on that document. As I look at, it is the same document as the one I have here. It was downloaded from the internet.

Mr. Temporary Deputy Speaker, Sir, the House has had opportunity in the past to accept documents downloaded from internet so long as someone can correctly refer to a proper website. This particular website is from the IPI, an international institute, where I am sure the Prime Minister downloaded the information.

Mr. Temporary Deputy Speaker, Sir, so long as a Member of this House can satisfy that this House has ruled that those documents are acceptable--- Indeed, when we were dealing with this matter of the Ilchamus group whose case was pending before Addis Ababa, a document was downloaded and it was accepted. So, we need to move on so that we can tackle the issues.

As to the issues hon. Mwau is raising about the *sub judice* rule that also has its own procedures which we will respond to. But I think the document the Prime Minister has laid on the Table is the same as what I have here. If it is proper for us to go into the discussion---

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I need to satisfy myself that this document, indeed, meets the threshold that has been set out by the Speaker with regard to the documents that are tabled in the House.

With regard to the High Court civil case, Civil Suit No.126 of 2011, Mr. Mwau I would like to get from you, what is the status of this case? It does, in fact, refer specifically to this report.

Mr. Mwau: It was in the court yesterday and the court gave it another date of 19th December and that is when we are going back to court.

The Temporary Deputy Speaker (Mr. Imanyara): With regard to that too, the Chair needs time. On the basis of information that has been supplied, I need to give a considered ruling on this aspect and I will do that tomorrow at 2.30 p.m. to enable Mr. Mungatana to pursue this matter either tomorrow or at a subsequent date. Prime Minister, you may go to the next statement.

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to get some clarification from the Prime Minister not in any manner touching on what you are about to rule on---

The Temporary Deputy Speaker (Mr. Imanyara): Except that I would like the Prime Minister to respond to the issues raised substantively after I have made a ruling on the admissibility of the document. I do not wish the questions or the statements to be dealt with partly. I want the matter dealt with conclusively in one session. So, if it is an attempt to seek further clarification from the Prime Minister before I give a ruling on these two documents, then it is not admissible.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, it has got nothing to do with the issues which you are saying you will rule on, but it has got something to do with the drugs.

The matters that are substantive, which will be handled tomorrow, have to do with transnational; mine is local; it is about the country. I wanted a confirmation maybe from the Prime Minister whether he is aware of a case in which a Member of Parliament's vehicle that was found carrying *cannabis sativa* somewhere in Busia.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Ruto! Prime Minister, do not respond to that. After I have made a ruling on the documents, all the issues that you want to raise will come up at that time. Prime Minister, you may now proceed.

Mr. Mwau: On a point of order, Mr. Temporary Deputy Speaker, Sir. As you make your ruling, that report that---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Listen to the hon. Member!

Mr. Mwau: Mr. Temporary Deputy Speaker, Sir, the report entitled: “*Termites at Work*” is not only defamatory to the institution---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Mwau! You may make any submissions on that issue after I have made a ruling on the admissibility of the documents, and also on the issue of *sub judice*. So, Prime Minister, you may proceed to make your statement now.

(Question deferred)

PRIME MINISTERIAL STATEMENT

CURRENT AND PROJECTED WEATHER PATTERNS/ RAINS IN THE COUNTRY

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I want to make a statement on the current and projected weather patterns or rains in the country.

Mr. Temporary Deputy Speaker, Sir, most parts of the country have experienced heavy torrential rainfall. Most parts of the country have experienced heavy torrential rainfall---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Mututho and Mr. Ruto! Please, hear the Prime Minister and give him an opportunity to be heard.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, this is very important to hon. Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, most parts of the country have experienced heavy torrential rainfall, hence the rainfall so far recorded for most parts of the country is well above the mean average for this time of the year. Indeed, some parts of the country, such as the western areas, central highlands, south eastern lowlands and the coastal strip, have received rainfall 200 times more than the average mean for the season. Wajir has recorded the second highest rainfall in 76 years. Marsabit, Lodwar, Msabaha, Malindi, Mandera, Meru and Lamu have recorded rainfall 200 times above the average mean for this season. Enhanced rainfall has led to good crop performance, rechargeable hydro-electric power dams, good pasture and increased food availability for humans and

livestock across the country. The heavy rainfall has, however, caused serious flooding leading to loss of human lives and displacement of people within the Coast region. Several roads have been rendered impassable in northern Kenya and major urban areas have experienced very heavy traffic jams. There have been cases of landslides in West Pokot, Elgeyo Marakwet and Baringo counties, and interruption of water supplies in Kitui County. The heavy rains are also hampering the harvesting of---

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. To me, at the face value, the statement being made by the Prime Minister is a matter that is not really within his docket. It is not cross-cutting. It is a matter for the Meteorological Department and for a specific Ministry; this is not Government policy either. It is just a statement on what is happening. I wonder whether the Prime Minister is in order really to delve into matters to do with the weather.

The Temporary Deputy Speaker (Mr. Imanyara): Order! He is in order. Proceed, Prime Minister.

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, the hon. Member may wish to know and he should not be laughing; this matter affects livestock, infrastructure, where roads are washed away by floods, agriculture and forestry. It is a cross-cutting issue. It is an issue of climate change.

Mr. Temporary Deputy Speaker, Sir, the heavy rains are also hampering the harvesting and delivery of crops in the North Rift. There were reported drowning cases in Muhoroni, Kisumu County and Namanjalala in Trans Nzoia County. The rain forecast for the month of December indicates that the western sector of the country will continue to receive enhanced rainfall. The eastern sector of the country will experience slightly depressed rainfall. The Government's crisis response centre is open 24 hours to receive and respond to any incidents of emergency arising from the enhanced rainfall. Members of the public can contact the crisis response centre by phone.

Mr. Temporary Deputy Speaker, Sir, our country is experiencing enhanced rainfall against the backdrop of the United Nations (UN) Climate Change Conference currently taking place in Durban, South Africa. Human activities such as deforestation and emission of greenhouse gases are warming the global climate, thereby altering weather and rainfall patterns. Kenya cannot escape the impact of climate change and must work together with other countries to mitigate and adapt to climate change.

To keep the world safe from human-induced climate change, we hope that the Durban conference will make progress in establishing binding commitments to limit greenhouse gas emissions and mobilizing adequate financial resources for adaptation.

Mr. Temporary Deputy Speaker, Sir, I said yesterday, and I want to repeat it here, that we, as part of the developing world, are victims of greenhouse gas emissions, which have happened elsewhere. We should stop the blame game. I know that we also do have a responsibility to stop emissions that come, for example, from cutting of our trees and also burning of charcoal. That is the reason why we talked about reforestation of the Mau Forest and all our other water towers. We, like other parts of the world, have a responsibility to preserve and conserve this planet earth, because there is no space for us. Nor do we have the technology to transfer humanity to another space like Mars, once we have destroyed this one that we have.

Therefore, collectively we have a responsibility to make this world livable. If the climate change process continues, this earth will become too hot for human habitation.

Therefore, we have a responsibility as a people and country to stop the deforestation and begin the process of afforestation. We want to increase our forest cover from the current under 2 per cent to 10 per cent by the year 2020. That requires that we plant 7.6 billion trees.

Mr. Temporary Deputy Speaker, Sir, we must arrest the process of charcoal burning and that is why we have come up with a policy of kerosene-free Kenya. We want to move our people from using charcoal and kerosene to using green energy. Green energy is, for example, using solar lanterns as opposed to using kerosene lamps. It also means using resources like wind which we have in abundance in the country. It also means using geothermal resources which we also have in abundance in our country in order to move away from the dependence on fossil fuels which continue to pollute the environment.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Are there any clarifications to be sought from the Prime Minister? I see five of them. Prime Minister, please, note and then you can respond to them. I will start with hon. Odhiambo-Mabona, followed by hon. Mututho, hon. Kigen, Dr. Eseli, hon. Chachu and finally the Member for Lari, in that order.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I thank the Prime Minister for addressing the issue of climate change and the way it is affecting lives.

Mr. Temporary Deputy Speaker, Sir, the rains have changed and now we find that the short rains tend to be more towards December than in November. Areas that were hitherto not affected are getting heavily affected. For example, last week a place in Lambwe Valley called "Ogando" was flooded and many people lost their property and homes. What are the measures in place to ensure that the persons, especially in Ogando, Lambwe Valley who were affected are helped?

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I thank the Prime Minister for a very elaborate Statement and his sensitivity to climate and climate change.

Mr. Temporary Deputy Speaker, Sir, I would, however, wish to seek clarification from the Prime Minister, why they have taken that policy on the ban of kerosene so suddenly? What measures are in place to safeguard the young trees that we have struggled to plant over the last couple of years? What measures is the Government putting in place for alternative source of energy, immediately once the ban on kerosene is in force?

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the Prime Minister has highlighted certain steps that need to be taken to reverse the climate change problem. One of the steps he gave a lot of emphasis on is afforestation. I would like to know from him what efforts the Government has made in an attempt to increase the forest cover from 2 per cent to 10 per cent, by way of allocating enough resources within the shortest time possible to ensure that we attain that call. What has the Prime Minister done to make sure that charcoal burning, which is still ongoing is completely stopped?

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, thank you for allowing me to add my voice in thanking the Rt. hon. Prime Minister for that comprehensive Statement. However, I would like the Rt. Hon. Prime Minister to clarify the following: Hydro power dams have been recharged, and yet electricity charges have not gone down. What action

is the Government taking to provide enough finances for rehabilitating the infrastructure, especially through the Constituencies Roads Committees, so that they can repair the roads that have been washed off by the rains?

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I also thank the Prime Minister for addressing this very important issue of climate change. The road infrastructure in most parts of this country has been destroyed. In particular, roads in northern Kenya are not passable. As a result, people are not able to access food and travel. In my constituency, there is a place called “Ileret” which is 550 kilometres from Marsabit Town, our county headquarters. No truck has managed to travel to that town for the last two months, and people are actually starving because they have not been able to access food due to the very bad road infrastructure which has been destroyed by the rains. What will the Government do, in the short-term, to ensure that those roads are made passable, so that our people can travel and access food as well?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while commending the Prime Minister for the very clear Statement that he has made this afternoon, could he inform this House of the far-reaching steps that the Government is taking to protect the remaining forests and make sure that logging is stamped out completely?

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, hon. Odhiambo-Mabona is concerned about the plight of people who have been affected by floods in Lambwe Valley. I want the hon. Member to know that it is not just the residents of Lambwe Valley who have been affected by floods. There are quite a number of people in other parts of the country who have been affected. In fact, Coast is worst hit. The other parts are in North Eastern, Nyando, Eastern and so on. The Government is doing what it can within its ability to deal with this. We have a Disaster Response Centre. I have even the telephone numbers which I can give to the hon. Member so that people can call when they need emergency assistance. This is a national matter and not an isolated incident. Therefore, the response is scattered and cannot be as effective as other ordinary situations.

Hon. Mututho, of course, is concerned about the kerosene ban. I want him to know that we have not yet totally banned the use of kerosene. We are just encouraging people to move away from the use of Kerosene to other methods of lighting. Here we are recommending solar lamps which are being made available at an affordable price to people in a larger scale. This is more cost effective. The solar lamps are brighter than the kerosene powered candles and ultimately, cheaper in cost. We have not yet banned the use of kerosene as such.

Mr. Temporary Deputy Speaker, Sir, with regard to hon. Kigen’s question, we have a very ambitious afforestation programme being rolled out by the Ministry of Forestry and Wildlife, together with the Ministry of Environment and Mineral Resources. We know that to increase our forest cover, we need to plant many trees. At Independence, the forest cover in our country was 12 per cent. It has dropped from 12 per cent to now 1.7 per cent. We have a programme to increase that. It requires that we plant 7.6 billion trees in order to increase the forest cover to 10 per cent. It requires that a lot of trees are planted on an annual basis. The Ministry of Environment and Mineral Resources has worked out details of what is required to be done as this programme is being rolled out through secondary and primary schools all over the country. Tree seedlings are also being made available. So we should differentiate between tree planting and tree growing. In the

past, there has been a lot of exercise of tree planting, but once planted, they were neglected and they never grew. Now we are saying that if a tree is planted, it must be nurtured until it reaches a level where it can now grow sustainably. The programme is being rolled out by the Ministry of Environment and Mineral Resources jointly with the Ministry of Forestry and Wildlife.

The Member also wanted to know why we have not yet stopped charcoal burning. Charcoal burning has been stopped, but we have not yet stopped the use of charcoal and that is what is encouraging a lot of illegal use of charcoal. We are not yet in a position to completely substitute the use of charcoal generally in the country because we have not put in place the infrastructure for the alternative source of energy for use by the people, particularly in the rural areas. That is what is being planned. For example, making the liquefied petroleum gas (LPG) available to rural households at a price that is affordable and also generating bio-fuels. We need to introduce the technology of generating bio-fuels for the use of the people using things like cow dung as a source of energy. That is being advanced and encouraged by several institutions in the country.

Mr. Temporary Deputy Speaker, Sir, I would also like to urge the Members of this House to help the Government in fighting charcoal burning. When we were talking about the Mau here, Members were not seeing what we are seeing; that if we have people living deep in the forest, they cannot eat there unless they cook and for them to cook in the forest, they must cut down the trees. If they cut down the trees, they destroy the environment. That is why we were saying that we should get people out of the Mau because for them to continue living there, they are destroying the environment.

Mr. Kigen: On a point of order, Mr. Temporary Deputy Speaker, Sir. If you consider what the Prime Minister has said in terms of stoppage of charcoal burning, he is appealing to the Members to assist the Government to stop charcoal burning. The major culprit is an arm of the Government, namely, the police. On the road, they allow a lot of charcoal to be transported. Is it in order for the Prime Minister to ask us to assist the Government to stop charcoal burning, yet the Government facilitates it?

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, to my knowledge, the police do not burn charcoal. Therefore, I do not see how the police can really end up being charcoal vendors. The police can arrest people who are destroying forests. That is what the Member should be talking about. We are trying to enhance the capacity of law enforcement agencies in order to deal with this issue of illegal logging in the country.

Hon. Eseli asked two questions. One is about the hydro dams. He said that the dams have recharged, yet electricity bills have not gone down. It does not just operate that way, that now that the hydro dams have recharged, therefore, bills go down. We have been using the oil powered generators for quite some time and there is always a transition to lower prices. I look forward to a period over the next few weeks or so when we hope that the Kenya Power Company will revise the prices downwards.

The Member also said that in this period, the Government should provide more funds to the Constituency Roads Committees (CRCs) in order to repair the roads. This is a very expensive exercise because when the *El Nino* comes and there are floods, they destroy the infrastructure. They wash away the roads and sometimes they go away with bridges and we have to start again. Some of these are not in the Budget. There is no budgetary provision for bridges that were going to be washed by floods. So, it is

unfortunate but the Ministry of Roads has got some contingency funds in its Budget that we can use to carry out emergency repairs of roads and bridges that are washed by the floods.

That equally applies to hon. Chachu. He said that the roads in northern Kenya are in a very terrible state. I agree with him because likewise, they have experienced very heavy rains. Some parts of Kenya, like northern Kenya, have had more than 200 per cent rain more than what they usually get around this period. I wish we had, by this time constructed dams which would have enabled us to harvest the heavy rains that we have received around this period. It would help us when the *La Nina* comes, which we know will come sometimes next year, to carry out irrigation and also for our livestock. We know that just about a few months ago, we were talking about severe drought. All these areas were suffering from severe drought and a lot of livestock was lost during that drought period yet now there is too much water.

We have now realized that this climate change phenomenon is permanent. It is going to be with us. That is why we need to win our population that live in some of these areas from over dependence on pastoralism to more sedentary systems of existence. It has now become very apparent that pastoralism as we have known it traditionally for generations and generations, has become unsustainable in the light of climate change. When the drought comes, pasture and water disappear and livestock die. When the rains come, you need to do restocking. That becomes a very expensive exercise.

Mr. Chachu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Prime Minister in order to say that pastoralism, as we know it, is unviable when it is the only system known to man to have survived in extreme weather conditions over time? What empirical evidence does he have to state that, that source of livelihood in that extreme weather condition is not viable when it has sustained man for centuries?

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I do not understand what the hon. Member is disagreeing with. I am talking out of concern for very many of our people who live in that area. This is an issue that we have also discussed with our other neighbours. Ethiopia next door is doing exactly what we are talking about here. What is happening is that when *La Nina* comes, pasture disappears. Livestock depend on pasture. You cannot keep cows when there is no grass. Pastoralists usually wander with their livestock from place to place in search of pasture and water. When water and pasture disappear, the livelihood of pastoralists becomes unsustainable.

This is now being improved scientifically all over the world. This is a subject that has been discussed at international forums. What I am talking about is a recommendation coming out of international forums by experts in this field. The process of restocking year in, year out becomes unsustainable. That is the reason as to why we are going to hold a major seminar, so that we can begin to talk about how we can make this area green. What we call Arid and Semi-Arid Lands (ASALs) is so similar to what we have in Israel.

Mr. Temporary Deputy Speaker, Sir, only 40 per cent of the land in Israel is ASAL. Sixty per cent of the land there is pure desert, but they have been able to turn the whole of that desert green and produce sufficient food for their people through irrigation. Israel is also water scarce. So, they do water desalination before they use it for irrigation. Kenya is not water scarce. We have sufficient water. We can pipe this water to areas we call ASALs and use it to carry out irrigation in those areas. That is why I am talking

about weaning our people from overdependence on pastoralism to a more sedentary system of life.

Hon. Njuguna talked about logging. Logging in this country has been banned but there are criminals who continue to do logging illegally. We must differentiate between plantation forests, which are called “commercial forests” from our indigenous forests. Commercial forests are planted and their trees have a limited lifespan. When they mature, they need to be harvested and then replanting is done. Sometimes you see lorries carrying logs from the commercial plantations. That is not illegal. It has been formally allowed by the Government. We have totally banned logging or cutting of indigenous forests, but there are criminals who continue to do illegal logging. This is not formally allowed by the Government. We know that sometimes there is collusion with Government officers who act criminally, and we have issued instructions that action be taken against those officers.

Thank you, Mr. temporary Deputy Speaker, Sir.

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE ENGINEERS BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we are in the Committee of the Whole House to consider the Engineers Bill.

Clause 2

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be amended –

(a) by deleting the definition of the word “Board” and substituting therefor the following new definition in the proper alphabetical sequence –

“Board” means the Engineers Board of Kenya established under Section 3;

(b) by deleting the definition of the word “Minister”;

(c) by inserting the following new definitions in the proper alphabetical sequence-

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to engineering;

“Principal Secretary” means the Principal Secretary for the time being responsible for matters relating to a specified Ministry under this Act;

(d) by renumbering the existing clause as Subclause (1); and,

(e) by adding the following new Sub-Clause immediately after the new Subclause (1) -

(2) Despite subsection (1), until after the first election under the Constitution, references in this Act to the words “Cabinet Secretary” or “Principal Secretary” shall be construed to mean “Minister” or “Permanent Secretary” respectively.

(Question of amendment proposed)

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

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

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

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 be further amended—

(a) by deleting the definition of the term “Minister”;

(b) in the definition of the term “engineer” by deleting the words “graduate engineer” appearing immediately after the words “professional engineer”;

(c) by inserting the following new definition in its proper alphabetical sequence—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to engineering”;

(d) by inserting the following new definition in its appropriate sequence -

“survey” means all types of physical inspection of facilities for engineering purposes but does not include land, hydrographic or aerial surveys;

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Gumbo, you need to withdraw part (c) of your amendment as the Minister’s amendment has been carried. It is similar to the Minister’s amendment.

Eng. Gumbo: Madam Temporary Deputy Chairlady, it is just reinforcing it. It is the same.

The Temporary Deputy Chairlady (Dr. Laboso): Yes, that means you withdraw it, because the Minister’s amendment has been carried.

Eng. Gumbo: Fair enough, Temporary Deputy Chairlady. I propose that Clause 2 be amended as per the Order Paper, subject to withdrawal of part (c) of the amendment.

(Part (c) of the amendment withdrawn)

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection to the proposals under parts (a) and (b) of Eng. Gumbo's amendment and the deletion of part (c), but I have a problem with part (d) of the proposed amendment. Under part (d) of the amendment, the hon. Member is attempting to define the word "survey". That would mean we are protecting the word "survey" in this law. I do not think it is the intention of this Bill to protect the word "survey" because there is no attempt, even on the part of the engineers, to protect the word "engineer".

The hon. Member says that survey does not include land, hydrographic or aerial surveys. I am aware that you can also do survey on poverty, housing and many other forms of surveys. So, I would want to ask that part (d) of Eng. Gumbo's amendment be also excluded.

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, the Minister is opposing part (d) of your amendment, and he has given his explanation. What do you propose, as the Mover of the amendment?

Eng. Gumbo: Madam Temporary Deputy Chairlady, if you will permit my language, this is a prompted amendment in the sense that some of our colleagues who are surveyors got the opinion that there were many times when engineering services tend to misuse the word "survey". Personally, I agree with the Minister that the word "survey" cannot be a protected word. It ought to be generic. We do all sorts of surveys. We do poverty surveys, economic surveys, *et cetera*. So, in light of that explanation, I beg to drop that bit of the proposed amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Is that part (d) of the amendment?

Eng. Gumbo: Yes, it is part (d) of the proposed amendment.

*(Part (d) of the proposed amendment to
Clause 2 by Eng. Gumbo dropped)*

The Temporary Deputy Chair (Dr. Laboso): That is amendment "D".

Eng. Gumbo: Yes, the proposed amendment under Clause 2 (d).

The Temporary Deputy Chairlady (Dr. Laboso): Therefore, you have a further amendment, Dr. Ottichilo?

Dr. Otichilo: Madam Temporary Deputy Chair, I just wanted to support the Minister and the Engineer that survey is a generic word and is not protected for a specific discipline.

Eng. Gumbo: Madam Temporary Deputy Chair, I think it should clearly be--- I agree with what you are proposing, but then there should be a rider that: "Subject to dropping the proposed amendments---"

The Temporary Deputy Chairlady (Dr. Laboso): In Clause 2 (c) and (d).

Eng. Gumbo: Yes.

The Temporary Deputy Chairlady (Dr. Laboso): That is okay! I, therefore, propose that Clause 2 be further amended as proposed by Eng. Gumbo subject to the withdrawal of parts (c) and (d).

(Question of the further amendment proposed)

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by Lenny Kivuti. Has hon. Lenny Kivuti left? Can anybody to move that amendment on his behalf?

The amendment is dropped!

(Proposed amendment by Mr. Kivuti dropped)

(Clause 2 as amended agreed to)

Part II

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, I beg to move:-

THAT, Part II of the Bill be amended by deleting the words “**THE ENGINEERS REGISTRATION BOARD**” and substituting therefor the following words—
“**THE ENGINEERS BOARD OF KENYA.**”

(Question of the amendment proposed)

(Eng. Gumbo stood up in his place)

The Temporary Deputy Chairlady (Dr. Laboso): You had something to say?

Eng. Gumbo: Yes, I have.

The Temporary Deputy Chairlady (Dr. Laboso): Then you will do it when I propose and not when I am putting the Question.

Eng. Gumbo: Madam Temporary Deputy Chair, this is actually important.

The Temporary Deputy Chairlady (Dr. Laboso): Okay, I will allow it this time.

Eng. Gumbo: Thank you, Madam Temporary Deputy Chair.

I do not have an objection *per se*, but I wish the Minister could just clarify the import of this because, to me, this is the Engineers Registration Board. Mr. Minister, through the Chair, if you could just indulge me to try to explain the import of the proposed amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Yes, Mr. Minister!

The Minister for Roads (Mr. Bett): Thank you, Madam Temporary Deputy Chair. If you look at the Engineers’ Registration Board, you will realise that it implies that the board is only being set up for registration and no other function, and yet in the Bill, we are proposing several other functions, including even providing technical services in terms of training for engineers and such other cases of discipline. So, the functions are more than one – more than registration. That is why we are now saying “Engineers Board of Kenya.”

Eng. Gumbo: Madam Temporary Deputy Chair, I must say in this instance, that the Minister has demonstrated a better understanding of engineering than the engineer himself.

(Laughter)

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

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

(Part II as amended agreed to)

Clause 3

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 3 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause-

(1) There is established a Board to be known as the Engineers Board of Kenya.

The Temporary Deputy Chairlady (Dr. Laboso): Whenever possible, if you can quickly explain what the import of the amendment is, it would help so that we do not get questions on it.

The Minister for Roads (Mr. Bett): Thank you, Madam Temporary Deputy Chair. Because of the amendment in connection with Part II, which we have just passed, it has become necessary, therefore, to change from Engineers Registration Board so that there is established a Board to be known as Engineers Board of Kenya. Hitherto, it was Engineers Registration Board of Kenya.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): We have a further amendment by David Were, the Chairman of the Departmental Committee on Transport.

(Dr. Otichilo stood up in his place)

Are you standing in for him, Dr. Otichilo?

Dr. Otichilo: Yes, Madam Temporary Deputy Chair.

The Temporary Deputy Chairlady (Dr. Laboso): Go ahead!

Dr. Otichilo: Thank you, Madam Temporary Deputy Chair. I beg to move:-

THAT, Clause 3 be further amended in subclause (2) by deleting the words “and the minister for the time being responsible for matters relating to finance” appearing in paragraph (c).

The Temporary Deputy Chairlady (Dr. Laboso): If you can also explain just briefly.

Dr. Otichilo: Thank you, Madam Temporary Deputy Chair. Our Committee felt that the borrowing of money should just be left to the Minister, because it was not very clear what procedure would be used for the borrowing. So, we proposed that instead of saying that the Minister for the time being responsible for matters pertaining to finance, we say that it should be left to Minister so that if there are any other changes, then it will be more general than being specific. But the Minister is here; probably, he can---

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, are you in agreement with that proposal?

The Minister for Roads (Mr. Bett): Yes, Madam Temporary Deputy Chair. I have no objection.

(Question of the further amendment proposed)

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by Eng. Gumbo.

Eng. Gumbo: Thank you, Madam Temporary Deputy Chair. I beg to move:-

THAT, Clause 3 be further amended by deleting the word “Minister” wherever it appears and substituting therefor the words “Cabinet Secretary”.

Madam Temporary Deputy Chair, the import of this is just to align the Bill with the Constitution, where “Minister” in the new Constitution is “Cabinet Secretary”.

(Question of the further amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

Dr. Otichilo: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 4 be deleted and substituted with the following new clause-

“4 The headquarters of the Board shall be in Nairobi and the Board may establish branches at the Counties.”

The reason for this is that we would like to see that apart from the board having its headquarters in Nairobi; it should have a leeway to have other offices probably at the county level or any other areas it may choose.

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

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

(Clause 4 as amended agreed to)

Clause 5

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 5 of the Bill be amended –

(a) in paragraph 1(a), by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”;

(b) in paragraph 1(b), by deleting the words “Permanent Secretary” and substituting therefor the words “Principal Secretary”;

(c) in paragraph 1(c), by deleting the words “Permanent Secretary” and substituting therefor the words “Principal Secretary”;

(d) in paragraph 1(d), by deleting the words “Permanent Secretary” and substituting therefor the words “Principal Secretary”;

(e) in paragraph 1(g), by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”; and

(f) by adding the following new subclause immediately after subclause (2) –

This is except with the deletion of subclause “f” which seems to have no relevance to the clause.

The Temporary Deputy Chairlady (Dr. Laboso): I, therefore, propose that Clause 5 be amended as proposed by the Minister except that he has withdrawn subclause “f” of that amendment.

(Proposed amendment to Clause 5(f) by Mr. Bett dropped)

(Question of the amendment proposed)

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

(Question, that the words to be inserted in place)

thereof be inserted, put and agreed to)

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5 be further amended in subclause (1), by—

(a) deleting the words “Permanent Secretary” wherever they appear and substituting therefor the words “Principal Secretary”;

(b) deleting the word “Minister” wherever it appears and substituting therefor the words “Cabinet Secretary”;

(c) deleting the word “eight” appearing in paragraph (g) and substituting therefor the word “seven”;

(d) deleting subparagraph (ii) of paragraph (g);

(e) deleting the words “responsible for” appearing in subparagraph (iii) of paragraph (g) and substituting therefor the words “involved in”;

(f) inserting the word “accredited” immediately after the word “offering” appearing in subparagraph (iv) of paragraph (g).

I propose that Clause 5 be further amended as shown in the Order Paper, that is only part (b) because the Minister’s part (a) is talking of “Minister” and I am talking of “Permanent Secretary”. Actually both (a) and (b) are in order. So, I want to propose that Clause 5 be further amended as shown in the Order Paper.

(Question of the further amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, I think you need to come and confirm with the Clerks-at-the-Table.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, Clause 5(1)(a) is talking about the Minister not the Permanent Secretary. Clause 5(1)(b) is talking about the Permanent Secretary which is actually in order as amended on my---

The Temporary Deputy Chairlady (Dr. Laboso): So, it really is repeating both of them?

The Minister for Roads (Mr. Bett): Yes. Both of them are repeating.

The Temporary Deputy Chairlady (Dr. Laboso): I think we have been guided. You can be further guided.

The Minister for Roads (Mr. Bett): I stand guided.

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

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

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

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

THAT, Clause 5 be further amended in subclause (1) by deleting the word “chairman” wherever it appears and substituting therefor the word “chairperson”

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

(Clause 6 agreed to)

Clause 7

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 7 of the Bill be amended—

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

(oo) establish the Kenya Academy of Engineering and Technology whose purpose shall be to advise the National and County Governments on policy matters relating to engineering and technology;

(b) by renumbering the existing clause as subclause (1); and

(c) by adding the following new subclause—

(2) Where any conflict arises between the provisions of this section and the provisions of any other written law for the time being in force, the provisions of this section shall prevail.

(Question of the amendment proposed)

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

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

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

THAT, clause 7 be further amended —

(a) by deleting the words “for the purpose of registration of graduate engineers” appearing in paragraph (l)

(b) by deleting the word ‘issue’ appearing in paragraph (t) and substituting therefor the word “develop”

(Question of the further amendment proposed)

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

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

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 7 be further amended by—

(a) deleting the words “recommend for” in paragraph (k) and substituting therefor the words “instruct, direct or order”;

(b) inserting the words “prepare detailed curriculum for registration of engineers and” immediately before the word “conduct” in paragraph (n);

(c) deleting paragraph (p) and substituting therefor the following new paragraph—

“(p) plan, arrange, co-ordinate and oversee continuous professional training and development and facilitate internship of graduate engineers”;

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

“(u) determine and define disciplines of engineering recognised under this Act”;

(e) deleting paragraph (v) and substituting therefor the following new paragraphs—

“(v) conduct recruitment of staff of the Board through a competitive recruitment process; and

(w) carry out such other functions related to the implementation of this Act.”

(Question of the further amendment proposed)

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

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, you want to comment on the amendments by Eng. Gumbo?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I want to indicate that when we consulted the Attorney-General, regarding Clause 7(a) the Attorney-General was saying we retain the word “recommend”. I am also aware that the

Committee is also making a similar recommendation. So, I think it is upon this House to decide how to go on that.

Secondly, for parts (c) and (b) I want to recommend that they say: “Plan, arrange, co-ordinate and oversee continuing professional training and development and facilitate internship of graduate engineers. Continuous, would be non-stopping.

Eng. Gumbo: Madam Temporary Deputy Chairlady, actually, I am not sure about part (a) and what the Minister wants to achieve, but I think we had a very fruitful discussion with members from his Ministry and I was persuaded to believe that “continuous” means uninterrupted while “continuing” means progressive and intermitted. So, I think in this context continuing would be better than continuous.

I am not so sure regarding part “a”. probably the Minister needs to explain his argument.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, this is a product of the education world. Continuing education is what we always hear, not continuous education.

Eng. Gumbo: I am just talking about part (a).

The Minister for Roads (Mr. Bett): I was only indicating a comment by the Attorney-General’s office. It may be worthwhile to retain it as recommended as opposed to deleting to replace the word “order”. I have no objection to it. That is why I wanted to leave it to this hon. House to decide which way to go. I know the Committee is in agreement with the word “recommend” as proposed by Eng. Gumbo.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Gumbo, have you understood the Minister’s sentiments and are you going to withdraw or do you just want to let the House---

Eng. Gumbo: Madam Temporary Deputy Chairlady, my proposed amendment makes it, if you like, punchier. The one that was proposed is a bit lukewarm, if you do not mind my language. We are really in consonance with the Committee that it should be that way.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection so long as he does not direct the punches to the Chair.

(Laughter)

The Temporary Deputy Chairlady (Dr. Laboso): So, can you commit yourself on the one on continuous versus continuing? Can you put it on record?

Eng. Gumbo: Madam Temporary Deputy Chairlady, it is delete “continuous” and put “continuing” as the Minister has proposed.

(Clause 7 as amended agreed to)

Clause 8

Dr. Otichilo: Madam Temporary Deputy Chair, I beg to move:-
THAT, Clause 8 be amended by deleting the word “a” appearing in subclause (3).
Madam Temporary Deputy Chair, it is just a typographical error.

(Question of the amendment proposed)

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

Eng. Gumbo: Madam Temporary Deputy Chair, I have a further amendment. I beg to move:-
THAT, Clause 8 be further amended in subclause (3), by—
(a) inserting the words “from outside the Board” immediately after the words “co-opt persons”;
(b) inserting the following new proviso at the end thereof—
“Provided that the persons co-opted by the Board shall be registered engineers”.

(Question of the further amendment proposed)

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, I would not have wished to contradict what the hon. Member is saying but my only worry is that it is going to be limiting. If you look at that particular clause, it says:-

“The Board may, where it considers appropriate, co-opt persons by virtue of their knowledge or expertise in specific areas to be members of its committees”.

Engineers are also human beings. They will also be handling issues that concern humanity. Therefore, they may wish to co-opt, if it is a personnel or gender issue, an appropriate person for that purpose, for that moment. So, if we limit it to: “Provided that the person co-opted to the Board shall be registered engineers”, then the engineers will have no benefit at all from the contribution of non-engineers in matters which could be related to personnel management or gender. Therefore, I want to plead with the hon. Member that we retain it the way it is, so that there is some freedom for the committee. It may be something to do with accounting. So they may wish to co-opt the chairman of the Certified Public Accountants Kenya (CPA-K) to discuss with them that particular issue.

I would want to persuade the Member to allow the clause to remain as it is in the Bill.

Eng. Gumbo: Madam Temporary Chair, actually this is something we have discussed with the Minister. However, my view is that when you want to get expert opinion from accountants, they do not have to be members of the Board to give you that opinion. I am pleading with the Minister to understand my point of view. When you want to get expert opinion on gender issues, I do not think they have to be members of the Board.

It was my thinking that this being a very professional Board, anyone who gets co-opted as members of the Board, really ought to be an engineer. However, that does not bar getting outside opinion from experts. I mean we do not monopolize knowledge but I think it would be good to restrict the Board; both permanent members and co-opted members; as registered engineers. I must say that we have discussed it with the Minister.

Mr. Njuguna: Very briefly, Madam Temporary Deputy Chair, I would like to support the position presented by the Minister. This is because this is a very professional body. Therefore, it would be erroneous if teachers or agriculturalists were appointed to

this body. Therefore, I would like to restrict or go by the position of the Minister that we leave engineers alone to continue---

The Temporary Deputy Chairlady (Dr. Laboso): You are now contradicting yourself, hon. Member! Are you supporting the Member or the Minister? The Minister's position is that other people can join the Board.

Mr. Njuguna: Madam Temporary Deputy Chair, I am supporting the position offered by the Minister.

The Temporary Deputy Chairlady (Dr. Laboso): Anyway, you have contradicted yourself. I hope you have realized that.

Mr. Njuguna: Agreed!

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we really have to move.

Eng. Gumbo: Temporary Deputy Chair, I would really plead with the Minister to let this amendment go as proposed.

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

(Clause 8 as amended agreed to)

(Clauses 9 and 10 agreed to)

Clause 11

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 11 of the Bill be amended-

(a) in sub clause (2)(a), by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary"; and

(b) in sub clause (2)(b), by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary".

(Question of the amendment proposed)

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

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

Dr. Otichilo: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 11 be further in sub-clause (2)-

(a) by deleting the words "Board's permission" appearing in subparagraph (i) and substituting therefor the words "the permission of the chairperson"

(b) By deleting sub-paragraph (ii) and substituting therefor the following sub-paragraph-

“(ii) is convicted of a criminal offence and sentenced to imprisonment for a term of six months or more without an option of a fine”;

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

“(iii) becomes for any reason including infirmity, incompetent or incapable of performing the functions of his office”;

Madam Temporary Deputy Chair, the Committee decided that instead of using the word, “Chairman” we use the word, “Chairperson” which appears to be more acceptable in terms of gender issues.

(Question of the further amendment proposed)

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

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

(Clause 11 as amended agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, your amendment will now drop because it is similar to what the Minister has already passed.

Eng. Gumbo: Indeed, Madam Temporary Deputy Chair.

*(Proposed further amendment to Clause 11
by Eng. Gumbo was dropped)*

Clause 12

Dr. Otichilo: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 12 be amended by deleting the words “ with the approval of the Minister for the time being responsible for matters relating to finance and substituting therefor the words “ determine upon the advice of the Salaries and Remuneration Commission occurrence book.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Now, the two Members; the Minister and Eng. Gumbo, now that the Committee's proposal has gone through, I think you will have to withdraw your amendments.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, I think the proposal by the Committee is not the same as my proposal. However, I accept what the Committee is proposing for amendment.

Madam Temporary Deputy Chairlady, I do know the situation. I accept and withdraw my amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Gumbo, your amendment will also fall.

Eng. Gumbo: Most obliged, Madam Temporary Deputy Chair.

(The proposed amendments to Clause 12 by Mr. Bett and Eng. Gumbo were withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): In the amendment, there seems to be additional words which are not part of the amendment. That is "occurrence book". That is not part of the amendment.

(Clause 12 as amended agreed to)

(Mr. Bett stood up in his place)

The Temporary Deputy Chairlady (Dr. Laboso): Not on the same, Mr. Minister, because we have already passed it.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, did you say that the words "occurrence book" are expunged?

The Temporary Deputy Chairlady (Dr. Laboso): Yes, they are expunged.

Clause 13

Dr. Otichilo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 13 be deleted and replaced with the following new clause-

Appointment of the Registrar

13. (1) There shall be a registrar of the Board who shall be competitively recruited by the Board and appointed by the Minister.

(2) The Registrar shall hold office for such period and on such terms and conditions of employment as the Board may determine.

(3) The Registrar shall be an ex-official member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Registrar shall be the chief executive officer of the Board and shall, subject to the direction of the Board, be responsible for the day to day management of the Board.

- (5) A person shall not be appointed as a Registrar unless such a person –
- is registered as a professional engineer under this Act;
 - (a) has at least an undergraduate degree in engineering from a recognized institution;
 - (b) has at least 10 years proven experience in the engineering field;
 - (c) has knowledge and experience in policy formulation, management and procedures of the Government;
 - (d) is knowledgeable in, or has actively contributed to the promotion of engineering development agenda.
 - (e) Meets the requirements of Chapter Six of the Constitution

Madam Temporary Deputy Chairlady, the Committee proposes that the word “Minister” be substituted by the word “Cabinet Secretary.”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, do you have a comment on that?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no comments. The amendment is acceptable to us.

Eng. Gumbo: Madam Temporary Deputy Chairlady, so that it is not lost, the amendment is subject to the word “Minister” being changed to “Cabinet Secretary”.

The Temporary Deputy Chairlady (Dr. Laboso): That is accepted and that is the understanding; that “Minister” has been changed to “Cabinet Secretary”.

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

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

(Clause 13 as amended agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Again, in this proposal, the Minister’s amendment will have to be withdrawal and even hon. Gumbo’s because they are similar to what has passed from the Committee.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, is that on clause 13?

The Temporary Deputy Chairlady (Dr. Laboso): Yes, it is on clause 13.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, my Clause 13 is requesting the replacement of the word “Cabinet Secretary” where the word “Minister” is appearing.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, the Committee has deleted the whole of Clause 13 and replaced it with the one we have just passed which does not have the word “Minister”.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I agree.

The Temporary Deputy Chairlady (Dr. Laboso): The same applies to Eng. Gumbo.

*(Proposed amendments to Clause 13 by
Mr. Bett and Eng. Gumbo withdrawn)*

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, on reading Clause 13(1), the word “Minister” is appearing there.

I am looking at the amendment by the Committee. Reading 13(1), the word “Minister” is appearing.

The Temporary Deputy Chairlady (Dr. Laboso): That is what we have just amended and passed. That is what he has amended.

Dr. Otichilo: Madam Temporary Deputy Chairlady, we did a further amendment to substitute “Cabinet Secretary” with “Minister”.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, if you remember, we moved the amendment with a further amendment to bring in the Cabinet Secretary. So, that is taken care of. Were we moving on to Clause 14.

Clause 14

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

THAT, Clause 14 be amended by inserting the following new paragraphs immediately after paragraph (g)-

“(ga) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties”

“(gb) ensure the maintenance of efficiency and discipline by all staff of the Board”

“(gc) manage the budget of the Board to ensure that its funds are properly expended and accounted for”

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, do you have any comment?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection.

(Question of the amendment proposed)

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

(Clause 14 as amended agreed to)

Clauses 15, 16 and 17 agreed to)

Clause 18

Dr. Otichilo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 18 be amended by deleting paragraph (a) and substituting therefor the following new paragraph-
“(a) holds a degree in engineering from a recognized university or such other qualifications as the Board may determine.”;

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, do you have any comment on it?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no comment. I support the amendment.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): What happened to hon. Njuguna? Hon. Nicholas Gumbo, your amendment will have to fall as the Committee’s recommendation covers it. Are you in agreement?

Eng. Gumbo: Madam Temporary Deputy Chairlady, maybe, I need to be schooled a bit.

The Temporary Deputy Chairlady (Dr. Laboso): What was your proposal?

Eng. Gumbo: To delete the word “diploma”.

The Temporary Deputy Chairlady (Dr. Laboso): Now the Committee has already deleted that whole paragraph and introduced a new one. In the new one, there is no diploma. So, therefore, yours falls.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I am sufficiently covered. Let it fall.

*(Proposed amendment to Clause 18 by
Eng. Gumbo withdrawn)*

(Clause 18 as amended agreed to)

Clause 19

Dr. Otichilo: Madam Temporary Chairlady, I beg to move:-
THAT, Clause 19 be amended-
(a) by deleting subclause (1) and substituting therefor the following new subclause-

“(1) A person eligible to be registered as a graduate engineer under this Act shall apply to the Registrar.”

(c) by deleting subclause (2) and substituting therefor the following new subclause-

“(2) An application under this section shall be made in the prescribed manner and form and shall be accompanied by the prescribed fee”.

(Question of the amendment proposed)

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I support the amendment.

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

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

(Clause 19 as amended agreed to)

Clause 20

Eng. Gumbo: Madam Temporary Chairlady, I beg to move:-

THAT, Clause 20 be amended in subclause (1), by deleting the words “a Kenyan citizen” appearing in paragraph (c) and substituting therefor the words “Kenyan citizens”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Minister, do you have any comment?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no comments. My proposal is on the same and it is covered.

The Temporary Deputy Chairlady (Dr. Laboso): Therefore, yours will be dropped.

The Minister for Roads (Mr. Bett): Yes, Madam Temporary Deputy Chairlady.

(Proposed amendment to Clause 20 by Mr. Bett was dropped)

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

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

(Clause 20 as amended agreed to)

(Clause 21 agreed to)

Clause 22

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 22 be amended in paragraph (b), by deleting the words “a Kenyan citizen” and substituting therefor the words “Kenyan citizens”.

The Temporary Deputy Chairlady (Dr. Laboso): Any objection or any comment, hon. Minister?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection.

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

(Clause 23 agreed to)

Clause 24

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, I beg to move:-

THAT, Clause 24(2)(a) of the Bill be amended by deleting the word “professional” and substituting therefor the word “consulting”.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): The hon. Nicholas Gumbo!
Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 24 be further amended in subclause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) has at least fifteen years relevant and proven experience in design and construction management specific to the work to be checked; and”

The Temporary Deputy Chairlady (Dr. Laboso): Minister, do you have any comment?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection.

(Question of the further amendment proposed)

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

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

(Clause 24 as amended agreed to)

(Clause 25 agreed to)

Clause 26

Eng. Gumbo: Madam Temporary Chairlady, I beg to move:-

THAT, Clause 26 be amended by inserting the following new subclause immediately after subclause (2)—

“(3) Any person, other than a professional engineer or a consulting engineer registered under this Act, who uses the title “engineer” before their names commits an offence.

The Temporary Deputy Chairlady (Dr. Laboso): Yes, Mr. Minister!

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection. I support the amendment!

(Question of the amendment proposed)

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

(Clause 26 as amended agreed to)

(Clause 27 agreed to)

Clause 28

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 28 be amended in subclause (2) by inserting the word “authenticated” immediately before the words “notification thereof”.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, do you have any comment?

The Minister for Roads (Mr. Bett): No, Madam Temporary Chairlady. I support it.

(Question of the amendment proposed)

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

(Clause 28 as amended agreed to)

Clause 29

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 29 be amended in paragraph (a), by—

(a) deleting the word “every” appearing before the word “person” and substituting therefor the word “any”;

(b) deleting the word “profession” appearing in subparagraph (v) and substituting therefor the word “professional”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Do you want to make a comment?

Mr. Njuguna: Madam Temporary Chairlady, could hon. Gumbo tell us why this amendment is appropriate?

Eng. Gumbo: Madam Temporary Deputy Chairlady, the only thing we are intending to change is the grammar; nothing more.

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

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

(Clause 29 as amended agreed to)

Clause 30

Eng. Gumbo: Madam Temporary Chairlady, I beg to move:-

THAT, Clause 30 be amended—

(a) in subclause (1) by inserting the word “calendar” immediately before the word “year”;

(b) by inserting the following new subclause immediately after subclause (2)—

“(3) A person or firm whose details have been left out of, or erroneously entered into, the Register, shall notify the Registrar within thirty days from the date of publication of particulars of registration in the Kenya Gazette pursuant to subsection (1), for the necessary correction or amendment to be made, upon which the Registrar shall publish in the Gazette the corrected or amended particulars with respect to that person or firm.”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, any comment?

The Minister for Roads (Mr. Bett): Madam Temporary Chairlady, there is no harm on the proposals made by the hon. Nicholas Gumbo. But I want to draw your attention to Clause 28, which seems to be minding the wish of the hon. Gumbo. It says:-

“The Registrar may from time to time make changes or corrections in the register relating to any entry. 2. Any changes or corrections in the entries made under this section shall be made by the Registrar as soon as it is practical as the receipt of notification thereof.”

So, Madam Temporary Deputy Chair, I do not know, maybe we are going to be putting so much, because the proposal by the Member, to me, is covered under Clause 28. But there is no harm.

The Temporary Deputy Chairlady (Dr. Laboso): Is that your understanding, Eng. Gumbo?

Eng. Gumbo: It is, Madam Temporary Deputy Chairlady. The only difference is that actually my proposed amendment gives definiteness to the time frame in which it can be done. I think it enriches what the Minister is proposing and I would request that we carry it through.

The Temporary Deputy Chairlady (Dr. Laboso): Minister, you are okay with that?

The Minister for Roads (Mr. Bett): I have no problem, Madam Temporary Deputy Chairlady.

(Question of the amendment proposed)

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

(Clause 30 as amended agreed to)

Clause 31

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 31 be amended—

(a) in Subclause (2), by inserting the words “in the prescribed manner” immediately after the word “submit”;

(b) in Subclause (3), by inserting the words “of that particular year” immediately after the word “December”;

(c) by inserting the following new Subclause immediately after Subclause (4)—

“(5) A person who contravenes subsection (1) commits an offence.”

(Question of the amendment proposed)

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

(Clause 31 as amended agreed to)

(Clauses 32, 33 and 34 agreed to)

Clause 35

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

(a) THAT, Clause 35 be amended by inserting the following new paragraph immediately after paragraph(a)-

“(aa) fails to pay the Engineers Training Levy as required under this Act”;

(Question of the amendment proposed)

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

(Clause 35 as amended agreed to)

(Clauses 36 and 37 agreed to)

Clause 38

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

(b) THAT, Clause 38 be amended by inserting the following new paragraph immediately after paragraph(a)-

“(aa) the Engineers Training Levy Fund”;

(Question of the amendment proposed)

Mr. Chachu: Madam Temporary Deputy Chairlady, could the hon. Member tell us the import of this particular amendment?

The Temporary Deputy Chairlady (Dr. Laboso): Could a member of the Committee briefly explain the import of that amendment?

Dr. Otichilo: Madam Temporary Deputy Chairlady, what we are proposing is that we will have an Engineering Training Levy Fund, which will have all the money that

this Board will use for training and capacity building. So, we are indicating that all the engineers should be able to pay this amount, and those who do not pay, then they will suffer the disadvantage of not getting registered.

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

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 38(1)(b) of the Bill be further amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the further amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Gumbo, your amendment is similar to the Minister’s. So it falls.

Eng. Gumbo: Most obliged, Madam Temporary Deputy Chairlady.

(Eng. Gumbo’s proposed amendment withdrawn)

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 40 be amended in Subclause (3) by deleting the word “Minister” wherever it appears and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

(Clause 41 agreed to)

Clause 42

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 42 be amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

Mr. Njuguna: Madam Temporary Deputy Chairlady, could the hon. Gumbo give a small account of this amendment?

Eng. Gumbo: Madam Temporary Deputy Chairlady, this is just to align the Bill with the Constitution. It is to remove the term “Minister” and put in its place the term “Cabinet Secretary”.

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

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

(Clause 42 as amended agreed to)

Clause 43

Dr. Otichilo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 43 be amended-

- (a) in Subclause (1)-
 - (i) by deleting the words “five hundred thousand shillings” and substituting therefor the words “not more than one million shillings”
 - (ii) by deleting the words “two years” and substituting therefor the words “five years, or both”.
- (b) in Subclause (2) by inserting the words “not less than” before the word “one”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Minister, do you have a comment on that?

The Minister for Roads (Mr. Bett): No, Madam Temporary Deputy Chairlady. I am supporting it because I note that the Committee wants it to be stronger for punishing offenders. So, I support it.

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

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

(Clause 43 as amended agreed to)

Clause 44

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Kivuti, you lost an amendment when you were not here.

Mr. Kivuti: Madam Temporary Deputy Chairlady, I beg your indulgence.

The Temporary Deputy Chairlady (Dr. Laboso): Let us finish first of all the one that we are on right now.

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

THAT, Clause 44 be amended by inserting the following new paragraph immediately after paragraph (c)—

“(c) knowingly submits a land survey, valuation or environmental impact assessment document prepared by a person who is not licensed to prepare such document under any written law in force.”

(Question of the amendment proposed)

Mr. Chachu: Madam Temporary Deputy Chairlady, I would like to know the import of that amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Kivuti, could you briefly explain the import of your amendment?

Mr. Kivuti: Madam Temporary Deputy Chairlady, the import of this amendment is to avoid a situation where unqualified persons prepare survey works, valuations or environmental impact assessments which are subsequently submitted through engineers for use. This has happened in the past and this matter was discussed with the Committee and accepted.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, do you have a comment on this?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, as much as I would like to sympathize with that proposal, to me, it looks like it should be an amendment in another law and not The Engineers Bill. So, my recommendation to the hon. Member, if I can persuade him, is that this is an issue on land survey and we are discussing a matter to do with The Engineering Bill. So, it looks to me like it is a very good amendment to their relevant law as surveyors.

Mr. Kivuti: Madam Temporary Deputy Chairlady, the Minister is trying to avoid a matter of fact. If he tells us that under this law, there will be no inputs or submissions by any land surveyors, I will be in a position to say that this House should drop this matter. But the truth of the matter is that there is no road design which can be made without the input of a land surveyor. That is a fact!

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I want to ask the hon. Member to relax. I also want to indicate to him that the engineers employ land surveyors. We would like the---

Mr. Kivuti: On a point of order, Madam Temporary Deputy Chairlady. The Minister is out of order to tell this House that land surveyors, who are licensed under Survey Act, Cap.299 and are members of ISK and not Engineer's body, are employed by engineers. They are not!

The Temporary Deputy Chairlady (Dr. Laboso): Okay, hon. Member! Relax now!

Are they employees of engineers, Mr. Minister?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, they are not employees. They employ the services of surveyors. I would only like them---

(Mr. Kivuti stood up in his place)

The Temporary Deputy Chairlady (Dr. Laboso): That is okay, hon. Member! Let him finish what he is saying.

The Minister for Roads (Mr. Bett): Why can I not say what I want to say? It is not a matter of forcing each other. Let him just relax!

The Temporary Deputy Chairlady (Dr. Laboso): It is a debating Chamber. So, let us hear each other!

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, what I am saying is that let us not bring discipline issues with regard to land surveyors, because there is another law that governs the management of services provided by surveyors. That is why I am saying that I would like the hon. Member, with the same gusto, to put an amendment on the relevant law, so that discipline is placed on surveyors, so that when their services are called upon by other professional institutions, they are able to give services that are realistic and within ethical requirements.

Mr. Kivuti: On a point of order, Madam Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Kivuti, what is out of order in what the Minister has said?

Mr. Kivuti: Madam Temporary Deputy Chairlady, what is out of order is that this proposal is only trying to ensure that the engineers do not engage quacks and use those services for engineering purposes in this country.

Mr. Gitari: Madam Temporary Deputy Chairlady, I would like to bring to the attention of the Minister the fact that this amendment is for this Bill and not the Survey Act. In the land services, unless a survey is done, the engineers cannot even design anything. The big problem that we have been having is that our Curriculum Vitae (CVs) are gotten by the engineers who are doing the work, but when the work is brought on the desk, they give other people. They do not even use your CV because they are not enforcing--- So, this amendment belongs to this Bill because in the Survey Act, no unqualified person can submit work.

The Temporary Deputy Chairlady (Dr. Laboso): When you say "we" you should declare your interest. Are you a surveyor?

Mr. Gitari: Madam Temporary Deputy Chairlady, I am a licensed land surveyor.

The Temporary Deputy Chairlady (Dr. Laboso): Okay! Thank you. Your point has been made. Remember this is a debating Chamber!

Mr. Chachu: Madam Temporary Deputy Chairlady, I have listened very keenly both from the Minister and the surveyors, who are our colleagues here. If at all it has core written value to this Bill, I do not think that it will take anything away. Therefore, I think this amendment should be supported.

Dr. Ottichilo: Madam Temporary Deputy Chairlady, this matter was discussed at length during our Committee meetings. We even had the Minister and the engineers. We all agreed that this amendment is very necessary to ensure that when engineers recruit or contract the services of land surveyors, they must ensure that they are contracting qualified and registered land surveyors.

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by Eng. Gumbo!

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 44 be amended by—

(a) numbering the existing provision as sub-clause (1)

(b) inserting the following new sub-clause immediately after the renumbered sub-clause (1)—

“(2) A person who commits an offence under this section shall, after due process, be deregistered, or be suspended and have his name removed from the Register for such period as the Board may determine.”

(Question of the further amendment proposed)

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

(Clause 44 as amended agreed to)

Clause 45

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 45 be amended—

(a) in paragraph (a), by deleting the word “to” appearing immediately after the word “admits” and substituting therefor the word “into”;

(b) in paragraph (c), by deleting the word “person” appearing in subparagraph (ii) and substituting therefor the word “persons”.

Madam Temporary Deputy Chairlady, really, this is just grammatical and nothing else.

(Question of the amendment proposed)

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

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

(Clause 45 as amended agreed to)

Clause 46

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 46 be amended in sub-clause (3), by inserting the word “however”
immediately before the words “grant exemptions”.

(Question of the amendment proposed)

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

(Clause 46 as amended agreed to)

Clause 47

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 47 be amended in sub-clause (2), by—
(i) deleting the words “until such time as the administration of the
estate of the deceased is completed” and substituting therefor the words
“for not more than six months”;
(ii) inserting the words “and thereafter the body of persons shall
cease to carry on the business of engineering unless it can demonstrate,
through legally binding documents, that it has taken on board a
professional engineer as a partner or director” immediately after the words
“professional engineers”.

(Question of the amendment proposed)

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have
no objection to the amendment. Although I would have wished it to be left open-ended,
the hon. Member wishes to close it in six months.

Eng. Gumbo: Madam Temporary Deputy Chairlady, again, we discussed this.
The import of this is that the Bill allows an engineering firm to have non-engineering
directors, but in the event that the director who is an engineer dies, it was unlimited. They
could continue, but I think that is wrong, because they are continuing although they are
non-engineers. So, what I have done is to cap it to six months. They will be allowed to

practice for six months and then after that they can get an engineer as a director and continue. I wish to request the Minister to allow it to go through.

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

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

(Clause 47 as amended agreed to)

(Clause 48 agreed to)

Clause 49

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

THAT, Clause 49 be amended—

(a) in subclause (1), by deleting the words “engineering surveys” appearing immediately after the words “submit plans”;

(b) in subclause (2), by deleting the word “surveys” appearing immediately after the words “submit engineering plans”.

(Question of the amendment proposed)

Eng. Gumbo: Madam Temporary Deputy Chair, I understand the issues that the Member has in mind in proposing this amendment, but like the Minister said earlier, survey really is a generic term. We do survey on HIV/AIDS, we do economic surveys and we do surveys when we want to know how many children drop out of school because of early pregnancy. I wish the Member could understand. In our work as engineers, today if we have a problem in this Chamber and Parliament wants to engage somebody, they would ask you to survey the Chamber and advise them on what needs to be done. I do not think it is an infringement on the distinguished profession of land surveying. I would wish the Member to let it carry through.

The Temporary Deputy Chairlady (Dr. Laboso): So, you are opposing the amendment?

Eng. Gumbo: Madam Temporary Deputy Chair, I am opposing the amendment with utmost respect to the Member.

Mr. Kivuti: Madam Temporary Deputy Chair, I had occasion to discuss this matter with hon. Gumbo and that is why both me and hon. Gitari had come up with a compromise amendment which we agreed with hon. Gumbo to put under Clause 2. We can drop this amendment in Clause 49 if we define that the survey which is in the Act is purely generic and does not touch on lands survey, hydrographic survey and aerial survey.

The definition of survey in Article 22 of the Survey Act clearly states that all land and aerial surveys in Kenya can only be done under the direction of the Department of Survey in Kenya.

I would like to seek the indulgence of the Minister if he can get a compromise because we also talked with him last week. We do not want to have a conflict of what is surveying and what is not surveying. Then this compromise would be in the definition part where we say that this survey is a generic work for all types of economies and everybody else and does not include the survey defined in the Survey Act.

Mr. Mureithi: Madam Temporary Deputy Chair, I have listened to this and with all respect to my friend, hon. Gumbo, calling another profession generic; all professions can be generic because you can re-engineer your life and everything. So, if you have a profession that is registered and has a statute, if its services are needed, it is good also to appreciate that all these are complementary services. All professions including what we have here can be called generic depending on how you look at it. Therefore, I support the amendment.

Mr. Kivuti: Madam Temporary Deputy Chair---

The Temporary Deputy Chairlady (Dr. Laboso): Are you supporting the amendment or opposing it? The amendment is asking for it to be deleted. That is what you are asking for the deletion of the word “survey”.

Mr. Kivuti: Madam Temporary Deputy Chair, I moved the amendment to carry through. Because of Eng. Gumbo wanting to oppose it, the only way we can have a compromise, and we discussed this with the Minister, is if we go back to Clause 2 and accept what we had agreed with Eng. Gumbo as a definition of survey.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Kivuti, we cannot go back to Clause 2.

Mr. Kivuti: Madam Temporary Deputy Chair, if we cannot go back to Clause 2, then we have to remove the word “survey” as it is in Clause 49.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chair, listening to hon. Mureithi, I do not think hon. Gumbo said that the profession of surveyors is generic. It is the use of the word “survey”. I had opportunity to look at this Oxford Advanced Learners Dictionary which gives me the meaning of the word “survey” as a noun as (1) An investigation of the opinion, behavior of a particular group of people which is usually done by asking them questions. (2) The act of examining and recording of the measurements, which I think is land survey. The other meaning is taking by population survey. (3) An examination of the conditions of a house usually done for somebody who is thinking of buying and (4), a general study, view or description of something.

I have a lot of respect and I think they have used the right words “land survey”. We are simply saying engineering survey, population survey and disease survey. If we are now going to place the word “survey” under protection, it means it cannot be used by any other person anywhere else. I want to plead and persuade the Members that so long as they describe survey as land survey, we will describe our engineering as engineering survey. Those are two professionals carrying out some surveys for a people.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we cannot go on forever on this small matter. We must move. We can vote and then dispense of the matter. It is clear, the difference between the choices of the word “survey” used in the general sense that has been described in the dictionary.

Mr. Kivuti: On a point of order, Madam Temporary Deputy Chair. With all due respect, the description that the Minister has put through will put in jeopardy all the other

professions. In that case, I move that this amendment be passed, so that it will not jeopardize even the Act which we are putting in place. It will also not jeopardize all the other surveys that exist.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Member, you are using the word “survey” in a very restricted way, but the Minister has read five different meanings of the word “survey”.

Mr. Gitari: Madam Temporary Deputy Chairlady, it is important for us to look at whatever amendment hon. Kivuti is talking about. In the first amendment, he is talking about engineering survey. With due respect, engineers are here and they know what we mean by “engineering survey”. It is not evasion. Engineering survey is the survey we do. We also call it “topographical survey” for purposes of design. If we now narrow down to survey alone---

Engineering survey is done on roads. In the case of buildings, we have topographical survey.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we can now vote on this matter having ventilated on it adequately, unless you have something different from what has been said, hon. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I am just trying to give my interpretation from what I understand as a lawyer, and not as an engineer. My understanding is that Clause 49, if left as it is, would put surveyors within the ambit of engineers. This is especially so in view of Subclause (2) of Clause 49. So, perhaps we intend to put surveyors under the control of engineers, because if you look at the definition section, it does not define the terminologies that the Minister has given. The easier way would have been to provide a definition of the terminologies.

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, the further amendment to Clause 49 by hon. Gitari is similar to the amendment that was brought by hon. Kivuti. Therefore, hon. Gitari, please, withdraw your amendment because it has been lost.

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

THAT, Clause 49 be amended –

- (a) in sub clause (1) by deleting the words “engineering surveys”;
- (b) in sub clause (2) by deleting the word “surveys”

The Temporary Deputy Chairlady (Dr. Laboso): No; it is the same amendment. It should be withdrawn because we have just disposed of a similar amendment by hon. Kivuti.

Mr. Gitari: Madam Temporary Deputy Chairlady, with due respect, the amendments were two.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Gitari, you are out of order! If you were dissatisfied with the outcome of the vote on that amendment, you should have stood up and sought division. If you got the right number of hon. Members

disputing the outcome, we would then have gone into division. So, you are out of order. Just let the matter rest there.

(Mr. Gitari's proposed amendment withdrawn)

Let us proceed.

(Clauses 50, 51, 52, 53 and 54 agreed to)

Clause 55

The Temporary Deputy Chairlady (Dr. Laboso): There is a proposed amendment by the Departmental Committee to Clause 55.

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

THAT, Clause 55 be amended –

(a) by deleting the words "two hundred thousand shillings" and substituting therefor the words "not less than five hundred thousand shillings";

(b) by deleting the words "one year" and substituting therefor the words "two years".

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Do you have any comments, Minister?

The Minister for Roads (Mr. Bett): I have no comments, Madam Temporary Deputy Chairlady.

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

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

(Clause 55 as amended agreed to)

Clauses 56

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 56 of the Bill be amended-

(a) by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary"; and,

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

(ff) provide for the composition, conduct and regulation of business and affairs of the Kenya Academy of Engineering and Technology established under section 7 (p).

Madam Temporary Deputy Chairlady, we are proposing this amendment so that we can have an institution that will be providing services on engineering and technology.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, as you move your further amendment to this clause, take note of the fact that part (b) of your amendment is similar to the amendment by the Minister's, which has already been passed.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I will move that Clause 56 be further amended as shown on the Order Paper, except that I am dropping part (b) of the amendment. We had also discussed about dropping part (d) of the amendment. He has his reasons, I have mine. Therefore, I would just request him to say why he is opposed to part (d) of my amendment, so that we can agree on the Floor of this House.

Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 56 be amended by—

- (a) numbering the existing provision as Subclause (1);
- (b) deleting the word “Minister” and substituting therefor the words “Cabinet Secretary” in the renumbered Subclause (1);
- (c) inserting the words “which shall include, but not limited to, conditions of engagement for engineering services in projects where engineers work with other professionals, scales of fees applicable to such engagements, hourly rates applicable for report and advisory work and any other guidelines for ethical professional practice of engineering” immediately after the word “Act” appearing in paragraph (d) of the renumbered Subclause (1);
- (d) inserting the following new sub clause immediately after the renumbered Subclause (1)—
“(2) Regulations made under this section shall be laid before Parliament for approval before they take effect.”

(Question of the further amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Yes, Minister.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, you have heard the hon. Member say that I have reservations on part (d) of his amendment. We discussed and agreed that we leave it out. I have just seen it back on the Order Paper.

Madam Temporary Deputy Chairlady, these regulations could be administrative issues. I was pleading with the hon. Member that such regulations need not be brought to the House. They could be minor administrative rules detailing issues of management. That is why I was saying that they need not be brought to Parliament.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I would not want to engage the Minister in a protracted debate on this matter, but I would request his gentleman's understanding that when regulations concerning fees charged by engineers are prepared, he should make sure that we are not starved as professionals in this country.

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, are you, therefore, withdrawing part (d) of your amendment?

Eng. Gumbo: Madam Temporary Deputy Chairlady, I withdraw, subject to him giving us good fees.

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, hon. Bett is not going to be the Minister for Roads forever. This is a law for posterity.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, this is already taken care of in the management of the Board itself. So, the Board will take care of it.

*(Parts (b) and (d) of the amendment by
Eng. Gumbo withdrawn)*

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

(Clause 56 as amended agreed to)

(Clause 57 agreed to)

Clause 58

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 58 be amended by inserting the following new Subclause immediately after Subclause (2)—

“(3) All persons registered under the Engineers Registration Act (repealed) shall carry on as though registered under this Act, without having to apply for new registration, and shall enjoy all rights and privileges as provided under this Act except that the category of engineers referred to as ‘registered engineers’ shall now be referred to as ‘professional engineers’”.

(Question of the amendment proposed)

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

(Clause 58 as amended agreed to)

New Clause

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

THAT, the following new clause be inserted immediately after Clause 30-

Imposition of Levy

30A (1) Every registered engineer whose name appears on the register shall pay annually or at such longer intervals as the Board may deem appropriate a levy to be known as “the engineers training levy”, at a rate to be determined by the Board from time to time.

(2) All moneys received in respect of a training levy shall be paid into an Engineers Training Levy Fund managed by the Board.

(3) A registered engineer who fails to comply with the provisions of Subclause (1) shall not be eligible to be issued with a licence.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Dr. Laboso): Dr. Ottichilo, give a brief explanation for the introduction of this new clause.

Dr. Otichilo: Madam Temporary Deputy Chairlady, the Departmental Committee discussed this matter and we agreed that there is need to impose a new levy on all registered engineers who will pay the levy on an annual basis. The amount of money to be levied will be determined by the Board. The reason for doing so is to raise enough funds for the Board, particularly as regard the continuous training of the engineers. The Departmental Committee reckoned that training of the engineers is very important. This Act provides that in order for an engineer to have his or her registration renewed annually, he or she must show that he or she has undergone some form of training.

So, we should include this levy so that we can afford the Board to have more money to carry out this important function.

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

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Minister, are you satisfied?

The Minister for Roads (Mr. Bett): Yes, Madam Temporary Deputy Chairlady. I have no objection. It is a worthy proposal.

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

(The new clause was read a Second Time)

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

New Clause

The Temporary Deputy Chair (Dr. Laboso): Mover?

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 49—

Practising

Without a licence 49A.

A person who engages in the practice of engineering or charges a professional fee without a valid licence from the Board commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or both.

Madam Temporary Deputy Chairlady, the import of this new inclusion is that many times in this country, especially foreigners, you get people who come here either as employees and over time, they mutate and start practicing engineering. Many times, these people practice engineering without a licence and, as a result, their competence is not known and it is in doubt. Most of the time, they provide sub-standard engineering services. The import of this clause is that it now penalizes practicing engineering and charging fees without a licence.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause

Eng. Gumbo: Madam Temporary Deputy Chair, I beg to move:-

THAT, the following new clause be inserted immediately after clause 58—

Act to 58A. On all matters relating to providing professional engineering services, which shall include, but not limited to, conducting engineering surveys, preparing and submitting plans, drawings, schemes, proposals, reports, designs, studies, supervision, testing, commissioning and fees applicable thereof, this Act shall supersede any other Act.

Madam Temporary Deputy Chairlady, the import of this is really to elevate engineers. We have had cases where, for example, engineers work as a team in consortium with architects and most of the time; they are relegated as subordinate professionals. So, the import of this clause is just to bring it at par and make this Act now to be the primary Act with regard to matters of engineering.

(Question of the new clause proposed)

(New clause read the First Time)

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

Mr. Kivuti: Thank you, Madam Temporary Deputy Chairlady. I stand to oppose this clause. There is no justifiable reason why engineers should be above all other professionals such as surveyors and architects. I do not think this is fair at all in any country, particularly in Kenya. We should be able to leave engineers to practice within their own norms. They have their own Engineers' Registration Board which controls the engineers. We also have the Land Surveyors Board which controls the surveyors. We also have the Architectural Association of Kenya which controls architects, just like we have lawyers' body which controls lawyers and all the other professions.

Madam Temporary Deputy Chairlady, I think we should not push this too far to make engineers above every other profession.

Thank you, Madam Temporary Deputy Chairlady.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I just need to explain. With all due respect to my colleague, he is taking it out of context. The proposal is very clear; it restricts only on matters of engineering. It does not infringe on any other law. In fact, it reads:-

“On all matters relating to providing professional engineering services”

That is what it says! Really, how does that infringe on the practice of survey?

Mr. Kivuti: On a point of order, Madam Temporary Deputy Chairlady.

The Temporary Deputy Chair (Dr. Laboso): What is your point of order? And it should be a point of order, Mr. Kivuti!

Mr. Kivuti: Madam Temporary Deputy Chair, my point of order is that, we should not read this sentence only the first bit. It goes on to say:-

“which shall include, but not limited to, conducting engineering surveys, preparing and submitting plans, drawings, schemes, proposals, reports, designs, studies, supervision, testing, commissioning and fees applicable thereof---”

That means architects. When you say; “this Act shall supersede any other Act,” it means that if I conduct a survey tomorrow, the Survey Act shall be superseded by this Act; the Architectural Act or whatever, Cap.525 shall be superseded by this Act in terms of designs---

The Temporary Deputy Chair (Dr. Laboso): Hon. Kivuti, I think your point has been made!

Yes, Mr. Minister!

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I want to support the amendment in that according to Eng. Gumbo, to me, it looks like only in respect to engineering services. The way I saw it is that the engineers are placing themselves in strict discipline; in strict professional conduct. That is the way I saw that provision, and when I looked at it, I said fair enough. I want engineers who are in good conduct as professionals. But I think I agree with my good friend, hon. Kivuti. He is reading it out of context.

The Temporary Deputy Chair (Dr. Laboso): Yes, hon. Lessonet!

Mr. Lessonet: Madam Temporary Deputy Chairlady, having read the entire paragraph as proposed by Eng. Gumbo, I think if we can make amendments so that we only leave: “Providing engineering services” and we leave out the other sentences which tell us that those engineering services are not limited to what they are listing. Really, Eng. Gumbo has made it open-ended, but if we leave it at: “Providing engineering services,” I want to believe that the surveyors here and, to that extent myself as an accountant, we will definitely be satisfied.

The Temporary Deputy Chairlady (Dr. Laboso): Yes, the honorable Mover of the amendment!

Eng. Gumbo: Madam Temporary Deputy Chair, it is just that what we intend to communicate is not coming out. However, this is in the larger context. I will have no problem amending it to “on all matters relating to providing professional engineering services” and we stop there. And then “this Act shall supersede any other Act.” I will stop there.

The Temporary Deputy Chairlady (Dr. Laboso): Are you changing your amendment, because in the definition of terms, you do go into the full details on page 460---

Eng. Gumbo: No, I am moving that we amend it so that it reads:-

“On all matters relating to providing professional engineering services”

You delete everything and then say:-

“This Act shall supersede any other Act.”

The Temporary Deputy Chair (Dr. Laboso): Mr. Minister, are you comfortable with Eng. Gumbo’s proposal?

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I have no objection to the amendment. However, it may not be necessary to include, therefore, the way it has been mutilated. This is because it is already taken care of within the functions. I thought he was amplifying the functions of the Board. Mine is on the discipline of the engineers.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I think the amendment is necessary.

The Temporary Deputy Chairlady (Dr. Laboso): Therefore, how does your new amendment read?

Eng Gumbo: It will read: "On all matters that relate to providing professional engineering services, this Act shall supersede any other Act.

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

(The new clause was read a Second Time)

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

First Schedule

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

THAT, the First Schedule to the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph 1-

"**1A** The Board shall, at its first meeting, elect a vice chairperson from amongst the persons appointed under section 5(1)(g) of this Act.

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

**Disclosure
of interest**

"8A (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a

meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question."

"(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made."

(Question of the amendment proposed)

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

(First Schedule agreed to)

Long Title

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

THAT, the long title be amended by deleting the words “review and update the law relating to the” appearing immediately after the word “to” and substituting therefor the words “provide for ”

(Question of the amendment proposed)

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I support.

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

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

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the long title be amended by inserting the words “and development” immediately after the word “regulation”.

(Question of the further amendment proposed)

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

*(Long Title as amended, agreed to)
(Clause 1 agreed to)*

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Engineers Bill (Bill No.25 of 2011) and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION AND THIRD READING

THE ENGINEERS BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Engineers Bill, (Bill No.25 of 2011) and approved the same with amendment.

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

The Assistant Minister for Roads (Mr. Kinyanjui) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Engineers Bill (Bill No.25 of 2011) be now read the Third Time.

The Assistant Minister for Roads (Mr. Kinyanjui) seconded.

(Question proposed)

((Question put and agreed to)

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

BILL

Second Reading

THE RATIFICATION OF TREATIES BILL

(Mrs. Odhiambo-Mabona on 29.11.2011)

(Resumption of Debate interrupted on 29.11.2011)

The Temporary Deputy Speaker (Mr. Imanyara): You are still moving, Ms. Odhiambo-Mabona. You have 57 minutes.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, as I had indicated, this Bill seeks to give effect specifically to Article 2(6) of the Constitution and Article of 94 of the Constitution. This is because when we were campaigning for the Constitution and when the Constitution was taken for referendum, those who were opposed to the Constitution argued that the provisions of Article 2(6) enabled persons other than Parliament to pass laws through the back door.

I had also indicated that in a way, they may also affect Article 2(5) of the Constitution although it does not strictly have to apply because the process of law

crystallizing as general rules of international law are different. I noticed during that debate that people were confusing those concepts. For a law to crystallize as a general rule of international rule, then it must have been a practice that has been adopted by several states over a number of years and there would be near unanimity. Therefore, the issue of ratification does not apply. If a country does not agree with a general rule of international law, they can refuse by being a persistent objector. For instance, Kenya has been seen as a persistent objector to the issue of abortion. Therefore, even if an international rule were to develop around the issue of abortion, then unless Kenya specifically legislates and indicates that it allows the right to abortion, then Kenya would be seen as a persistent objector.

Mr. Temporary Deputy Speaker, Sir, I want to go back to the issues that were canvassed during the constitutional referendum. The arguments by the opponents to the Constitution in relation to Article 2(6) were to the effect that the application of international law in Kenya without the necessary legislative oversight by Parliament amounted effectively to legislation by the Executive and yet by the new Constitution, we had clearly provided for separation of powers. This, according to the opponents as was ably articulated by my old time college mate, Peter Wayaki, was that it would amount to rule by decree in a situation where the Executive is not elected except for the President and the Deputy President. Under the new Constitution, most of the Executive will be appointed and not elected. The gist of the argument is that this would limit Kenya's sovereignty as we would be ceding our legislative powers to other countries under international law.

I would want to note that this is an old argument which in law we have classified as the monist and dualist approach. The Monist Theory imagines a unitary world legal system in which national and international law have comparable equivalent or identical subjects, issues and substantive contents. Supremacy is placed on international law above national law under Monist Theory. These theorists basically argue that the international law is more superior to national law and, therefore, once an international law is passed, then it does not matter what the national law provides. In that instance, even if Kenya were to pass a Constitution, according to the Monist Theory, if the Constitution of Kenya is not in conformity with international law, then international law would take precedence over the Kenyan Constitution.

On the other hand, we have the Dualists approach which distinguishes between international law and national law and only makes states the subjects of international law. The proponents of this approach are persons who put a lot of weight to the concept of sovereignty of states. They argue that because countries are sovereign, they should be allowed and let alone to legislate on issues of sovereignty of their own countries. Because of that, they give supremacy to national law over international law. It is one of the arguments we have seen that has been put forward even over the ICC Tribunal and other international tribunals.

I want to say that Kenya is in a very unique situation because we cannot call ourselves strictly monists or dualists. The reason is, if you read Article 2(6) even though it may appear like that it has self-executing provisions, if you look at the provisions provided in the Constitution, they are already in conformity with international law. Therefore, whether or not it is self executing is really not relevant.

Mr. Temporary Deputy Speaker, Sir, I want to compare Article 2(6) of the Kenyan Constitution with the Dutch Constitution of 1983 and especially Article 93 that provides the provisions of treaties and decisions of international organizations shall have binding effect in that country. I want to say that if you notice the significant difference between that Dutch law and the Kenyan law is that in Kenya, we have provided that treaties that are ratified by Kenya. In the Dutch law, the provision of ratifying treaties is not indicated which, therefore, makes the Dutch situation self-executing. In Kenya, it is not self-executing and it gives room for us to provide for a law that indicates how we shall ratify treaties. In the past, the ratification of treaties has been the pure and absolute preserve of the Executive and the Legislature has not been involved in it.

Those who are arguing about issues of sovereignty, I would like to say that, while I acknowledge their arguments, one of the things that we need to understand is that sovereignty as a concept is now becoming very fluid because the world is becoming a global village. With a global village, no country is going to watch any other country kill its own people, violate the rights of its own citizens and argue that it is a sovereign State.

Mr. Temporary Deputy Speaker, Sir, whereas I agree, we still have a measure of sovereignty as countries, yet in matters especially of human rights violations, the world has become very vigilant. The concept of my brother's keeper is therefore gaining a lot of currency in the international arena especially within the ambit of human rights protection.

Having said that, I want to say that treaties negotiated should be done through parliamentary approval process much more in light of the fact that Kenya is becoming part of several international and regional blocs with several bilateral and multi-lateral treaties. The risk of legislating on issues that might clash with our Constitution is becoming real. Indeed, the East African Treaty has always been sighted as a case in point especially on the budgetary process. There has been argument that Kenya needs to amend its Constitution to conform with the East African Treaty. Therefore, the question is; will we be doing this with every bi-lateral treaty or international treaty that Kenya ratifies? The best approach is to provide for ratification of treaties through Parliament so that Parliament and the Executive is involved so that when they go out to ratify treaties, it will have the blessings of the Kenyan people through Parliament. Through that process, we will not be seen to be sneaking in legislation or provisions that are not attractive to Kenyans.

Mr. Temporary Deputy Speaker, Sir, indeed, there have been instances in the past where we have had near misses like in the Cancun talks. There are standards that were being set by the international community which were not favourable to Kenya.

Madam Temporary Deputy Chairlady, it is only through lobbying and advocacy that Kenya got its way. What this law seeks to do is not to leave this work to activists but to provide a process through which the activists and every person who may oppose any law has the opportunity to participate and be involved in this process.

As persons who are supporting the Constitution, we made a promise to the ones who were opposing it that we would take action to redress some of the things they were not happy with. This law is one of the initiatives that we seek to ensure that we, as Members of Parliament, redress some of the issues that the ones who were opposed to the Constitution were not happy with.

I want to indicate that there are many conventions that Kenya has ratified that are of importance, both in the environmental field and in the human rights field. I want to

give the example of the Convention on Bio-Diversity, the Vienna Convention on Treaties, the Convention on the Rights of the Child, the Convention Against Torture and the Convention on Elimination of all forms of discrimination Against Women, among several others.

Fortunately, most of these conventions are very favourable because they provide progressive rights, most of which are already mirrored in our Constitution. I would like to say that what this law, therefore, provides is that as per the effective dates, the treaties that were ratified will not necessarily come through this process but this law will take effect now onwards.

Mr. Temporary Deputy Speaker, Sir, I also want to highlight what this law provides. The law is divided into four parts. Part I the preliminary and it gives a short title, interpretation and application. Part II is the ratification of treaties and it covers approval by Cabinet, consideration by Parliament and under Clause 6, approval for ratification. Clause 7 is on ratification of the treaty and the granting of full powers and provides for offences under this law for persons who may ratify the treaty without Parliamentary approval. Under Part IV, it provides for the establishment of the Registry of Treaties and also establishes the Office of the Registrar of Treaties who would be a person who is conversant with international law and International Relations.

Part IV is on general provisions and also says that the public shall be made aware of the treaties that will be ratified in compliance with the Constitution that talks about public participation. Under Clause 13, it provides for reporting in compliance with the terms of the treaties, denunciation of certain treaties and for general rules. Since this Bill came up, we have received several memoranda and had several discussions with members of the public, with organized groups and even with different Ministries including the Ministry of Foreign Affairs. They have proposed several amendments and I want to speak---

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Mrs. Odhiambo-Mabona, that is a convenient point to adjourn because you will have another 42 minutes when we resume.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): It is now time for interruption of business. Therefore, the House stands adjourned to tomorrow, Thursday, 1st December, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.