

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 11<sup>th</sup> December, 2012

The House met at 2.30 p.m.

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

### PRAYERS

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.201. There is a petition on a piece of land in Lamu.

**The Temporary Deputy Speaker** (Mr. Imanyara): Are we on Petitions? Sorry, you have been overtaken by events.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, I had pressed the button, but I could not catch your eye.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Nuh, you can raise it after statements. As a tradition, you know that petitions come up on Thursdays. Is that what you wanted to ask? The time to raise that issue is on Thursday. That is the traditional day for petitions. So, you can raise those concerns on Thursday at exactly the same time. This is because we have already established a tradition for bringing petitions on Thursdays. That is the procedure we have adopted throughout the Tenth Parliament.

Next Order!

### PAPER LAID

The following Paper was laid on the Table:-

The National Construction Authority Draft Regulations, 2012

*(By the Minister for Public Works)*

### NOTICE OF MOTION

#### THE NATIONAL CONSTRUCTION AUTHORITY DRAFT REGULATIONS

**The Minister for Public Works** (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the National Construction Authority Draft Regulations, 2012 laid on the Table of the House today, Tuesday, 11<sup>th</sup> December, 2012.

### QUESTIONS BY PRIVATE NOTICE

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, last week the Minister for Justice, National Cohesion and Constitutional Affairs agreed to address very important issues raised by Members with regard to registration of voters. In view of the importance of this Question, I want to rearrange the order of Questions in a way that we ask Question No.2 first if the Questioner is here, so that he can address it because it is of great national importance.

#### REGISTRATION OF VOTERS IN MBEERE NORTH CONSTITUENCY

**(Mr. Kivuti)** to ask the Minister for Justice, National Cohesion and Constitutional Affairs:-

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

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

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

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, I am supposed to issue a statement on Question No.2. The first one is just the way it is.

**The Temporary Deputy Speaker** (Mr. Imanyara): I was saying that I want to rearrange the Questions so that we deal with that one first, if the hon. Member for Siakago is here. I had directed that you issue us with a Ministerial Statement. Do you remember? Since the Member is not in the House, I will come back to it in a little while.

Next Question!

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, Question No.1 is also from my Ministry and I am ready to proceed with it

#### VETTING OF CANDIDATES VYING FOR ELECTIVE POSITIONS

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

(a) Could the Minister state the academic and other qualifications required for candidates vying for positions of President, Deputy President, Member of National Assembly, Member of Senate, Governor, Deputy Governor, County Assembly Speaker and County Ward Representative?

(b) What other documents or clearance certificates are required as well as the vetting process candidates seeking elective positions are supposed to undergo and could the Minister state if there are timelines to be observed, and who is to conduct the vetting process, if any?

(c) Could the Minister indicate the specific provisions of the law supporting such requirements?

Mr. Temporary Deputy Speaker, Sir, I have just been served with the answer and have not perused through it. I, kindly, request that you hold on a bit so that I go through the answer provided by the Minister.

**The Temporary Deputy Speaker** (Mr. Imanyara): Let us move on to the next Question by Mr. Moses Lessonet.

FAILURE TO REGISTER DIPLOMA GRADUATES FROM  
KENYAN UNIVERSITIES BY TSC

**(Mr. Lessonet)** to ask the Minister for Education:-

(a) Is the Minister aware that the Teachers Service Commission (TSC) has refused to register graduates with Diploma in Education (Arts) from Egerton, Moi, Methodist and Mt. Kenya universities rendering them unemployable by the TSC?

(b) What action will the Minister take to ensure that graduates are not frustrated in pursuit of their career?

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Lessonet not here? The Question is dropped.

*(Question dropped)*

**ORAL ANSWERS TO QUESTIONS**

*Question No.1281*

RULE ON PACKAGING OF POTATOES  
IN 110-KILOGRAMME BAGS

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Kioni not here? The Question is dropped.

*(Question dropped)*

*Question No.1683*

REHABILITATION OF KISUMU-MUHORONI-MIWANI-CHEMELIL ROAD

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Shakeel not here? The Question is dropped.

*(Question dropped)*

*Question No.1851*

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

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Is the Attorney-General not here? We cannot drop his Question.

Could one Minister tell me where the Attorney-General is? Mr. Obure, where is the Attorney-General?

**The Minister for Public Works** (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I am not very sure where he is right now. He ought to be here. We hope that he will join us in the course of the sitting.

**The Temporary Deputy Speaker** (Mr. Imanyara): This is not a question of hope. The Front Bench has an obligation to answer Members' Questions.

Hon. Mwau, what do you have to say to this?

**Mr. Mwau**: Mr. Temporary Deputy Speaker, Sir, this Question has been deferred three times previously. On Thursday, last week, the Attorney-General expressed his willingness to answer it today. In fact, he promised to be here today to answer it. I ask for your indulgence that we hold on a little bit with hope that he is on his way here instead of deferring it because that will eat into our time next week.

**The Temporary Deputy Speaker** (Mr. Imanyara): If hon. Members' Questions are being dropped, I do not see why Ministers should enjoy special privilege with regard to answering Questions. However, since this Question has been deferred a number of times and the Questioner is in the House, I will call it out later.

*Question No.1680*

ACCREDITATION OF CHINESE UNIVERSITIES  
BY KENYAN GOVERNMENT

**Mr. C. Kilonzo** asked the Minister for Higher Education, Science and Technology:-

(a) whether he could provide a list of Chinese universities recognized in Kenya and those which are not; and,

(b) what measures the Government will take to promote awareness of China's Universities and ensure that students who graduate from such universities are recognized and considered for employment opportunities.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) There are 743 Chinese universities and colleges that are recognized in Kenya; I wish at a later stage to table a list of the 743 universities. I wish to also confirm that all other Chinese universities---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, when do you wish at a later stage to table a list? Is that at the end of your response?

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I intend to do so at the end of my answer.

So, all other Chinese universities which are not in the list that I will table here are not recognized. I want to make it very clear.

(b) My Ministry has taken the following measures to promote awareness about these Chinese universities.

1. Through the Commission for Higher Education (CHE), the Ministry conducts annual exhibitions on Kenyan universities and foreign universities, where universities showcase their programmes and accreditation status. Kenyan parents, guardians and students are encouraged to visit the CHE website: [www.che.ke](http://www.che.ke) and other related sources of information. Parents are also advised to make enquiries from the Commission for assistance and guidance.

2. The Ministry disseminates information about recognized universities also through the following exhibitions: Agricultural Society of Kenya (ASK) fairs in Nairobi and Mombasa, East African universities exhibition organized by Tanzania and Uganda.

3. The Commission works very closely with other international and regional accredited bodies. Institutions accredited by these bodies are also recognized by the CHE through mutual agreements, regional conventions and protocols.

Mr. Temporary Deputy Speaker, Sir, CHE is also a member of the International Network for quality assurance agencies in higher education. The agency is worldwide association of over 200 organizations active in theory and practice of quality assurance in higher education. From the agency, the CHE is able to get information about recognized universities in the world.

(4) The CHE has established a resource centre, where there are database and directories on recognized higher education institutions. The resource centre is open to the public and some of the databases and directories available, include are the 23<sup>rd</sup> Edition of the World Higher Education Database published by the International Association of Universities, UNESCO 2012 and Europa World of Learning 2012, 62<sup>nd</sup> Edition.

(5) Lastly, they offer a clearance service to Kenya students who prefer to study abroad. At this stage, clearance is only granted to students who meet country specific admission requirements, and only those proceeding to accredited universities are cleared. Parents and students should make use of this service.

Mr. Temporary Deputy Speaker, Sir, with regard to recognition of graduates of such universities, I would like to state categorically that graduates with degrees, diplomas and certificates awarded by foreign universities and institutions in accordance with the standards and guidelines set out by the CHE from time to time are eligible to compete for available employment opportunities in this country.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, let me thank the hon. Member for the answer. I just want to get a clarification from the Assistant Minister. What is he doing to protect these innocent students who, out of lack of vacancies in local universities, want to go abroad, not necessarily to China, to ensure that by the day they are leaving the country know the universities they are going to attend are, in the first place, recognized? It appears that they do not seem to know that there is a resource centre showing which universities are recognized within the country and the region.

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank the Member for that question. This is because quite a number of parents and their children actually get lost when it comes to getting proper information from the correct office.

Mr. Temporary Deputy Speaker, Sir, I have stated that the CHE has a website and you can access it any time from anywhere in the world. At the same time, the Ministry also has a website, which you can access any time from anywhere in the world. So, I want to say that our offices are open. I have even mentioned that the CHE has within the region, especially in Uganda and Tanzania, a database. So, parents and students can access it if they are interested. I want to really mention here that parents must be on the lookout. Parents must advise their children to actually get the proper information before they go outside the country. If they do not do this, they will end up going to fake universities, or universities that are not recognized. When they come back to the country, they will not get jobs or their certificates will not be recognized.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has answered the Question on the Chinese universities. But I want him to confirm to the country and education stakeholders that Kampala International University (KIU) has over 60 per cent of Kenyan students. The Kenya Medical Practitioners and Dentists Board has recognized medical students from that university. But two weeks ago, the Chief Executive Officer (CEO) of the CHE made a very alarming statement that, that university is not recognized.

Could he confirm to the country that the Commission and its CEO will not issue such statements that will affect the lives of thousands of students and their parents? What is the status of KIU, as far as the Ministry for Higher Education, Science and Technology is concerned? Is it recognized and what his position *vis-a-vis* the position of the CEO?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, that is a good question. This issue appeared in the dailies, I think, sometime last week or two weeks ago. I want to really, for the sake of clarity, to ask hon. Duale to prepare a specific a Question on KIU. There are courses that we recognize---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, the Member was very clear. Is it recognized or not?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, I also want to confirm that he was very clear. I just want to say that Kampala University is an accredited university in the East African region. Some courses are actually recognized and some courses have not been cleared by the CHE.

**Mr. Duale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want the Assistant Minister to confuse between Kampala University and KIU. I want him to tell the country categorically whether KIU is recognized. There is existence of Kampala University, but my question is on KIU.

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, I want to confirm that KIU is recognized within the region. But they are offering some courses that have not been cleared by the Kenya's CHE. Normally before they undertake courses, especially in the sciences, we, as a Ministry, through the CHE, must clear them. So, courses that have not been cleared by CHE will never be recognized by Kenya. But courses that have been cleared will have no problem. As I said, the university is recognized.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Assistant Minister, Kenyans are interested in knowing which courses are recognised in that university. If you say it is a recognized university and you are not telling them the courses that are recognized, you are not helping them. How can they know which courses are recognised before sending their children there? You said the university is a recognised, but you are not telling them which courses are recognised. How are they supposed to know before sending their children there? Is it the

responsibility of the accreditation board or that of parents and guardians who send their children there to find out such information?

Mr. Charles Kilonzo, what is your point of order? Is it on the same issue that I have just raised?

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has totally complicated the matter because this issue came up when I accompanied a Government delegation that included the Vice-President and Minister for Home Affairs to China. Kenyan students there told us that after completing their courses in universities which are recognised and upon coming back to the country, those courses are not recognised here. He has introduced a new dimension that the CHE has to clear courses for universities. In a sense, it means that a university may be recognised, but certain courses that students may be doing may not be recognised. So, could he come out very clear since this is going to make the entire issue very complicated? A student can go to a recognised university, but the degree certificate obtained may not be recognised by the authorities in this country.

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, I just want to confirm to hon. C. Kilonzo that China has more than 1,500 universities. But the ones that we have recognised, in liaison with the equivalent of our CHE in China, are 743 universities. For purposes of recognition in Kenya, most of the colleges, especially the ones offering courses in engineering and medicine, must work very closely with our CHE. So, I am talking of specific courses offered by KIU. I do not want to go into specifics because hon. Duale knows the course we are talking about. However, I want to confirm that the two universities are recognised, but they have not been given the go-ahead to offer certain courses. Even in Kenya we do the same. If the CHE visits a university and finds that it does not have the requisite capacity to offer certain courses, it is not cleared to offer those courses until it fulfils the requirements.

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

**Mr. Letimalo:** Mr. Assistant Minister, look at it this way. It is possible for a student to apply for admission to a Chinese university that is not recognised in Kenya. He or she may do so out of ignorance upon seeing an advertisement in the media. In the event that one enrolls in a programme in such a university and graduates, what assistance does the Government of Kenya give to him or her to ensure that the period of time spent at that university does not become a waste?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, first of all, I have stated very clearly that we have sufficient information in our offices. One can access relevant information through the CHE or any of the other offices that I have just listed. If we find that a student has gone to any university which is not recognised, we will advise him to take another course from a recognised university. We will not gamble with accreditation and quality.

**The Temporary Deputy Speaker (Mr. Imanyara):** Yes, hon. Shabir Ahmed Shakeel.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is being very specific on recognition of Chinese universities. There are more than 1,000 universities in China, many of which have recognition in certain countries in the world. The fact that the Ministry of Higher Education, Science and Technology may not, for some reasons, have recognised a particular university that is recognised elsewhere, what will the Ministry do? Will it subject that university to the rigorous recognition tests or would it accept the recognition of that university by other states which are similar to ours?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, hon. Shakeel comes from a constituency where people love education. I have stated categorically that Kenya, being an independent state, will not gamble with matters to do with quality. Kenya's education standards

are known continentally and globally. So, even though other countries may recognise those courses, we will subject the courses being offered by those universities to our standards. So, we will not gamble with quality in this country.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Jackson Kiptanui, I know that you had requested for a Ministerial Statement on the same matter. So, instead of giving you an opportunity to raise the same issue, I will allow you an opportunity to ask two questions because your Ministerial Statement had, in fact, been approved.

**Mr. Kiptanui:** Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister has confirmed that some of the courses being offered by KIU are recognised in this country, would I be in order to ask him to publish in the media all the approved and unapproved courses being offered by KIU since we have over 10,000 Kenyans studying there?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, there is an element of cost in that question. So, I want to advise the hon. Member to prepare another Question, so that I table all the information in the House. We might be doing it peripherally. Let us do it in this House.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Assistant Minister! You do not determine when an hon. Member is to ask another Question. Are you ready to answer that question or are you not prepared to answer it? The question has been asked and it was very specific. How can you ask him to ask the same question that he has been allowed to ask?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, it is because the question requires sufficient details. I do not want to give half-baked information.

**The Temporary Deputy Speaker** (Mr. Imanyara): So, you are not ready with the information?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, I am not ready with that information. I have to be candid.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Charles Kilonzo, before I direct further on that one, please, ask your last question.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister said that the CHE has a resource centre, where a database is available. He knows where he comes from, as one of the remotest parts of the country. These include Pokot, Northern Kenya and Turkana areas. Is it possible for the Government to ensure that every secondary school is made aware of this information and how it can access it? If possible, could he provide raw data to every secondary school so that as children look for universities after leaving school can know where they should go and where they should not go?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, I admit that I come from some of these areas that are very remote, but we have worked very hard to make sure that there is internet in those areas. I also want to confirm that most districts or county headquarters have internet services. Therefore, for universities, I am sure quite a number of students can sacrifice to go to their district headquarters or county headquarters. We will liaise with the District Education Officers (DEOs) and our Provincial Education Officers (PDEs) to make sure that information is available to all students and interested parents.

Thank you.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kiptanui, in view of the Assistant Minister's answer to your Question I, shall allow you to request a Ministerial Statement when the order on Statements is read.

Next Question by Mr. Member for Naivasha, Mr. Mututho!



*Question No.1539*

PROTECTION OF LANDLORDS FROM EVICTION BY TENANTS IN NAIROBI

*(Mr. C. Kilonzo stood up in his place)*

Mr. C. Kilonzo, you are standing and nodding, I do not know what that is supposed to mean.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the Member for Naivasha had asked me to ask this Question on his behalf.

**The Temporary Deputy Speaker** (Mr. Imanyara): All right, go on.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, going by what has been provided by his office and looking at the Question, I feel it is better referred to him. I ask that the Question be deferred.

**The Temporary Deputy Speaker** (Mr. Imanyara): You know before all that, we have already established a practice and a tradition of what happens when a Member is not in the House to ask a Question. Are you prepared to ask the Question on his behalf or are you not prepared?

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I am not prepared, going by the contents.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well.  
The Question dropped.

*(Question dropped)*

Next Question by the Member for Migori!

*Question No.1830*

NON-COMPLETION OF MIGORI WATER PROJECT

The Member for Migori is not here! The Question is, therefore, dropped.

*(Question dropped)*

Next Question by the Member for Keiyo South!

*Question No.1505*

FAST TRACKING ISSUANCE OF IDS FOR REGISTRATION OF VOTERS

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

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

(b) what measures he has put in place to ensure that all deserving citizens are issued with National Identity Cards in time to enable them register and participate in the forthcoming elections.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister for State for Immigration and Registration of Persons.

Attorney-General, where is the Minister?

The Deputy Leader of Government Business, where is the Minister of State for Immigration and Registration of Persons?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I believe he is busy on the registration. We will look for him as he ---

**The Temporary Deputy Speaker** (Mr. Imanyara): You are the Deputy Leader of Government Business, have you allowed your colleagues to skip parliamentary business because of the registration exercise?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, you will admit that we are in very difficult times. There are a lot of issues happening at political parties' level and within the preparations for next year which traditionally is done when Parliament is in recess.

**The Temporary Deputy Speaker** (Mr. Imanyara): But you sit in the House Business Committee (HBC), you put up this Questions to be brought to the House fully knowing what you are now telling the House.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we do not decide on the Questions. I think the decision on the Questions is done internally. However, in terms of the business for the House, if one of the Members is not in here, then I can take the responsibility. However, for the Questions, we alert the Minister that there is a Question appearing. At times it just happens that the Minister and Assistant Minister are not available. I would like to ask that we sort out all these on Thursday.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kiptanui, what do you have to say that?

**Mr. Kiptanui**: Mr. Temporary Deputy Speaker, Sir, I am available on Thursday.

**The Temporary Deputy Speaker** (Mr. Imanyara): You are letting him off very easily. Deputy Leader of Government Business, the Question is deferred to Thursday, this week.

*(Question deferred)*

Mr. Isaac Ruto, I have not come to the end. I am aware that you are going to raise a point of order. So, let us come to that and then you can raise it. I will not read the order before you raise your point of order.

**Mr. Ruto**: Mr. Temporary Deputy Speaker, Sir, ---

*(Off record)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Isaac Ruto! You have been overtaken by events. You can raise those issues on Thursday.

I will now go back to the Member for Kilome.  
Member for Kilome, I can see the Attorney-General is now in the House, you may ask your Question.

*Question No.1851*

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

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

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, I want to start by thanking you for agreeing to put aside this Question while I made my way to the House. I had underestimated how fast parliamentary business would be conducted.

**The Temporary Deputy Speaker** (Mr. Imanyara): Could you apologize to the House?

**The Attorney-General** (Prof. Muigai): Yes, Mr. Temporary Deputy Speaker, Sir, having thanked you for your indulgence, I must apologize to my colleagues for not having been here.

**The Temporary Deputy Speaker** (Mr. Imanyara): And the hon. Questioner!

**The Attorney-General** (Prof. Muigai): Particularly the distinguished Member for Kilome.

Mr. Temporary Deputy Speaker, Sir, following your directions on the 29<sup>th</sup> of November, 2012 and further directions on the 6<sup>th</sup> of December, 2012, I beg to respond as follows:-

Mr. Mwau, the Member for Kilome, provided me with a copy of a letter dated 5<sup>th</sup> December 2012 which I forwarded to the Director of Public Prosecutions (DPP) for his comments. I am now happy to confirm that the DPP has responded to the said letter. He has confirmed that the letter produced by Mr. Mwau is authentic. It is one offered by him on the 25<sup>th</sup> of March, 2009 and directed to the Attorney-General of the United States of America.

In addition, the DPP has also provided the following information:-

A red notice was issued by Interpol against one George Kiragu a fugitive from justice wanted in Kenya in respect of the seizure of 1,141.5 kilogrammes of cocaine.

On 23<sup>rd</sup> of March, 2009 the Interpol Washington offices informed Interpol Nairobi that the US authorities in the State of Maryland had temporarily detained a person who appeared to match the description of George Kiragu while applying for admission into the United States.

They required the Kenyan authorities to confirm whether the subject was still wanted in this country and, if so, to supply copies of the charges and the identification information, including photographs and finger prints.

Mr. Temporary Deputy Speaker, Sir, they also advised that if his extradition was still required then an urgent provisional warrant of arrest be issued by the Government of the Republic of Kenya.

The CID contacted the office of the DPP with an urgent request to prepare a request for provisional warrant of arrest as advised by Interpol in Washington. On the basis of that request the DPP wrote the letter the subject matter of the Question by the hon. Member.

However, on the 26<sup>th</sup> of March 2009, communication was received from Interpol, Washington, informing the Kenyan authorities that the US authorities had confirmed that the person in their custody was not George Kiragu, the subject of the earlier red notice.

They further confirmed that the subject in custody was born in 1980 and admitted to the United States of America as a student in December, 2005, and that he had legal status in the United States of America. Following this development, the intended request for the provisional warrant of arrest was, therefore, not submitted.

**Mr. Mwau:** Mr Temporary Deputy Speaker, Sir, I sincerely thank the hon. Attorney-General for having taken the trouble to give his elaborate answer to this Question. However, I would want him to just clarify a few things.

One, the letter referenced AG/CR/2053/905 dated 25<sup>th</sup> March, 2009 was actually directed at the hon. Attorney-General of the United States of America. That letter contains the facts and full details relating to the persons who were involved or suspected to have been involved in the trafficking of 1,41.5 kilogrammes of cocaine that was seized in Kenya. So, he must confirm this. Secondly, he must confirm that this information was with Interpol and the United States of America.

Thirdly, on 17<sup>th</sup>, February, 2011, the hon. Minister of State for Provincial Administration and Internal Security tabled the criminal complaint by Michael Ranneberger, where he had actually claimed that I was involved in the commission of this particular crime. I would want the Attorney-General to confirm that those allegations were just an implication meant to scandalize me and other members of the public.

**Prof. Muigai:** Mr. Temporary Deputy Speaker, Sir, I am able to confirm that the letter under reference was addressed to the Attorney-General of the United States of America. That is in the affirmative. I am also able to confirm that Interpol, the United States of America Government and the authorities in the State of Maryland were kept informed in the manner that the hon. Member has requested me to affirm. It is, indeed, true that this information was shared with those authorities.

Mr. Temporary Deputy Speaker, Sir, as relates to the statement made here by the former Minister of State for Provincial Administration and Internal Security on 17<sup>th</sup> February, 2011, I am not familiar with the contents of it. However, if an allegation was made in that statement that the contents of this letter were different from what I have stated---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You are saying there was a statement made in the House by a Minister of the Government, but that you are not familiar with the contents of that statement. Is that the position? Would you like to acquaint yourself with the contents of that statement, and then you can satisfy the Questioner? That is the question that has specifically been asked.

**Prof. Muigai:** Mr. Temporary Deputy Speaker, Sir, I would be happy to do that, although I was trying to also make this further concession. If the statement made in this House on 17<sup>th</sup> February, 2011, claimed that the letter in question, the letter of 29<sup>th</sup> March, 2009, related to any person other than George Kiragu, then that statement was in error.

**The Temporary Deputy Speaker** (Mr. Imanyara): Are you satisfied, Mr. Mwau?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, the allegations pertaining to drug trafficking are very serious; more so, if it is in any way to be implied that the respectable Government of the United States of America was saying something that was not truthful. It is, therefore, important that this issue be cleared completely, so that we can know who were actually

involved in the trafficking of that one tonne of cocaine. This is better than trying to implicate people who were not involved, especially since those people are Members of Parliament.

That is why I want to say that if the letter of 2009 under reference clearly informed the Attorney-General of the United States of America who were involved in that drug trafficking--- Then in 2010 the Ambassador, Michael Ranneberger, lied to the public and to the Minister and that matter was brought here; it was unfair.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Mwau! You know the kind of language that is allowed in this House. You are aware that the word you have used three times is one of the words that have been ruled out of order in this House. Mr. Mwau, you are aware of that, are you not?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I withdraw the word “lie” and will instead use the word “inappropriate”.

**Mr. Mureithi:** On a point of order, Mr. Temporary Deputy Speaker, Sir, since this subject has come to the House so many times, am I in order to request our Attorney-General to familiarize himself with the letter that was brought here by the late Prof. Saitoti? If, for sure, it is not correct, and to avoid it being brought here, would I be in order to request the Attorney-General that, that letter be expunged from the records of the House, so that, that information does not keep on cropping up here?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mureithi, what Mr. Mwau is stating is that a Minister of Government, very much like the Attorney-General, stood in this House and made the allegations. The Attorney-General has said he is not aware of those allegations. That is why I asked him whether he requires time to familiarize himself with those contents, so that he can deal with this matter, once and for all.

Mr. Mwau, I did not hear you say that you would want the Attorney-General to proceed along that line. So, the Chair will not be able to assist you further.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, as you ruled, I will be appreciative if the hon. Attorney-General can clear this matter, once and for all, so that the people who are innocent can live in peace.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Attorney-General, this is my directive. I direct the Clerks-at-the-Table to furnish you with the HANSARD proceedings of the relevant day. You will acquaint yourself with it and at a relevant time you can issue a Ministerial Statement to clarify that issue.

**Prof. Muigai:** Mr. Temporary Deputy Speaker, Sir, I am so guided.

## QUESTIONS BY PRIVATE NOTICE

*(Resumption of Questions by Private Notice)*

### VETTING OF CANDIDATES VYING FOR ELECTIVE POSITIONS

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

(a) Could the Minister state the academic and other qualifications required for candidates vying for positions of President, Deputy President, Member of National Assembly, Member of Senate, Governor, Deputy Governor, County Assembly Speaker and County Ward Representative?

(b) What other documents or clearance certificates are required, as well as the vetting process candidates seeking elective positions are supposed to undergo, and whether he could state if there are timelines to be observed, and who is to conduct the vetting process, if any?

(c) Could the Minister indicate the specific provisions of the law supporting such requirements?

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

(a) The academic and other qualifications for these positions are regulated by the Constitution and the Elections Act, 2012. Education qualifications for the President and the Deputy President are that the nominees should hold a degree from a university recognized in Kenya. Other qualifications are, a presidential candidate needs to comply with the following additional qualifications under Article 137(1) b) and Section 23(1) of the Elections Act.

- (i) he should be a citizen by birth;
- (ii) he should be qualified to stand for election as a Member of Parliament; (iii) he should be nominated by a political party or be an independent candidate; and,
- (iv) he should be nominated by not fewer than 2,000 voters from each of a majority of the counties.

With regard to Governor and Deputy Governor educational qualifications, these nominees should hold a degree from a university recognized in Kenya. To be eligible for election as a Governor, one must be eligible for election as a Member of the County Assembly. Articles 180(2), 180(5) and 193(1) of the Constitution and Section 25 of the Elections Act, set out these requirements.

For Members of Parliament and Senators, the educational qualifications, no qualifications are prescribed herein. In terms of other qualifications, for a person to qualify for nomination as a Member of Parliament or Senator, they should meet the following qualifications under Article 99(1) of the Constitution and Section 24(1) of the Elections Act:-

- (a) Should be registered as a voter.
- (b) Satisfies any educational, moral and ethical requirements prescribed by the Constitution or an Act of Parliament.
- (c) Is nominated by a political party or is an independent candidate who is supported-
  - (i) in the case of election to the National Assembly by, at least, 1,000 registered voters in the constituency; or,
  - (ii) in the case of election to the Senate, by, at least 2,000 registered voters in the county.

For the county ward representatives, no education qualifications are prescribed herein. In terms of other qualifications, a person is qualified for nomination as a Member of a County Assembly if the person under Article 193(1) of the Constitution and Section 25 of the Elections Act-

- (d) is registered as a voter;
- (e) satisfies any educational, moral and ethical requirements prescribed by the Constitution or an Act of Parliament; and,
- (f) is either nominated by a political party or is an independent candidate supported by, at least, 500 registered voters in the ward concerned.

For the County Assembly Speaker, no educational qualifications are prescribed. In terms of other qualifications, Section 21(1) of the Elections Act provides that the Speaker of a county assembly shall be elected by each county assembly, in accordance with the Standing Orders of the County Assembly from among persons who are qualified to be elected as members of a

county assembly, but not such members. These provisions are prescribed in Article 193 of the Constitution and Section 25 of the Elections Act.

Independent candidates have to meet the educational and other requirements as set out for any candidates for an election office (those who are nominated through political parties), as per the Constitution and the Elections Act. In terms of other qualifications, the independent candidates will be required to have the following:-

(a) Certificate from Registrar of Political Parties as proof that for the last three months before elections was not a member of a political party.

(b) Submit to the Commission in the prescribed form, a form of intention to contest, duly filled, under Regulation 15(b) of the General Regulations.

(c) Symbol they intend to use during the elections and the symbol has been approved.

(d) Is nominated by the required number of supporters who shall not be members of any political party.

(i) President requires 2,000 registered voters from, at least, each of the majority counties.

(ii) Governor requires 500 registered voters in that county.

(iii) Senator requires 2,000 registered voters in that county.

(iv) National Assembly or Women Representative requires 1,000 registered voters in that county.

(v) County Assembly Representative requires 500 registered voters in that ward.

(e) Submits to the Commission during the Commission nomination duly filled forms for supporters in both hard and soft copy.

(f) Fill a form showing a physical address located in the respective electoral area for purposes of physical service of documents not later than 45 days prior to elections.

(b) The documents/clearance certificates required of candidates for elective positions are set out under The Elections Act and The Election Regulations that were developed thereunder. For President, Governor, Senator, Member of Parliament and County Representative, the candidates will be required to have:-

(a) Copies of certificates of educational qualifications (for President, Governor and Deputy Governor only).

(b) Copy of ID card and passport size photograph.

(c) Nomination certificate from a duly registered political party duly signed by an authorized official of the party.

(d) Code of conduct duly signed (Second Schedule of the Elections Act).

(e) Duly filled nomination forms, including:-

(i) Nomination paper.

(ii) Statutory declaration form for purposes of nomination (under Regulation 18) and self-declaration form (Regulation 46 of the Election Regulations), under the Act.

(iii) Statutory declaration form and self-declaration form. The self-declaration form is as provided for under Section 13(2) of The Leadership and Integrity Act (No.9 of 2012) and is provided for under the First Schedule of the Act.

(iv) Soft and hard copy for supporters (2,000 supporters) in prescribed form and submitted to the Commission, at least, five days to the day fixed for Commission nomination by the Commission (Regulation 18 of the Elections General Regulations.)

(f) Nomination fees in a banker's cheque are as follows:-

(1) President: Woman/Person with Disability/Youth, Kshs100,000. Any other, Kshs200,000.

(2) Governor: Woman/Person with Disability/Youth, Kshs25,000. Any other, Kshs50,000.

(3) Senator: Woman/Person with Disability/Youth, Kshs25,000. Any other, Kshs50,000.

(4) Member of Parliament/Woman County Representative: Woman/Person with Disability/Youth, Kshs10,000. Any other, Kshs20,000.

(5) County Assembly Ward Member: Woman/Person with Disability/Youth, Kshs2,500. Any other, Kshs5,000.

In conclusion, the documents mentioned above constitute all clearances that have to be submitted to the Independent Electoral and Boundaries Commission (IEBC) and there is no constitutional or statutory requirement for any candidate to submit themselves to any vetting process by any other public body or to apply for or produce any clearance certificate for purposes of being cleared to vie for any elective seat, whether in the National Government or a county government.

(c) The specific provisions of the law supporting such requirements are captured by the answers in parts (a) and (b) of the Question above accordingly.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, with respect to educational requirements for Member of Parliament, County Ward Representative and the Speaker of the County Assembly, the Assistant Minister has indicated that there are no educational qualifications prescribed in law as of now. But having been in touch with many Kenyans who have declared their interest to vie for these positions, they say that the IEBC has advised them that post-secondary education qualification is required. Is the Government reading from the same script of the law or the IEBC has a different set of laws while the Assistant Minister is reading to us a different one?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, as I issue this answer, I am issuing it having duly consulted with the Independent Electoral and Boundaries Commission (IEBC). The IEBC is an independent body and we report to this House as a Ministry on behalf of that Commission. What I have stated here is the true position. Previously before this position, the law actually demanded that hon. Members attain certain qualifications but this afternoon I think there will be a Bill to also deal with the issue. I do not want to anticipate debate now but I want to say that this is the true position and I want to assure my colleague that now the IEBC cannot be able to tell Kenyans what they used to say before.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Isaac Ruto, you cannot stand on a point of order and also seek to speak at the same time. So, I see you have made a choice. Yes, Mr. Sirat!

**Mr. Sirat:** Thank you, Mr. Temporary Deputy Speaker, Sir. My question concerns independent candidates. Going by the way parties are now jumping from one place to the other, the qualifications for independent candidates subjects them to having a certificate from the political parties three months before the 4<sup>th</sup> of March which was last week.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! A certificate from the Registrar of Political Parties!

**Mr. Sirat:** Yes, Sir, a certificate from the Registrar of Political Parties three months before the general election which is the 4<sup>th</sup> of March. That means that by the 4<sup>th</sup> of December, someone must have resigned from his political party that he or she is in at the moment. If that is not in order, could the Assistant Minister clarify the remedy for this from sitting Members of Parliament?



**The Temporary Deputy Speaker** (Mr. Imanyara): There is nothing to clarify. There is nothing needing clarification there because the answer was very clear. Hon. Isaac Ruto.

**Mr. Ruto:** Thank you, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has given us a little bit of contradictory answers. For example, he says that there were no educational requirements. At the same time he goes ahead to say: "Satisfies any educational, moral or ethical requirements prescribed by the Constitution or any other Act." He goes on to repeat the same. I do not know whether there was any need for him to tell us one and take it away on another. The same Assistant Minister is telling us that he cannot answer for IEBC. He is the Assistant Minister for Justice, National Cohesion and Constitutional Affairs and we expect him to give us guidelines because who exactly is sending these Kenyans all over the place to seek for police abstracts?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! He explained it very clearly that he consulted as of today and the position he was presenting to the House represented the position as advised to him by the IEBC only today. How can you accuse him of not consulting with them when he was very specific in his answer to the Question?

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I was continuing and so I do not know--

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! If you are conceding, then go ahead.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I was continuing. I am not conceding anything.

**The Temporary Deputy Speaker** (Mr. Imanyara): And you were allowed one question. So, you have not even asked it. So, I will give you an opportunity to ask it if you want to.

**Mr. Ruto:** Okay. Mr. Temporary Deputy Speaker, Sir, who has been sending these Kenyans to go to a variety of institutions including the Credit Reference Bureau, the police, the Kenya Anti-Corruption Agency (KACA), the Criminal Investigation Department (CID) and to their fellow police stations? I do not know whether they are also going to be expected to contact their mother-in-laws.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Hon. Isaac Ruto, he explained again very clearly that that was the position before the law was changed. He made it very clear in his statement. What question are you asking him? I have not yet heard you ask the question and I am indulging you now.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, has the Assistant Minister notified political parties that they are actually harassing Kenyans who want to seek political office unduly by sending them to look for a variety of institutions and I suspect like I was saying, some of them may even be referred to their mothers-in-laws as proof that they have not been harassing their wives.

*(Laughter)*

**The Minister for Transport** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. Our Standing Orders are very clear on the content of Questions and

particularly I would like to draw your attention to Standing Order No. 43 (12) and (13) and especially (13) which states:-

“A question shall not ask whether any statement in the press or of a private individual or unofficial body, other than a report of something written or said by a Minister or civil servant is accurate.”

Mr. Temporary Deputy Speaker, Sir, what hon. Ruto is introducing in this House are statements that do not fall within that category. Is he in order to do that?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Deputy Leader of Government Business! I overruled him. I do not know why you want to go back to something that I have already made a ruling on.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, it is because this matter is emotive and for the further guidance of the House that even Standing Order Nos. 11 and 12 say that he should not be asking any questions---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Kimunya! You are aware the custodian of Standing Orders is the Chair. You are the Deputy Leader of Government Business. You may have brought to the attention of the Chair that a particular breach of the Standing Orders occurred and it is not upon you to administer that. Hon. Ruto, this is the final chance I am giving you to ask a valid supplementary question – the final opportunity.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that political parties have been sending potential candidates to a variety of institutions? I can even give an example; hon. Odhiambo-Mabona was yesterday running around trying to get clearance from the police and I am not sure whether she will be cleared. I am worried!

*(Laughter)*

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, in conclusion of part “e” of my answer---

**The Temporary Deputy Speaker** (Mr. Imanyara): Indeed, Assistant Minister, you do not have to repeat what was very clear.

**Mr. Shakeel:** Thank you, Mr. Temporary Deputy Speaker, Sir. We need a clarification from the Assistant Minister. Under the qualifications, for a President and a Deputy President, it clearly says: “A citizen by birth.” I think he made it very clear that those who have dual citizenship can or cannot stand for those two positions.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Shakeel! You are reading to him what he has told you. You want to know from him what “by birth” means. Is that what you want to know from the Assistant Minister?

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, there are many citizens by birth who have then got a second passport. So, my question is: Are those who are citizens by birth but have attained a second passport excluded from these positions?

**The Temporary Deputy Speaker** (Mr. Imanyara): Assistant Minister, that is a valid question.

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, there is the law as it is and there is the law as it ought to be. What we are reading here is the law as it is and any Kenyan who wants to lead this country should be owing allegiance to this country and this country alone.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer that he has given. Is it possible for him to request the IEBC to post on their

website the requirements that he has read here, so that all the candidates are informed? He has said that independent candidates are supposed to be supported by 1,000 supporters for parliamentary seats and 2,000 supporters for the Senate, who are not members of a political party. Could he confirm who shall provide the register of those people who are not members of a political party? If an independent candidate must get supporters who are not members of a political party, then there must be a register of the non-members of political parties from where the independent candidates can verify.

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I can consider to ask the Commission to make public the fact that those other requirements that people are raising are not necessary. When we talk of a register of members of political parties, any other Kenyan who is not a registered member of a political party is not a member of a political party. The Registrar of Political Parties maintains a register of all members of political parties. So, at the time of presentation of the papers, it will be so clear from the record of Registrar of Political Parties that the people presented by the independent candidates are not members of a political party. So, it is incumbent upon the independent candidate to ensure that the supporters that he is going to present with his application are not members of political parties. The onus is on him to do that.

**Mr. M.H. Ali:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has dealt with the issue of the County Assembly Speaker and said that there are no academic qualifications required.

**Mr. Mwau:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has said that the independent candidate is supposed to go to the Registrar of Political Parties. I am saying that he is not a member of the parties which are already registered and he has no access to those records. How will an independent candidate know that the people are not registered in any party? Who is going to keep a register? Is the Registrar of Political Parties going to have a register of the people who are not members of political parties?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I do not think that an independent candidate will just go somewhere and pick people. These are people who have agreed to support the independent candidate in his application. These are people the candidate should rely on. They should be truthful to him and assure him that they are not members of a political party. I also believe that the Registrar will satisfy herself at that time that those members presented by an independent candidate are not members of a political party. So, it is not too difficult to achieve that position at the time of presenting the papers by candidate.

**Mr. M.H. Ali:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has dealt with the issue of the County Assembly Speaker and he has said that there are no academic qualifications prescribed. What is the situation for the National Assembly and the Senate Speakers? Are there academic qualifications required?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I answered the Question as raised by Dr. Nuh. Those provisions are spelt out in the law. The Member is a close friend of mine and I can still engage and share with him those qualifications.

**The Temporary Deputy Speaker (Mr. Imanyara):** Very well! You can also look at the Standing Orders in relation to the elections of the Speaker and Deputy Speaker. That may be of help.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, there being no official communication from the IEBC in the media as to the qualification requirements for all the elective positions, the members of the public are duped into buying any information out there, including from the employees of the IEBC or even commissioners. Hon. Mwau has requested for posting of such

information on the website. Mine is a more pertinent issue on whether Government agencies are co-ordinated in terms of giving the public out there clear information. Even as the Assistant Minister says that the IEBC is as from now bound by his answer, we have other statutory bodies and Commissions which are still out there telling people that there are vetting requirements. They are telling the people that one should submit a certificate of good conduct from the police, a clearance reference bureau certificate and a HELB clearance certificate. Even for my case, I have been asked for a clearance certificate from a mother-in-law, which I do not even have.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Dr. Nuh, who requested this last bit of information?

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister ready to give a clear direction and bring stakeholders together, educate the members of the public and the political parties? He should, at least, ensure that the IEBC posts all these qualifications in clear language on the newspapers as they are doing in calling people to register as voters.

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, that is a very valid point. When we go to Question No.2, I will be informing the House that we are hoping to convene, through the Chair, a Kamukunji on Thursday, so that we can bring on board all the stakeholders. The Members of this House should engage the IEBC and raise the issues. There is no reason why the Commission should not make it very clear to the Kenyan people that they should not go for these other requirements. It is our duty. It is our business and the business of the Commission to ensure that we do not cause confusion in this country.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Cheptumo, you are now anticipating your answer to Question No.2 by Private Notice. Do you not want to wait for it to be asked and then you can say something about it?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, that is okay. I do not want to anticipate debate, but let me confirm to my colleague that I can take up that issue and ensure that the Commission, through appropriate communication, passes this information to the public for them to know.

## COMMUNICATION FROM THE CHAIR

### DELEGATION FROM RWANDA AT THE SPEAKER'S ROW

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, before I go to Question No.2 by Private Notice, let me take this opportunity to give this Communication from the Chair. Indeed, I am privileged to introduce to you and welcome a delegation from the Parliament of Rwanda who are seated at the Speaker's Row. They are as follows:-

Hon. Mukama Abbas, MP	-	Leader of Delegation
Hon. Niyongana Gallican, MP	-	Member
Hon. Twizyesu Marie Josee, MP	-	Member
Hon. Uwimana Esparanse, MP	-	Member
Hon. Rwigema Gonzague, MP	-	Member
Hon. Gateera Emmanuel, MP		
Hon. Mporanyi Theobald, MP		

Hon. Bayihiki Basile, MP  
Hon. Ngendahayo Jean Baptiste, MP  
Hon. Ndagijimana Eric, MP  
Hon. Tuyishime Jean Claude, MP

They are accompanied by two staff members, namely, Mr. Mulinganbe Sengabo Charles and Mr. Habimana Augustine.

They have been in our country since 11<sup>th</sup> December, 2012, participating in the ongoing East African Legislative Assembly (EALA) Soccer Tournament which ends on 14<sup>th</sup> December, 2012. On behalf of the House and the Speaker, I wish the delegation a fruitful and a happy stay in Kenya.

*(Applause)*

The Next Question is by Mr. Kivuti.

Mr. Kivuti, this Question with regard to registration of voters was carried over from last week. So, I will not ask you to repeat it. I want to ask the Assistant Minister to go ahead make the communication that he wants to make and then I will seek your reaction. By that time, you should be able to sit on a chair that accepts your pin card.

#### REGISTRATION OF VOTERS IN MBEERE NORTH CONSTITUENCY

**(Mr. Kivuti)** to ask the Minister for Agriculture:-

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

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

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

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, it is true that on Tuesday this Question came up and you directed that I issue a Ministerial Statement today to deal with the issues raised by hon. Members. The issues that were raised by hon. Members are such that we wish that we get the Commission to come forward so that hon. Members can engage them and discuss those issues. The issue of voter registration is a very serious matter for our nation. Looking at today's numbers, it is far much below the requisite package. Therefore, we have consulted and my request to the Chair is that we hold a *Kamukunji* on Thursday so that we can have the Independent Electoral and Boundaries Commission (IEBC) come forward so that all the issues of concern are addressed.

There is the issue of extension of time which is being sought by hon. Members and the public is also asking for the same and so on. We realize that we may not be able to adequately

address all the issues raised by hon. Members through a Ministerial Statement because there are others which can be articulated well by the officials of the IEBC. It is our responsibility as a country to ensure that these leaders get time to ask questions which will be answered by the Commission. This will enable them make decisions as leaders of this country. It is our plea, as a Ministry, that as Members of this House, we engage the Commission on Thursday.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kivuti, what do you have to say on that?

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I have no objection to waiting for Thursday but I request that since this matter has been in this House for too long, that the issues which have been raised and particularly the issue of remote registration; that is, people should be able to register in Nairobi and go to vote in Mandera in this age of Information, Communication and Technology (ICT). We are told that the data which is being collected by the Biometric Voter Registration (BVR) are brought to Nairobi, uploaded into a server---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Kivuti! I understand perfectly what you are saying but I am seeking the reaction of hon. Members on whether they wish to have a Speaker's Kamukunji where the IEBC may be present so that we can hear them and direct questions at them directly. Since it is an independent body, your comment should be limited to that aspect because you will get the opportunity on Thursday if, indeed, the Speaker does constitute the Kamukunji which is his discretion to raise all those issues. So, your comments should be with regard to whether you agree with the Assistant Minister that the Speaker should be requested to constitute a special Kamukunji to address those issues.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I oblige and request hon. Members to come in large numbers in order to address these issues.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): That means you have no objection.

Yes, Mr. Sirat!

**Mr. Sirat:** Mr. Temporary Deputy Speaker, Sir, I accept but I just want to add one more thing on the legality of over one million people---

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Order! You were not listening to what I have just said. All those issues that you want to raise were raised last week and the Assistant Minister has explained that they cannot be competently dealt with in the absence of the IEBC which is an independent Commission and he has proposed that they be invited to a special Speaker's *Kamukunji* on Thursday in which you and others may raise those issues so that they can be addressed in totality in the presence of the body that is constitutionally responsible for those issues.

**Mr. Sirat:** Mr. Temporary Deputy Speaker, sir, I agree and understand. However, I want to add one issue which the Assistant Minister can take on board and take to the IEBC to answer on that particular day. That is on the legality of 12 million registered voters.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Order! You are now out of order!

Yes, Mrs. Odhiambo-Mabona!

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I support the idea of a *Kamukunji* and voters handbook for the changes that have been effected.

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, I also concur with the issue of Thursday. Last week it was agreed here that Kenyans who have waiting cards will be allowed to register as voters but will not be able to vote. Up to yesterday, IEBC had not been informed and are turning back all Kenyans who have waiting cards. Could the Assistant Minister respond to that?

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Could the Assistant Minister or the Leader of Government Business respond to that particular aspect on the use of the waiting cards?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, indeed there is an intention to change the law but until this House has taken that law through the Third Reading, it is not a law. So, I urge hon. Members to stay in the House and ensure the law is passed and then we leave it to the President for assent for it to take effect. We could not change that because we lacked quorum last week when we should have completed it and by now it could have been the law. So, if you could stay in the House, we can pass this into law and people might be able to get the benefit of that change that was brought by an hon. Member of this House.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Mr. Yakub, the Chair understands that this is a matter that is before the House at this moment. It has not even left the House to go to the President for assent. So, it is up to us to ensure that if you wish these documents to be used, then be present in the House and ensure that they are passed into law. At that stage and only then can it be forwarded to the IEBC. They cannot be act on Bills and intentions that have no force of law.

**Mr. M. M. Ali:** Mr. Temporary Deputy Speaker, Sir, I was rising on a point of order when the Assistant Minister was on the Floor. While we agree with what the Assistant Minister suggested there are rather some straightforward questions that needed to be urgently addressed. I remember you directed the Minister that in special circumstances like the far-flung areas, which we raised, he finds ways and means of addressing the issue so that a few machines might be provided for those people who are within Nairobi and want to register.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Order! *Mheshimiwa*, you have heard the Assistant Minister say that he appreciates all that. In fact, there are very many issues including voting by university students who are sitting exams until 21<sup>st</sup> December and cannot travel to the various registration centres to register because their campuses are scattered all over the country. The Assistant Minister appreciates this and says that because this is an independent Commission which cannot be directed. He has requested that we agree to the constitution of a special *Kamukunji* where they can be invited and all these issues can be put to them as the organization capable of implementing them. I think he has agreed, and we cannot continue asking him to direct an independent Commission.

**Mr. M. M. Ali:** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for that guidance. I just hope that the IEBC will not convince us to extend or rather to refuse---

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Now we are just talking about hope. Let us wait for Thursday. Hon. Members, you know the constitution of the Speaker's *Kamukunji* is the prerogative of the Hon. Speaker. I will convey this to him although I am sure he is following the proceedings.

Mr. Assistant Minister, after this you can indicate to the Speaker the sentiments of the House so that he can agree, and I am sure he will, to the holding of a special *Kamukunji* in which all these questions will be put to the IEBC together with you so that you can deal with them to the satisfaction of hon. Members.

That brings us to the end of that business under that Order. Before the next Order, Mr. Ruto, had indicated to the Chair that he wanted to raise an issue and he was allowed to do so at this particular moment.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, when I made my request, I was instructed that I can only raise it after Order No.10. I do not know whether that is where we have reached.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Very well! You can raise it just before I call out Order No.10.

Next Order!

**Mr. Shakeel:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There was a Question which you reinstated when I came in late---

**The Temporary Deputy Speaker** (Mr. Imanyara): No! No! I directed you and all the others who came late to approach the Table. The Clerks-at-the-Table will give you a date which has space. Once they confirm that, I will direct that the Question to be asked on that day. That is what I advised you and every Member who came after his or her Question had been called out.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I understand.

## POINTS OF ORDER

**The Temporary Deputy Speaker** (Mr. Imanyara): Before I come to requests, the Leader of Government Business, is there any Statement due which is this afternoon? You now have the circulated schedule and you must be aware. I do not see any requests.

Yes, Mr. Duale!

### PLANS TO PAY SEND OFF ALLOWANCES TO COUNCILORS

**Mr. Duale:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to request for a Ministerial Statement from the Minister for Local Government on the Government's plan to pay send off allowances to all the outgoing councillors in the country.

In his Statement, I want the Minister to clarify:-

- (i) whether such plans have been approved by the Cabinet;
- (ii) to state the amount of the budgetary provisions for the same in the current financial year; and,
- (iii) when these payments will be made to our councilors who have served this nation in their capacities.

**The Temporary Deputy Speaker** (Mr. Imanyara): I believe the request is directed to the Minister for Local Government.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, I believe it is. However, going by my earlier intervention in terms of the Standing Orders, perhaps, the hon. Member should tell us the source of the information that he has.

**The Temporary Deputy Speaker** (Mr. Imanyara): If you are the one to give the Statement, you can do it either immediately or when you want to give it. The hon. Member has sought a Ministerial Statement and you have every opportunity to say that what has been requested is not based on facts other than ask him now where he got the information.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, let me have the Statement delivered on Tuesday, next week.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Tuesday, next week okay, hon. Duale? I am helping you but I do not see any requests!

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, I want the Minister to say what he said on Tuesday and I will tell him where I got the information from. He should not be very arrogant!

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. Minister, you can issue the Statement on Tuesday.



INJURY OF HON. YUSUF HASSAN IN  
GRENADE ATTACK IN EASTLEIGH

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I request for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security in respect of the dusty and cowardly incident that took place last week as a result of which the Member for Kamukunji, Yusuf Hassan, was seriously injured together with other people who died in an attack in Eastleigh.

I would like the Minister to tell us what action has been taken to identify the culprits and bring them to justice. I would also like to ask the Minister to tell us what action has been taken to ensure that we have more security apparatus in the area. I am concerned with the CCTVs which we were told have been installed in some areas within the City and other areas which are insecure. Could the Minister tell us what he has done in areas with rampant insecurity like Eastleigh and others where we have had grenade attacks?

Mr. Temporary Deputy Speaker, Sir, if you do not mind, I would like to wish our dear brother, Yusuf Hassan, a speedy recovery.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Deputy Leader of Government Business, indeed, this is a matter that the House is entitled to information.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I will communicate to the Minister and we can have an update of the matter on Tuesday, next week.

PENDING BILLS

**Mr. Sirat:** Mr. Temporary Deputy Speaker, Sir, I sought a Ministerial Statement last week from the Minister for Regional Development Authorities regarding pending bills. There are small-scale contractors who are languishing in poverty as a result of constructing water pans. You directed the Minister to bring my Ministerial Statement today. Could the Statement be issued?

**The Temporary Deputy Speaker** (Mr. Imanyara): The Deputy Leader of Government Business, when can that be done?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I had the impression that the Statement was due on Thursday. In any case, we will try to get it on Thursday.

ACCREDITATION OF KAMPALA INTERNATIONAL UNIVERSITY

**Mr. Kiptanui:** Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Higher Education, Science and Technology on the accreditation of Kampala International University by the Commission for Higher Education.

In the statement, the Minister should clarify:-

(i) whether or not Kampala International University has been accredited by the Commission for Higher Education;

(ii) indicate the number of Kenyans who have graduated from the university in the last five years and the fate of the students who have been awarded various degree and certificates which are not recognized in this country.

Finally, the Minister should provide a list of other universities and colleges in Kenya and East Africa which are not accredited by the Commission for Higher Education but continue to offer various courses which will not be recognized by the Commission.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Leader of Government business, quite a number of the information sought under that Ministerial Statement was the subject matter of an answer given this afternoon, except a related item; I believe it is a second item in the request. The Minister, indeed, stated that if you ask that Question, he can give detailed information regarding the students.

So, the Leader of Government business advised the Minister to limit himself to the issues not covered in the answer to the Question that he answered this afternoon. So, the Statement should be issued on Tuesday, next week. Is that okay with you, Mr. Kiptanui?

**Mr. Kiptanui:** Mr. Temporary Deputy Speaker, Sir, it is in order.

**The Temporary Deputy Speaker** (Mr. Imanyara): Deputy Leader of Government Business, you have enough business on that day or do you want it on---- We do not want to put too much business on the same day and then we do not reach it.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, indeed, I would have preferred the matter to be put in the framework of a deferred Question. But in the event that the Question is not deferred, then Tuesday might be a bit tight; put it on Thursday or Wednesday morning.

**The Temporary Deputy Speaker** (Mr. Imanyara): We have deferred a lot business to Tuesday. Are you happy with Wednesday morning, Mr. Kiptanui?

**Mr. Kiptanui:** It is okay.

**The Temporary Deputy Speaker** (Mr. Imanyara): Wednesday morning, Minister. Next Order!

## PROCEDURAL MOTION

### EXTENSION OF SITTING HOURS

**Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

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

Mr. Temporary Deputy Speaker, Sir, the rationale for this request is based on the volume of work that we need to cover. Members will appreciate that between now the holidays, we only have today and then on Thursday. Next week we have another three sittings, plus one Member's sitting and then we break for Christmas. After that, we will have the New Year, party nominations and all that. So, it is important that we finish what we have to do between now and next week. Again, we have set down all this business. We have done a lot of work within the committees. It will be good to have all this done rather than leave it hanging, and not knowing what will happen with it in the next sitting. This request is something we will be making. I just want to also give you prior notice that this is something we will be asking you for, that is to extend the sitting time as much as possible in our usual way, so that we can close this session with success rather than with outstanding work, and then we go away saying we wish we had cleared this or that Bill. You never know who will come here next year and whether they will like what we will have done or not.

Mr. Temporary Deputy Speaker, Sir, as I make this request, I want to assure Members that we are very cautious of the quality of legislation. We are not doing it to fast track anything. We are extending the sitting time, so that Members can have adequate time to interrogate the various Bills that are brought here. The rest is obviously up to how the Members will conduct themselves. Today, there is quite a bit of business; if we get an extra two hours, they will help us in terms of catching up and giving Kenyans the legislation that they have been waiting for. We have been processing them and we have done a lot of work in the House and in the committees.

With those words, I really request Members to give us support, so that we could have two more hours. On Thursday, we will be figuring out what else we will need to do and how else we need to catch up on time between now and next Thursday.

With those words, I beg to move and ask hon. Cheptumo to second.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo) seconded.

*(Question proposed)*

**Mrs. Odhiambo- Mabona:** Mr. Temporary Deputy Speaker, Sir, I rise to oppose. The reason I am opposing is if you look at the Order Paper, we have substantial business. Even last week when the sitting time was extended, we were extremely few in this House. So, quality is definitely compromised; because at the time when we were looking at those Bills, most of us were extremely exhausted. It is the same faces that sit here day in, day out.

Mr. Temporary Deputy Speaker, Sir, we have had a whole five years when these Bills should have been brought. If they were that urgent, they should have been brought within that timeframe. Finally, even the Supreme Court acknowledges that the gender rule is progressive. So, I do not know why these Bills cannot follow the normal procedure. They are not as urgent as the gender rule, which the Supreme Court does not think is important. So, I do not see why this is more important than the gender rule.

I oppose.

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I rise to support.

Mr. Temporary Deputy Speaker, Sir, this Parliament has distinguished itself in this country, as well as in the region on reform. A lot of the work that is on the Order Paper relates to reform. It is only fair that we get the extra two hours because it will not kill us. Two, it will improve our standing even, as we go back to the country to say that we have promoted reforms. Some of the Bills are so crucial for this country that to merely say that it is only a few of us who are here, and, therefore, quality is compromised is not fair to the hon. Members, whom I sat with throughout last week, and this week I will sit with, so that we can hear our people. The purpose of legislation is to recognize that any elected Member of Parliament has the capacity for quality legislation. Therefore, I beg to support and wish to persuade the rest of the House that we increase this time, so that we can actually complete the work that we started four years and eleven months ago.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I think I am reluctant to allow this extension for the very same reason that the Deputy Leader of Government earlier on alluded to. For example, he has been telling us that most of the Members are not available. His Ministers are not available and we are rushing through very critical legislation. I can see that there is a

deliberate attempt on the part of the Executive to claw back on the progress Kenyans have made so far, including on respect to the principle of devolution.

Mr. Temporary Deputy Speaker, Sir, some of the Bills that they wish us to rush through can still be passed by the next parliament with proper scrutiny by the Senate, which will be charged with the responsibility of ensuring that the interests of the counties will be protected. I can see a number of legislations that really are subject of serious questions. The Executive is intent on rushing through Bills, which are not properly scrutinized. They know Members are not available and they just want to pass them for the sake of passing them.

Mr. Temporary Deputy Speaker, Sir, I am really reluctant. Some of them can be exempted from what I am saying in terms of respect and the fact that they have been willing to work. I must acknowledge hon. M. Kilonzo has done quite a bit of consultation on this. Nevertheless, the general principle is that we are not going to allow the Executive to use these last few days to rush through legislations, which can wait for next year. The most important facilitative legislations, which we should be seeing in this House are, probably, the ones that will facilitate proper transfer of power to the next Government and also devolution, and effect recognition of the new governments that are coming into place. There is nothing from the Ministry of Finance. I cannot see the Minister for Finance here. He is going to tell us that he has got certain arrangements for devolution. They are unwilling to publish certain urgent Bills, which will facilitate devolution. Right now, they are only interested in these ones, which, in my view, are on very mundane issues, which can be handled later on with proper public participation.

Mr. Temporary Deputy Speaker, Sir, I am reluctant to support, and I beg the House to stick to the clear timeline and we break off at 6.30 p.m.

I beg to oppose.

**The Minister of State for the Development of Northern Kenyan and Other Arid Lands** (Mr. E I. Mohammed): Mr. Temporary Deputy Speaker, Sir, I rise to support. I think all these legislation has passed through a whole range of stakeholder meetings. They have passed through Cabinet meetings. They come again to Parliamentary Committees and amendments are suggested. I think we cannot anticipate lack of quorum. My view is that, if there is something we can do today, why wait for another time?

If there are specific concerns on a specific legislation, again, the procedure of the House is very clear. We can bring amendments and change things. Let us sit for two more hours to pass these particular Bills.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, Member for Lari.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, in supporting this Motion, it is important that we note that these are timeline Bills, which require serious scrutiny and approval. Time has been spent on preparation of these Bills. Recommendations and proposals were made before the Bills were brought to the House.

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

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, is the hon. Member in order to mislead the House by saying that these Bills have timelines? If they indeed have timelines, could he indicate which part of the Constitution has provided for the timelines for these particular Bills?

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. David Njuguna, that is a valid challenge. Could you point out the Bills that have timelines?

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, the impression I wanted to make to the House is that these are critical Bills, which require to be---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Njuguna! The point of order by hon. Isaac Ruto is that you have said that, having looked at these Bills, in respect of which we are going to extend time of the House to examine, have constitutional timelines. He said that you are misleading the House by so saying and, therefore, it is up to you to tell me which ones have timelines, so that I can rule him or you out of order.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, I very humbly withdraw that assertion.

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

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, in supporting the Motion before us, it is important that we sacrifice our time to address the Bills before the House. The whole country is also critically looking at the performance of this House at this “injury” time. Therefore, individual performance and commitment will be pegged on how we deliberate on these very important Bills.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. David Musila.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I stand to oppose this Motion and say “sorry” for differing with my colleagues, and particularly the senior counsel, who is also the Secretary-General of my political party.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Musila! You have actually sat on this Chair. I learnt a lot from you during the Eighth Parliament. You are a Member of the Government. It is Government business that we are conducting. It is the Deputy Leader of Government Business who has moved this Motion. I believe that you are aware of our Standing Orders in that regard.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I am aware of that fact but I am also aware that as an elected Member of Parliament, I have the right to articulate the views of my constituents. In this case, I can choose to go by the principle of collective responsibility or choose to defy that principle because I have a very important point to make.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Musila! I have absolutely no problem with you on that one but the moment you stand up and say that you oppose, you are out of order. You may actually make the same point, but the moment you stand up and say that you oppose a Motion that has been moved by your colleague and Deputy Leader of Government Business, you are out of order. So, you may make your comments without telling us whether you support or oppose the Motion. I am prepared to allow that bit.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Thank you, Mr. Temporary Deputy Speaker, Sir. I stand guided.

The point I want to make is that, right now, we are 20 hon. Members in this House. Our quorum is 30 Members. I am not calling for quorum. What I am saying is that by 6.00 p.m., this House will be virtually empty. The danger of rushing these Bills through Parliament is compromising their quality.

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

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that he is opposing the Motion. He has also indicated that there is no quorum. Is he in order?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Musila, you may continue.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I could not understand what my friend was talking about. You guided me and I took your guidance. I was just making the point that the House has 20 Members present as opposed to the 30 Members requirement for quorum. By about 8.00 p.m., there will be virtually no hon. Members in this House. There is also the issue of quality debate and scrutiny of these Bills. I would like to be excluded from the group of hon. Members who simply pass Bills for the sake of having quantity. I want quality.

Therefore, I beg to oppose.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Hon. Members, to the extent that the Assistant Minister said he has opposed the Motion, he is out of order.

Yes, hon. Wilbur Otichilo.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion because of a number of reasons: We have discussed a number of these Bills during their Second Reading stage. We have done a lot of analysis of these Bills. These Bills have gone through the various Departmental Committees, which have made their proposals. So, we are ready to debate them. So, I do not see why some hon. Members are saying that we need to discuss them further. Why would we need to further discuss them when they have gone through the required procedure?

Therefore, I support the Motion.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Sally Kosgei.

**The Minister for Higher Education, Science and Technology** (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, I have asked for the Floor to support the Motion.

The reason for supporting is to simply state the obvious – that while those who are saying that we are few have a valid point, it is also valid to stay that these Bills are not being rushed through Parliament. Some of them have been discussed for a very long time. Before any Bill gets to the Cabinet, it goes through a Su-Cabinet Committee of the Cabinet. We have also had public hearings on many of them. They have been debated and gone through the Second Reading stage, where the main debate takes place. The Departmental Committees have done their work. To say that scrutinising them at this stage is rushing them through Parliament is not completely valid.

It is for that reason that I want to support and persuade some of the other hon. Members; that there is a valid reason to conclude what we can conclude. The Bills are not against the counties. Most of us went round this country to actually push for devolution. This is really what some of us believe in. It would be even much easier for the counties to start their work if, in fact, certain policy is already in place.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Sammy Mwaita.

**Mr. Mwaita:** Mr. Temporary Deputy Speaker, Sir, I stand to support the Motion because most of the business under Order Number 11 had actually almost been concluded. All that was remaining was reporting. Most of the business on the Order Paper deal with agriculture and Kenya is an agricultural country. Since we have an opportunity to complete enacting all the laws relating to agriculture, we should proceed and do so. Surely, two hours will not make any difference. That is why I support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Martin Ogindo.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, with a heavy heart, I want to oppose this Motion.

The Executive has a duty to generate Bills and the Legislature has a responsibility to debate those Bills. It takes time for hon. Members to internalise Bills and debate them. We are in a new dispensation, which requires that there should be public participation in legislation.

Mr. Temporary Deputy Speaker, Sir, I appreciate the concerns of Dr. Otichilo and Dr. Sally Kosgei because most of the Bills they are sponsoring have gone through the Second Reading. However, if we were to take everything else with the speed that we have to take the Bills that have gone through the Second Reading, we shall be converting this House into a conveyor belt.

I was also looking forward to seeing certain Bills which I would consider have a bearing in the constitutional implementation and the timelines and I am not seeing them. For example, I was looking forward to seeing the publication and First Reading of the Division of Revenue Bill, and I am not seeing it. We expect the Supplementary Estimates to enable the operationalization of the county governments upon the elections being done. We are not seeing this. What we are seeing are Bills which are on the periphery of the implementation of the Constitution. I think the House is being overstretched and fatigued with Bills that are not the priority of this House.

Mr. Temporary Deputy Speaker, Sir, the Deputy Leader of Government Business needs to take cognizance of the urgent Bills that need to be brought to this House rather than tire this House with peripheral Bills like I am seeing.

With those remarks, I oppose.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kimunya, I need not call you to respond because there are no requests to make any contributions and it is a fairly straightforward procedural Motion. I will put the question.

*(Question put and agreed to)*

Next order!

## **BILLS**

### *First Readings*

THE KENYA LAW REFORMS COMMISSION BILL  
THE MATRIMONIAL PROPERTY BILL

*(Orders for First Readings read – Read the First Time and ordered to be referred to the relevant Departmental Committees)*

## **POINT OF ORDER**

CONSTITUTINALITY OF BILLS RELATING TO AGRICULTURE AND CROPS

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, before we go to Order No.11, I think Mr. Isaac Ruto wanted to raise a matter. This is your opportunity now, Mr. Ruto.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.47 to seek a ruling from the Speaker on the constitutionality of the Bills on the Order Paper; the Bills relating to agriculture and crops.

I want to refer---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Ruto! As you do so, I would like Senior Counsel Mutula Kilonzo and Senior Counsel Attorney-General to very carefully listen to the issues being raised by Mr. Isaac Ruto so that we can get the benefit of the legal response.

Proceed, Mr. Ruto.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I need guidance from the Chair. I would like us to start with Article 6 (2) of the Constitution which says:-

“The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and co-operation”.

I want us to go to Article 185 which states that the legislative authority of a county is vested in and exercised by its county assembly. Secondly, a county assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

Mr. Temporary Deputy Speaker, Sir, before I raise the issues on the Bill, the parts of the Fourth Schedule that are relevant I think is Part I which has the functions of the national government in relation to agriculture are in Part 29 which says that the functions of the national government in agriculture should strictly be agricultural policy. There is also Part 22 which is also useful; that is, the protection of the environment and natural resources with a view to establishing a durable and sustainable system of development including, in particular, fishing, hunting and gathering. That is basically that.

However, the function in terms of implementation has actually been given the county governments. Part 2(I) reads:-

“The functions and powers of the county are agriculture including crop and animal husbandry, livestock sale yards, county abattoirs, plant and animal disease control and fisheries”.

It further gives the county governments the powers over markets and marketing and several other issues related to that.

Mr. Temporary Deputy Speaker, Sir, the Bills before us, if you check the Authorities that are being established, for example, if you read the Agriculture, Livestock, Fisheries and Food Authority Bill, Clause 4(a) gives the powers of regulation to this Authority. It says that the functions of the Authority shall be - Part (b) says: Promote best practices. If it was just promote, I would not have any problems. However, it goes ahead to say “and regulate the production, processing, marketing, grading”. If you look at the Fourth Schedule, some of these functions are actually functions of the county governments. Apparently, maybe the technocrats of the Ministry of Agriculture are trying to re-engineer the particular Ministry to include these issues.

If you even read Clause 5(a), it subordinates the decisions of the county governments to the national governments. If you read that particular clause through, you will find that this Authority belongs to the national government but it seeks to do matters that belong to the county governments.



If you read Clause 6 (a), it says that it is an agent of the national government. So, why does it involve itself in implementation if implementation of agriculture policy is the function of the national government? It allocates the Cabinet Secretary responsibilities of scheduling crops and probably determining where they will be generally grown. They give him powers to regulate as to the scheduling of a variety of crops. The Constitution never envisaged that. I think that is found in Clause 7.

Mr. Temporary Deputy Speaker, Sir, Clause 8 gives it authority to ensure---. The word, “ensure” actually has force. It will ensure all the way down. It will, therefore, be doing work and superintending over the counties instead of coming out with policies.

In fact, Clause 9 also gives itself the powers of charging levies on crops. If it is going to be involved in charging of levies on crops, what then is the function of the county governments?

I am talking about the Crops Bill. I must apologize because I am reading both Bills and maybe I have not indicated exactly which Bill I was referring to.

When I talk about Schedule Five, I am talking about the Crops Bill. When I am talking about Schedule Six I am still talking about the Crops Bill. When I talk about Clause 7 which allocates the Cabinet Secretary the responsibility of scheduling crops, I am still referring to the Crops Bill. When I talk about insuring, I am talking about the Crops Bill. When I talk about charging of levies, I am still talking about the Crops Bill.

So, the Crops Bill proposes to do things that belong to the county governments by agency of the national Government. When we talk about Agriculture, Livestock, Fisheries and Food Authority Bill, it has got the same spirit. The ALFA will actually be in charge of crops. This particular Bill will supplement its work. So, these two Bills are intertwined.

Mr. Temporary Deputy Speaker, Sir, this is a rather difficult time for us to be able to decipher and clean this Bill. Piecemeal amendments will not be enough to clean these two Bills of their encroachment onto the integrity of the county governments. I am a believer in devolution and I would like to be allowed to speak for those governments that are not in existence. I believe the Senate will be in place early next year, and it will be able to go through these Bills and clean them up; that will be the responsibility of the Senate, and not even the National Assembly. Although they can do them concurrently, there is no serious issue. There is no separate assembly right now to protect the integrity and the interests of the devolved system of government.

Mr. Temporary Deputy Speaker, Sir, I beg to get your sympathetic ruling on these particular matters. A few minutes ago, the Leader of Government Business conceded that most hon. Members are not available. They are generally at home, including his Ministers. They are not here, as you can see. There are only a few here to push through these Bills. We are not doing any service to Kenyans. We are not being honest to ourselves. We are not doing justice to the Constitution we passed.

Mr. Temporary Deputy Speaker, Sir, I seek your indulgence.

**The Temporary Deputy Speaker** (Mr. Imanyara): There is no point of raising the point of order. It has already been overtaken by events.

**Mr. Oyugi:** Mr. Temporary Deputy Speaker, Sir, I would like to ask for the Chair’s consideration of Mr. Ruto’s Statement. If you look at the provisions of the Constitution, it does state clearly that both the county government and the national Government will be interdependent and will conduct their affairs in mutual relationship.

In Article 185(2) the Constitution gives the work that the national Government can do and the work that the county government can do. Part of the work that the county government can do, if you look at Part II of the Fourth Schedule, the functions and powers of the county

government are agriculture which includes crop and animal husbandry, livestock sale yards, county abattoirs, fisheries and many others that are listed.

Mr. Temporary Deputy Speaker, Sir, if you look at Part II of the Fourth Schedule, it does then highlight what the county government can and ought to do. The hon. Member did highlight the fact that in matters of policy, it is true the national Government can--- However, if you look at Article 185(2) it does---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Oyugi! I can see Mr. Mututho is insisting. What is your point of order?

**Mr. Mututho:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Looking at today's Order Paper, you will see that there is an amendment by the hon. Member who is on the Floor. Is he in order to contribute what he has not even put in his own amendments in as far as these Bills are concerned? I sincerely believe that his amendments were the ones we received from the Kenya National Commission on Human Rights; it is what he has modified to be his amendments. Having done that then, his one and only amendment should have been that we repeal everything from Clause 1 up to the end; this is not the case as of now. So, is he in order to stand now and contribute on that aspect?

**The Temporary Deputy Speaker** (Mr. Imanyara): The matter under consideration is whether the Bills that Mr. Isaac Ruto has mentioned breach the provisions of the Constitution. As you are aware, Standing Order No. 47 does forbid Bills that may be unconstitutional. I am not saying that I am supporting either side, but these are issues you can raise as a point of order; assuming that the matter will come up for debate, then he is entitled to stand up on a point of order at any stage and raise the constitutionality of any Motion before the House.

So, I am afraid that you are out of order there, Mr. Mututho.

Mr. Ogindo, what is your point of order?

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I am not on a point of order. I just wanted to intervene---

**The Temporary Deputy Speaker** (Mr. Imanyara): You pressed the wrong button.

Mr. Oyugi, please continue.

**Mr. Oyugi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for intervening. It is true that I have brought amendments; I am happy that you made a ruling on that particular one.

I will then proceed to say that the Fourth Schedule in Part II does indicate what the county government can do. Part of the things that the county government can do will be making legislation with regard to what I have read.

Mr. Temporary Deputy Speaker, Sir, the Constitution does give provisions in terms of where these particular things can be done and that is in Article 186(1) of the Constitution. That particular provision says that if this House, for example, wanted to do the work of the county government, it can only do so in the manner that Article 186(1) of the Constitution does anticipate. I am sure, perhaps, we have not been able to do that very well.

Article 187(2) of the Constitution does give reasons. If at all you want to have any powers that are supposed to be for the county government, then the responsibility to do so remains with the House or the level of the Government to which it is assigned. I really think that if we proceed with enacting these Bills, we will then be in contravention of the constitutional provisions.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mututho, you were on a point of order, but now you are next in line to contribute. Are you willing to contribute? It is your opportunity now.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, can I seek your indulgence, as the chair of the Departmental Committee on Agriculture, Livestock and Cooperatives to speak after the other hon. Members have made their comments?

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well.

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. When I was contributing to the Agriculture, Livestock, Food and Fisheries Authority Bill, I had reservations. My reservation is that I thought that the Bill was encroaching on unconstitutionality. It was approaching unconstitutionality. The reason I say that is that if you look at the provisions in terms of the mandates that are given to the respective governments--- The provisions on Agriculture, Livestock, Food and Fisheries Authority in this Bill in relation to the national Government actually touch on the mandate of the county governments. Therefore, if the Bill passes as it is, it will actually water down devolution, and make nonsense of it. As a result, county governments will be lame ducks from the beginning.

It is not only these Bills; I have actually raised this issue in relation to other Bills that are coming here; that is one of the reasons I am very hesitant that we proceed when we have a very small number of hon. Members in the House; we are raising very critical issues. They do not look critical, but next year when you will have Governors and Senators sitting you will find that we will have set governments against the Government. This will be because we are raising issues that should actually ideally be raised between two Houses.

However, I had actually suggested that one of the ways we could deal with it, if we still want to proceed, is to sit down with the Minister and iron out some of the issues; there are major issues that need to be ironed out; we can still bring amendments and pass the Bill.

Many of us are very diligent and do our work very well, but we cannot cope with the speed of these Bills. Look at the number of Bills; I said it last week and I will say it today, we are not only moving amendments. If you are moving amendments, you take them to the Legal Department to look at them and you also have another life. We are having campaigns. It is impossible. Some of us are extremely hard working. We do not only come here for one or two Bills. We sit here through all the Bills that come before this House and it is difficult to catch up with the speed at which we are moving.

The Speaker should give us guidance, especially given the previous ruling of this House, that if a matter is unconstitutional it should not proceed. Therefore, if we cannot agree between us and the Minister, the Speaker should give us guidance and ruling. The matter, in my very humble view should not proceed.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I rise to add my voice onto the point of order raised by hon. Ruto, challenging the constitutionality of this Bill that we are about to conclude.

You appreciate that the two levels of Government that we have are distinct and interdependent. Some of these Bills that we are just about to conclude will go a long way in undermining the legislative activities of the county governments. The Transitional clauses say that the National Assembly, as it is today, can perform the functions of the Senate. But at this point in time, nobody can perform the functions of the county assemblies. If we proceed with this legislation, then an issue will be raised when the counties are trying to do legislation to implement their respective aspects of the Constitution, that they are contravening the national laws. So, it is important that these issues are clarified at this point in time and their constitutionality defined and agreed. Without anticipating debate, you appreciate that there is a Bill coming on the co-ordination of the national Government functions. These Bills require

public participation of county governments, which are still not in place. They would require substantive contribution from the Senate, a mindset that this House has not internalized.

Mr. Temporary Deputy Speaker, Sir, we also need to appreciate that this House and the Executive is emerging from a centrist Government and there is a lot of centrist thinking that is informing most of these legislations. We risk undermining the county governments if we proceed and enact these legislations that will go a long way in affecting the functions of county governments, which they are supposed to legislate around.

I join in asking for your advice on the constitutionality of these Bills.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, the spirit of the Agriculture, Livestock, Fisheries and Food Authority Bill is extracted from 151 Acts of Parliament and 331 subsidiary legislation on matters that touch on agriculture. You have one shop that will do all that, that was put in very many words.

I do not want to belabour so much in terms of the constitutionality of these Bills. The Commission on the Implementation of the Constitution (CIC) is an organization that I would really trust. They participated in a meeting with us in Mombasa for a whole week and we went through these Bills. Everything that they thought could be done was done. I have a letter from the Transitional Authority here which reads that:-

“The Transitional Authority supports the establishment of the Agriculture, Livestock, Fisheries and Food Authority, to bring together all the bodies charged with regulation, production, processing and marketing of various agricultural---”

The Members are asking for something which is affordable, but which is too expensive to do now. They missed a chance to come and put their case before the Committee where we could thrash out all these things and explain on a give-and-take system. They are asking for maybe a morning or an afternoon so that they can be explained to. If you look through the suggestions by the Kenya National Human Rights Commission (KNHRC), over 30 farmers’ organizations, some of the most professional organizations like the Kenya Veterinary Association and several stakeholders, all of them agree that we need these two new laws.

Mr. Temporary Deputy Speaker, Sir, I would really urge the Members to realize that in as much as we are very enthusiastic about the devolved governments, Kenya has made several agreements with international bodies. For instance, the Director of Veterinary Services.

**Mr. Ruto:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I really empathize and sympathize with the position taken by the Chair. In fact, I respect him and my colleagues for the very hard work they have done. In fact, we have applauded the way they are bringing it together---

**The Temporary Deputy Speaker** (Mr. Imanyara): Raise your point of order!

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, is the Member in order to appear to subordinate the supremacy of Parliament in legislative issues to some extraneous bodies? He is pushing the line which the Minister pushed last week.

**The Temporary Deputy Speaker** (Mr. Imanyara): You are making a valid point, but he is really expressing an opinion.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, he is implying that since the CIC has seen the Bill and the Transitional Authority has written a letter and he has taken them on board, we, as Members of Parliament, should then forget about the representative role and our role as legislators.

**The Temporary Deputy Speaker** (Mr. Imanyara): He is suggesting nothing of the kind. The CIC may hold a position which may very well be challenged in this House. The fact that he

supports their position, does not, in any way, undermine your suggestions regarding the constitutionality. So, you are out of order.

Mr. Mututho, complete!

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, agriculture has built this country. This House, as it stands today, is being looked upon---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mututho, please, limit yourself to the issue. Do not anticipate debate now. Just limit yourself to the issue of the constitutionality of this Bill. You made a valid point that the Commission that is entrusted with the responsibility of looking through these Bills has given it a clean bill of health. You made that point. So, you may continue on that line, but if you become irrelevant, then I will rule you out of order.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I stand guided. My friend, hon. Ruto, made a very valid point that there is interdependence. The interdependence can only be expressed in legal terms. There must be a link legally through the policies. The use of a policy terminates at a point when you do a law. A policy translates into a law and then that is effected. If the policies have been drawn by the national Government---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mututho, you are not being relevant. Let me just tell you the issue that has been raised because I would like the Minister for Agriculture also to speak before the Counsel. Specifically, with regard to Article 187, if you look at the transfer of functions and powers between the levels of Government, you will see under 2(b) that:-

“Constitutional responsibility for the performance of the function or exercise of the power shall remain with the Government to which it is assigned by the Fourth Schedule”.

That is the central argument that is being presented by those who are saying that it is not constitutional. So, perhaps, you may direct your comments to that issue, as the Chairman of the Committee.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, there is no doubt in my mind that I support that position but if you look at the functions of the national Government - I would just flip through so that I can read to you what the national Government is supposed to do with respect to agriculture - among other things and which my friend has already alluded to is a policy development. Once you do the promises, then you are supposed to have that skeleton law – what you call the frame so that now all these other subsidiary regulations and other regulations will follow based on that general understanding.

Mr. Temporary Deputy Speaker, Sir, before you challenge me on this particular aspect, our concern as a committee was heavily drawn by international conventions that Kenya had signed. Kenya is a sovereign State that is constitutional and Kenya did not sign as Nakuru County or any other county. If you look at it, the Director of Veterinary Services has signed certain conventions. How are those ones to be retained if we do not have a law that consolidates all these authorities into something that is bankable?

Mr. Temporary Deputy Speaker, Sir, if you look at the Agriculture, Livestock, Fisheries and Food Authority Bill, Clause 11(2), for instance, to address those issues---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mututho, I understand all that and again you are being really irrelevant because hon. Oyugi and hon. Ruto took you through the schedule which lists the functions of the national Government and the functions of the county government and the argument is that where the functions rest with the county government, it will be the jurisdiction as we say in law for this House to purport to enact laws that under the Constitution should be enacted by the county. He is not challenging all the valid points you are

making regarding the need to reform the laws and that is why I am saying that you do not go to issues that do not touch on the legal basis. You sought as the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives to speak on this issue on the constitutionality which I cannot deny you, but be bound by the rules on relevance.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I am looking at the national Government functions and I am on page 1 – General Principles of Land Planning and the Co-ordination of Planning by the Counties. Clause 22 is on protection of the environment and the natural resources with a view to establishing a durable and sustainable system of development including, in particular, fishing, hunting and gathering.

(b) Protection of animals and wildlife.

Mr. Temporary Deputy Speaker, Sir, these are the regulations that are in AFFA. You cannot carry out these functions if you do not have AFFA and that is all we are saying. I would challenge my friends here to show me what is outside the purview or the domain of those provisions for the national Government that have been included in the national Government.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Dr. Sally Kosgei, as the Minister for Agriculture, do you have anything to say before I call your senior counsel to come to your aid?

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, I wish to donate that time to the Attorney-General and I will speak later.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, the Attorney-General will have the final word as the chief legal adviser. I will first give the opportunity to Mr. Mutula Kilonzo. Mr. M. Kilonzo. It is your time now. Sorry, I thought you donated some time to him. Okay, I understand. I thought you were ceding ground all together.

**The Minister for Agriculture** (Dr. Kosgei): No, Mr. Temporary Deputy Speaker, Sir, I have issues. Let me just mention that these Bills were well thought out for a very long time and the reasons were not to take away powers from the counties. We are all devoted to the county system. What we were supposed to do and what we want to achieve is first of all to have a system of regulation. You cannot run agriculture in the entire country without having a regulatory body. The whole point is that, if you have about 50 institutions regulating, it cannot work. We wanted to consolidate all of those into one and each county would then have its branch to do whatever it wishes.

Mr. Temporary Deputy Speaker, Sir, for example, the point has been raised very validly about the levies. We have so much agriculture in this country with a lot of it contributing to the national and no doubt the county levels. If you have levies raised by everybody, agriculture will migrate. All of us come from counties which are agricultural but the country needs to have a system of regulation. As I said, as far as I know and as far as I am concerned, we went through all the necessary stages. That is not to say that people do not have valid points raised. They have them and we are always ready.

In that context, since this Bill was published over two months ago, we have received so much representation, as hon. Mututho has said. We have sat long hours. I did not go on recess because we opened our doors to listen to everybody and we incorporated those in the long amendments that we brought. So, I just want to submit that we have done a lot of work on this and the intention certainly is good. If it comes out as if somebody wanted to sabotage and hijack the role of counties, it is not the case. It is still not the intention and I would really have welcomed some of the people who have spoken to have given us amendments which we would

have taken on board. If there have been amendments where there is a clause that looks like it is sabotaging the counties, we would have been more than pleased to amend.

Thank you.

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, this is a very fundamental issue and I want to salute my future fellow senator for raising it because we have an obligation to defend devolution and, therefore, kindly listen to what I am about to say before you make your ruling.

Mr. Temporary Deputy Speaker, Sir, first of all, as hon. Mututho has shown you, Section 21 of Part II of Schedule Four shows that the national Government has the functions of planning, co-ordination and so on and he has also shown you Clause 22 which is also very important on the issues of fishing, hunting, gathering and even protection of animals. But what he did not show you and what I am going to show you is Section 29. If you look at Section 29, the national Government has the function of agricultural policy and that is so fundamental to keep in mind. In Section 30, the national Government has the function of veterinary policy.

Now, if you go to Part 2 with the county Government, and I want the House to keep in mind the word “policy”, there is veterinary policy and agricultural policy. But when you go to the county function at Section 1, they do not use “agricultural” or anything. They say the county as is responsible for agriculture and as it is known. If you look at the map of this country, each county is actually different. The agriculture in every county is different and the rainfall patterns, what people grow and the livestock they keep changes from one county to another. So, therefore, when you talk about 1(a) in Part II where it says “crop and animal husbandry”, you will be surprised that the animal husbandry in central region is not the same as animal husbandry in a place in Maasailand, if I can use that word partly because of climate and other factors.

Mr. Temporary Deputy Speaker, Sir, that is why then the issue of agricultural and veterinary policy comes in. So, this Bill, as I understand it and I stand to be corrected by your ruling out of your enormous experience and I also understand that you want to be a Senator like me, we will be defending devolution very hard, but at the same time we must facilitate constitutional implementation. I want to begin from Article 185(2) and bear with me because I am reading from the iPad and it takes a little time to give me the Article. If you look at Article 185(2), it says that:-

“A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and the exercise of the powers of the county government under the Fourth Schedule”.

So, strictly speaking, it means that out of the 47 counties, one expects each county to make laws that are relevant for the carrying out of its perceived specific functions and the items either grown or kept in that area. Therefore, one is reminded at that point that Kenya is still a unitary State. Therefore, we want a broad policy that covers the entire country. My good friend, hon. Ruto, is a man I always convince. In this case, I want to convince him that the only way to have policy that you can force is to put it in a form of a legislation; a statute. You cannot do it by merely quoting. A good example of where hon. Ruto has supported me is on holiday tuition. It is only today that I am legislating it. So far, it has been policy. In the process, you find schools and some of the teachers abandoning students in Kilifi. Therefore, what the Minister is trying to do, and I support her, is to have some sort of an umbrella like *ile ya Wiper*, so that it is in charge of these things generally.

May I also show you something else?

**Mr. Ruto:** On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Minister for Education** (Mr. M. Kilonzo): No, Mr. Temporary Deputy Speaker, Sir. For the time being, allow me to just finish this because it is important. I want to take you back, if I may say so, to Article 186(2), so that you can see that the constitutionality here can only arise section by section, clause by clause, but not the entire Bill. You cannot lock the country out of the entire Bill. What you can do is lock out particular clauses. Article 186(2), and this is very important, says that:-

“A function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government”.

Therefore, you cannot lock out the national Government from having this law.

**Mrs. Odhiambo-Mabona:** You can!

**The Minister for Education** (Mr. M. Kilonzo): You cannot lock out the county. We will develop the laws for agriculture when we have the county, but for the time being, please, the role of the governor now will be---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. M. Kilonzo, you need not direct any comments to what you are getting from across.

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, you see, hon. Odhiambo-Mabona was my student. She is still my student and so, I like responding to her like all good teachers. So forgive me, I will direct the points through you.

The point in reading Article 186 suggests to you, and since you are the Chair and you will make a determination, that at this point you cannot lock out this law on constitutionality. But if you find a particular clause is interfering with Section 1 of Part II of Schedule Four, then you can say that this clause has overreached itself. Then you move an amendment to the Bill at the Committee Stage and I will be the first one to join hon. Ruto. The constitutionality of the primary law cannot occur here because jurisdiction is concurrent. Concurrent jurisdiction means that even when Mr. M. Kilonzo, a Senator for Makueni, is defending Makueni in the Senate, the Secretary for Agriculture in this House can also be moving laws. It will be our work to balance this. I suggest that it is very important for us to bear in mind the minds that I said that ‘we are still a unitary state’, but we are such a blessed country that our counties differ. In fact, I am not aware of any county that grows the same crop. They are very few. Maybe perhaps Kericho and Nandi or Kiambu, but normally you find that each county has challenges. Even if they are producing the same crop, the rainfall patterns are not identical hence this law. Look at what this law is called; the Minister is advancing a law for this country called “The Agriculture, Livestock, Fisheries and Food Authority Bill”. I am convinced, beyond peradventure that the use of the word “Authority” reflects Article 186(2) on concurrent jurisdiction for purposes of setting policies, but of course, do not allow the Minister to encroach on the functions of agriculture in your particular county. Amend it so that it can be left for the county assembly, when it is established, to pass that law to enact it.

To conclude, the important thing is that the county, as I read from Article 185, has the authority to make up a law pertaining to its own agriculture, but it cannot make a law for the neighbouring county. If we appreciate that, then we should look at this law from that perspective.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Attorney-General, give us the final word.

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I want to start by thanking hon. M. Kilonzo because he has very eloquently presented what I wanted to say. I would like only to make two points. Sometimes there appears to be a misconception that the Constitution we have enacted has created a federal state. Nothing could be further from the



truth. What we have done is to devolve power to counties. The national Government maintains responsibility for all the functions very clearly set out in the Fourth Schedule. Hon. M. Kilonzo has made the point very clear. The agriculture and veterinary policy cannot be in the hands of any other government for very good common sensical reasons. It is agricultural policy for the whole Republic, not for Turkana, Kiambu or Kwale. That policy must be made by this House.

Next point, if you look at Part II on the powers of county governments, again, this has been made very clear, but let me emphasize one little point. If you look at the wording “crop, animal husbandry, livestock sales yard”, these words are very important. The words “livestock sale yards” and “abattoirs” is what is giving you the true intention of the draftsmen and the true intention of the founding fathers. They were allowing county governments to take full charge of matters peculiarly within their domestic interest. For example, only Isiolo County would understand the full scope of the sort of abattoir that they would require. For livestock sale yards, only the people of Marigat would make a decision about that.

Before I sit down, it is quite clear that we have, under this Constitution, concurrent jurisdiction. It is not “if or”. It is not the national Government or the county. In many situations, the Constitution has given responsibility to both. This is one such situation, but the responsibility of policy is exclusively to the national Government. The responsibility of implementation - and I must say to hon. Odhiambo-Mabona with whom we have debated this before – this rule is to be read *ejusdem generis*. It is the abattoir and the livestock yard that is defining the full scope of what is intended by the draftsman. Let me finish by saying that the two cases have been prosecuted here by hon. Ruto. One is the case that says that we need further reflection. We need more time. We need to interrogate. That is a case that I have no mandate to answer. I think the Minister has answered.

The second case says these Bills are unconstitutional because they seek to set policy in the nature they do. I want to answer the second question by saying that nothing could be further from the truth.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! We do not want to take too much time here. Let me say that at the beginning, I was minded of deferring this issue but after listening to all sides and particularly after reading the provisions of Standing Order No.47, which I invite Mr. Ruto to go through with me because your argument rests entirely on it, I have another opinion. It says that if the Speaker is of the opinion that any proposed Motion is contrary to the Constitution, without expressly proposing appropriate amendment of the Constitution or is too long or is framed in terms which are inconsistent with the dignity of the House *et cetera*, then the Speaker may rule that the subject matter is inadmissible or that notice of it cannot be given without such alteration as the Speaker may approve.

When Mr. Ruto, Mrs. Odhiambo-Mabona and Mr. Oyugi spoke, they did so very generally not appreciating the fact that under Order No.11, we have (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) Bills. Mr. Ruto referred to Crops Bill and to the Agriculture, Livestock, Fisheries and Food Authority Bill. I have listened to what the Minister for Agriculture and the Chairman of the Committee have said, and looking at the Order Paper, I have seen proposals that on the face of the record address those issues that go to the root of the Constitution. That is my reading and appreciation of the Standing Order and the law. Therefore, I refuse to exercise discretion in favour of ruling the matters inadmissible. So, we should continue.

Hon. Members, having given that direction, you will recall that last time we actually concluded all business under the Basic Education Bill. The Deputy Leader of Government Business, you can confirm that.

**The Minister for Transport** (Mr. Kimunya): Yes.

**The Temporary Deputy Speaker** (Mr. Imanyara): In order to achieve some conclusion to the real business of the House today, I will be asking that we complete them so that we have something to report before we follow the order in which the rest of the business is listed on the Order Paper. Therefore, as soon as we go to the Committee of the whole House we will go through The Basic Education Bill to which we will report and then we continue.

Are we together, the Deputy Leader of Government Business?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we had even finalized everything in the Committee and what was remaining was just reporting to the House. So, we could actually report it.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Exactly. That is precisely the point I am making that we report the Order under 11(i) before we go in the Committee of the whole House.

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

### **THE BASIC EDUCATION BILL**

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Basic Education Bill, Bill No.46 of 2012 and approved the same with amendments.

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

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(Mr. Ruto consulted loudly)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Ruto! I do not know how many times the Chair must remind you of the rules that govern the conduct of business in this House. You know what you are supposed to do when the Speaker or whoever is in the Chair rises in order to address the House and I will not remind you further.

*(Applause)*

Thank you for obliging.

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Basic Educati ` on Bill, Bill No.46 of 2012 be now read the Third Time.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for the Committee read)*

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

### **IN THE COMMITTEE**

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we do not have any Member in the Speaker's Panel. So, the Chair will take the Committee.

Hon. Members, just to guide you, you will recall that even the Elections (Amendment) Bill and the Political Parties Bill were concluded subject to recommittal. So, we will be going straight to the Agriculture, Livestock, Fisheries and Food Authority Bill. We had gone up to Clause 16.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Chairman, Sir. We have just discussed with the Chair of the Committee that if it is agreeable to the Minister, we move this to Thursday so that we move to the ones that we do not have issues with like the Research Bill before we come back to these other ones on Thursday. This will enable us to iron out the issues. We do not want to throw away the Bill but we want to input the issues that are of concern to us. The Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives has agreed and is on his way to see the Minister. We can move on with the other Bills that we do not have problems with.

**The Temporary Deputy Chairman** (Mr. Imanyara): Madam Minister, confirm whether that is the position.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I think the hon. Member is absolutely right given the fact that they had concerns which should be incorporated. I feel that we should give time for them to bring in their amendments which I believe will enrich what we are trying to do. So, I am absolutely pleased with that.

**The Temporary Deputy Chairman** (Mr. Imanyara): I understand that also relates to the Crops Bill, the business under Order Nos.11(iv) and 11(v). The business under Order Nos.11(iv) and 11(v) are deferred until Thursday this week.

Let us now go to Order No.11(vi) on the Kenya Agricultural Research Bill, Bill No.60 of 2012.

Order, hon. Members! At the request of the Leader of Government Business and considering the nature of business that we are at, I direct that we follow this order; The Kenya Agricultural Research Bill; The Seeds and Plant Varieties (Amendment) Bill and The Kenya Plant Health Inspectorate Service Bill. This is because they all relate to Agriculture. Thereafter,

we will go to the Climate Change Authority Bill and the last business will be the Memorandum from His Excellency the President on the Finance Bill.

So, we should understand each other, hon. Members. That is the order we will follow.

#### THE KENYA AGRICULTURAL RESEARCH BILL

*(Clause 2 agreed to)*

#### *Clause 3*

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

THAT, the Bill be amended in sub-clause (1) of Clause 3 by deleting the words “the Kenya Agricultural Research Organization” and substituting therefor the words “the Kenya Agricultural and Livestock Research Organization”.

*(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 3 as amended agreed to)*

*(Clause 4 agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Both of you, Mr. Mututho and the Minister have proposals for amendments. First, I would like to know whether you have had any discussions regarding the amendments you are moving and whether there are grounds in which there is overlapping so that we know how to proceed.

Mr. Minister, does your amendment in any way touch on the proposed amendment by hon. Mututho?

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, the amendments being moved by hon. Mututho have been discussed exhaustively between the Committee and ourselves and we have agreed on them.

**The Temporary Deputy Chairman** (Mr. Imanyara): So, we can deal with the two amendments in the order in which they come?

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy, Chairman, Sir, yes.

#### *Clause 5*

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

THAT, Clause 5 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (a)-

(aa) promote, streamline, co-ordinate and regulate research in crops and animal diseases; and

*(Question of the amendment proposed)*

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move---

**The Temporary Deputy Chairman** (Mr. Imanyara): Sorry *Waziri*. We are facing a strange situation where two Ministers put in proposals to amend the same clause. This is the Minister for Higher Education, Science and Technology and yourself.

The Deputy Leader of Government Business, this will put you in an embarrassing situation. You are giving amendments that contradict each other and yet you are in the same Government! The Minister for Higher Education, Science and Technology, have you consulted your colleague or the Ministry? Can you give us some guidance on this issue?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the best thing is for us to withdraw our amendments because our Bill will be brought on Thursday anyway.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well! So, all the amendments in today's Order Paper from the Ministry of Higher Education, Science and Technology stand withdrawn.

Is that the position, the Deputy Leader of Government Business?

**The Minister for Transport** (Mr. Kimunya): Yes, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Imanyara): Do you confirm that *Waziri*? The Deputy Leader of Government Business tells us - I would like his confirmation - that all amendments in today's Bill originating from your Ministry stand withdrawn. I just want your confirmation that, that is the position of the Government.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, yes, we have agreed to address whatever issues when the other Bill comes here.

**The Temporary Deputy Chairman** (Mr. Imanyara): We do not want to anticipate what will happen when the other Bill comes but as far as this House is concerned today; if you look at the Order Paper, any proposals for amendment to this Bill originating from the Ministry henceforth stand withdrawn and you have confirmed that.

The Leader of Government Business made the request which you confirmed for the purposes of the HANSARD.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, yes.

**The Temporary Deputy Chairman** (Mr. Imanyara): Thank you.

*(Proposed amendments to Clause 5 by the Minister for Higher Education, Science and Technology (Prof. Kamar) withdrawn)*

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

*(Clause 5 as amended agreed to)*

Clause 6

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

THAT, Clause 6 of the Bill be amended:-

(a) in sub-clause (1) by inserting the following new paragraph immediately after paragraph (e)-

(ee) the Principal Secretary in the Ministry for the time being responsible for livestock;

(b) in sub-clause (1) by deleting sub-paragraph (iii) of paragraph

(h) and substituting therefor the following new sub-paragraph-

(iii) two persons co-opted by the Board who may be non-citizen scientists in the field of agriculture and possess such knowledge and experience as may be necessary for the better carrying out of the functions of the Board; and

(c) by deleting sub-clause (3) and substituting therefor the following new sub-clause-

(3) The Secretariat of the Board shall comprise of the Director-General, the Deputy Director-General (Livestock), the Deputy Director-General (Crops) and other staff.

*(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 6 as amended agreed to)*

Clause 7

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

THAT Clause 7 of the Bill be amended in paragraph (a) by deleting the words “in consultation with the Salaries and Remuneration Commission”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Sorry, hon. Njuguna; you do want to speak.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, could the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives offer clarity on this radical amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Mututho, could you tell the hon. Member, what it is that you are proposing under clause 7.

**Mr. Mututho:** I do not think there is anything radical there. We are talking about Salaries and Remuneration Commission and there being consultation, which is anticipated in the Constitution. It is not really radical. It is just strengthening it.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mr. Njuguna, what is the radical objection that you have because it is only words that are being inserted?

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, I know that.

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

*(Clause 7 as amended agreed to)*

Clause 8

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT Clause 8 of the Bill be amended by deleting paragraph (h).

*(Question of the amendment proposed)*

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

*(Clause 8 as amended agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Before I read this, hon. Odhiambo-Mabona, could you please approach the Table?

*(Mrs. Odhiambo-Mabona approached the Chair)*

*(Clause 9 agreed to)*

Clause 10

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT Clause 10 of the Bill be amended by deleting paragraph (f) and substituting therefor the following new paragraph-  
(f) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Organization's funds not immediately required for the purposes of this Act, as it may determine.

*(Question of the amendment proposed)*

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

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

*(Clause 10 as amended agreed to)*

*(Clauses 11, 12 and 13 agreed to)*

*Clause 14*

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

THAT Clause 14 of the Bill be amended-

(i) in sub-clause (1) by inserting the words “Deputy Director-General (Livestock) and Deputy Director-General (Crops)” immediately after the word “Director-General”;

(ii) by inserting the following new sub-clause immediately after sub-clause (3)-

(4) The Director-General shall be responsible to the Board for all the activities of the Organization.

The rationale for this amendment is that looking at agriculture, you will see that you need separation of fauna and flora; therefore, it was found appropriate that we have a Deputy Director General for Livestock and related sciences and another for research and crops. That is the rationale on that particular amendment.

*(Question of the amendment proposed)*

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

*(Clause 14 as amended agreed to)*

*Clause 15*

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

THAT Clause 15 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)-

(aa) is a citizen of Kenya;

*(Question of the amendment proposed)*

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

*(Clause 15 as amended agreed to)*

*(Clauses 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 agreed to)*

*Clause 27*

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

THAT Clause 27 of the Bill be amended in sub-clause (3) by inserting the words “from amongst persons who are not members of the Board” immediately after the words “appointed by the Board”



*Question of the amendment proposed)*

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

*(Clause 27 as amended agreed to)*

*(Clauses 28, 29 and 30 agreed to)*

*Clause 31*

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT Clause 31 of the Bill be amended in sub-clause (2)-  
(a) by inserting the words “technical institutions” immediately after the word  
“schools” appearing in paragraph (d);  
(b) by deleting the word “bottom-up” appearing in paragraph (g) and substituting  
therefor the word “demand-driven;

*(Question of the amendment proposed)*

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

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

*(Clause 31 as amended agreed to)*

*(Clause 32 agreed to)*

*Clause 33*

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT Clause 33 of the Bill be amended-  
(a) in sub-clause (1) by deleting the words “an institute research” and substituting  
therefor the words “a research institute”;  
(b) in sub-clause (3) by deleting the words “the institute research” and substituting  
therefor the words “the research institute

*(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 33 as amended agreed to)*

*Clause 34*

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 34 of the Bill be amended in sub-clause (1) by deleting the words “an institute research” and substituting therefor the words “a research institute”.

*(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 34 as amended agreed to)*

*(Clauses 35 and 36 agreed to)*

*Clause 37*

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 37 of the Bill be amended-

- (a) in paragraph (a) by inserting the words “including proceeds from patents and breeders rights” immediately after the words “functions under this Act”;
- (b) by inserting the following new sub-clauses-

(2) The allocation of resources to the two directorates shall be done on a *pro rata* basis depending on the contribution to Kenya’s gross domestic product by the crop and livestock sectors, respectively; and,

(3) The Public Finance Management Act, 2012, shall be applicable in the management of financial resources in the sectors at all levels.

*(Question of the amendment proposed)*

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

*(Clause 37 as amended agreed to)*

*(Clauses 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 agreed to)*

*Clause 48*

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

THAT, Clause 48 of the Bill be amended in paragraph (a) of sub-clause (1) by inserting the expression “Kenya Forestry Research Institute” immediately after the expression “Kenya Trypanosomiasis Research Institute”.

*(Question of the amendment proposed)*

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

*(Clause 48 as amended agreed to)*

*(Clauses 49 and 50 agreed)*

#### *Clause 51*

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

THAT, Clause 51 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4)-

(5) The following time limits shall be observed upon the coming into force of this Act-

- (a) the transfer of staff shall be concluded within a period of three months;
- (b) the transfer of movable assets shall be concluded within a period of three months;
- (c) the transfer of land shall be concluded within a period of one year; and,
- (d) the transfer of institutions shall be concluded within a period of one year.

*(Question of the amendment proposed)*

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

*(Clause 51 as amended agreed to)*

*(Clauses 52, 53, 54, 55 and 56 agreed to)*

*(First Schedule agreed to)*

#### *Second Schedule*

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

THAT, the Second Schedule to the Bill be amended by inserting the following new paragraphs-

- (k) Beef Research Institute;
- (l) Apiculture Research Institute;
- (m) Dairy Research Institute;
- (n) Non-Ruminant Research Institute;
- (o) Sheep and Goat Research Institute;
- (p) Veterinary Science Research institute;
- (q) Wildlife Research Institute; and,

(r) Marine and Fisheries Research Institute.

*(Question of the amendment proposed)*

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

*(The Second Schedule as amended agreed to)*

*(Third Schedule agreed to)*

*(Fourth Schedule agreed to)*

*New Clause 15A*

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 15-

Qualifications of Deputy Director General

15A. A person shall be qualified for appointment as the Deputy Director-General (Livestock) if the person-

- (i) is a citizen of Kenya;
- (ii) holds an undergraduate degree in animal sciences;
- (iii) holds a doctor of philosophy degree from a university recognized in Kenya;
- (iv) has at least ten years experience in leadership or at senior management level in research; and,

(v) meets the requirements of Chapter Six of the Constitution.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

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

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

*New Clause 46A*

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 46-

Limitation of right to  
access information

**46A.** The right of access to information guaranteed under Article 35 of the Constitution is hereby limited under Article 24 of the Constitution to the nature and extent specified under subsection (2).

(2) The Organization, being a public entity, shall be under no obligation as contemplated under Article 35 of the Constitution to give any information that would, in the opinion of the Organization, compromise the integrity of research, patent and other related rights.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

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

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

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

*Long Title*

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

THAT, the Bill be amended in the long title by deleting the words “Kenya Agricultural Research Organization” and substituting therefor the words “Kenya Agricultural and Livestock Research Organization”

*(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 Long Title as amended agreed to)*

*Clause 1*

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

THAT, the Bill be amended in Clause 1 by deleting the words “the Kenya Agricultural Research Act, 2012” and substituting therefor the words “the Kenya Agricultural and Livestock Research Act, 2012”.

*(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 1 as amended agreed to)*

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya Agricultural Research Bill (Bill No.60 of 2012) and its approval thereof with amendments.

**The Temporary Deputy Chairman** (Mr. Imanyara): Order, Mr. Mututho!

**Mr. Mututho:** Mr. Temporary Deputy Chairman, Sir, Clause 6 had amendments as in today’s Order Paper, before the Minister could move.

**The Temporary Deputy Chairman** (Mr. Imanyara): We actually moved the amendment and we carried it.

**Mr. Mututho:** My apologies, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Imanyara): At least our notes here indicate that you actually moved the amendment.

**Mr. Mututho:** My apologies.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, as I explained at the beginning, we will now move to The Seeds and Plant Varieties (Amendment) Bill.

Hon. Members, we should go fairly quickly on this because there are no proposed amendments received.

#### THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9 and 10 agreed to)*

*(Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 agreed to)*

*(Clauses 21, 22, 23, 24, 25, 26, 27 and 28 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Seeds and Plant Varieties Bill (Bill No.65 of 2012) ---

**The Temporary Deputy Chairman** (Mr. Imanyara): Sorry, Minister. You have left out something. Just read it out again.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Seeds and Plant Varieties (Amendment) Bill and its approval thereof without amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): No, again you have got it wrong; Bill No.65 of 2011.

**The Minister for Agriculture** (Dr. Kosgei): Bill No.65 of 2012 and its approval thereof without amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, what I have here is 2011. The Bill that we have passed is the one for 2011.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, my Bill says 2011 but the piece of paper that has been handed over to me from your desk says 2012.

Let me correct it; it is 2011.

*(Question proposed)*

*(Question put and agreed to)*

#### THE KENYA PLANT HEALTH INSPECTORATE SERVICE BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
12, 13, 14 and 15 agreed to)*

*(Clauses 16, 17, 18, 19, 20, 21, 22, 23, 24,  
25, 26, 27, 28, 29 and 30 agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Speaker** (Mr. Imanyara): I hope you have got right the year of the Bill they have given you.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya Plant Health Inspectorate Service Bill, Bill No. 64 of 2011 and its approval thereof without amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): I think you have been misled Madam Minister, because what we have is 2012.

**The Minister for Agriculture** (Dr. Kosgei): Mine is 2011.

**The Temporary Deputy Chairman** (Mr. Imanyara): Madam Minister, you are absolutely right. It is 2011. Perhaps, just for the HANSARD record, just move it again.

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya Plant Health Inspectorate Service Bill, Bill No.64 of 2011, and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): We now move to the final Bill, and that is the Climate Change Authority Bill. We have fairly extensive proposals for amendments from the Mover of the Bill.

#### THE CLIMATE CHANGE AUTHORITY BILL

##### *Clause 2*

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

THAT, clause 2 be amended—

- (a) by deleting the definition of the term “Authority”;
- (b) in the definition of “Board”, by deleting the word “Authority” and substituting therefor the word “Council”;
- (c) in the definition of “Cabinet Secretary”, by deleting the words “the coordinating Ministry” and substituting therefor the words “the Ministry for the time being responsible for Cabinet affairs”;
- (d) in the definition of the term “Fund”, by deleting the expression “section 30” and substituting therefor the expression “section 26”;
- (e) by inserting the following new definition in its proper alphabetical sequence—  
“Council” means the Climate Change Council established under section 5.

Mr. Temporary Deputy Chairman, Sir, the idea here is to expand the title and the impact of climate change in the Bill.

**The Temporary Deputy Chairman** (Mr. Imanyara): Dr. Otichilo, this has been circulated. It has been on the Order Paper for quite some time. I take it that the hon. Members have already familiarized themselves with the amendments that you have proposed. So, I would suggest, with your permission, that we follow the same format we have followed with the others. Just indicate that, as you have set it out in the Order Paper, then we can move on from there.

*(Question of the amendment proposed)*

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



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

*(Clause 2 as amended agreed to)*

*Clause 3*

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

THAT, clause 3 be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) The objects and purposes of this Act are to provide—

(a) a framework for mitigating and adapting to the effects of climate change on all sectors of the economy and levels of governance;

(b) a mechanism for financing, coordination and governance of matters of climate change;

(c) for the formulation of programmes and plans to enhance the resilience of human and ecological systems to the impacts of climate change;

(d) for the mainstreaming of the principle of sustainable development in the planning for and on climate change response strategies and actions; and

(e) minimizing the emission of greenhouse gases and other pollutants by facilitating approaches and uptake of technologies that support low carbon climate resilient development.”

*(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 3 as amended agreed to)*

*(The Minister for Finance and the Minister for Transport consulted loudly)*

**The Temporary Deputy Chairman** (Mr. Imanyara): You do not seem to be taking part in this. Could the Deputy Leader of Government Business lead us by giving us some order in the House, so that we can conduct business? Now that the Minister for Finance is arriving this late, he should not interfere with the attention of the Deputy Leader of Government Business, who has been very diligent; all the time you have been away and you have showed up.

*Clause 4*

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

THAT, clause 4(c) be amended by inserting the words “in accordance with the First Schedule” immediately after the word “stakeholders”.

*(Question of the amendment proposed)*

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

*(Clause 4 as amended agreed to)*

*Clause 5*

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

THAT, clause 5 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

Mr. Temporary Deputy Chairman, Sir, I want to propose a further amendment.

*(Mr. Githae consulted loudly )*

**The Temporary Deputy Chairman** (Mr. Imanyara): Order, Mr. Githae! I am not going to proceed if you keep interfering with the proceedings.

*(Question of the amendment proposed)*

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

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

*(Clause 5 as amended agreed to)*

**Dr. Otichilo:** Mr. Temporary Deputy Chairman, Sir, I wish to move a further amendment to Clause 5.

**The Temporary Deputy Chairman** (Mr. Imanyara): We have just concluded. I have just put the question. It was carried; that is why I was asking these hon. Members to give you--- You looked at them and I said since they appeared to be in agreement, I would put the question; we carried it. The only thing you can do now is recommit. I am sorry. We cannot follow that procedure. That is why I am asking hon. Members to give you the attention that you require. Be more attentive now.

*Clause 6*

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

THAT, Clause 6 be amended—

(a) by deleting the word “Authority” and substituting therefor the word “Council”;

(b) in paragraph (f), by—

- (i) inserting the word “gender-responsive” immediately before the words “public education”;
- (ii) inserting the word “gender-balanced” immediately after the word “facilitate”;
- (c) in paragraph (h), by deleting the words “energy and carbon emission reporting” and substituting therefor the words “appropriate mitigation actions”.

*(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 6 as amended agreed to)*

#### *Clause 7*

**Dr. Otichilo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 7 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 7 as amended agreed to)*

#### *Clause 8*

**Dr. Otichilo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 8 be amended—  
(a) in subclause (1), by—  
(i) deleting the word “Authority” and substituting therefor the word “Council”;  
(ii) deleting paragraph (b) and substituting therefor the following new paragraphs—  
“(b) four persons, one each nominated by each of the following bodies—  
(i) Maendeleo ya Wanawake Organisation;  
(ii) Institute of Climate Change, University of Nairobi;  
(iii) Association of Professional Societies of East Africa; and  
(iv) Kenya Climate Change Working Group;  
“(ba) two persons appointed by the Cabinet Secretary”;  
(b) in subclause (7), by deleting the expression “paragraph (f)” and substituting therefor the expression “paragraphs (a) and (b)”.

*(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 8 as amended agreed to)*

*Clause 9*

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

THAT, Clause 9 (1) be amended by deleting the expression “subsection (1) (f)” and substituting therefor the expression “subsection (1) (a) or (b)”.

*(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 9 as amended agreed to)*

*Clause 10*

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

THAT, Clause 10(b) be amended by deleting the word “secretariat” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 10 as amended agreed to)*

*Clause 11*

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

THAT, Clause 11 be amended by inserting the word “Second” immediately before the word “Schedule”.

*(Question of the amendment proposed)*

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

*(Clause 11 as amended agreed to)*

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

*[The Temporary Deputy Chairlady  
(Mrs. Odhiambo-Mabona) took the Chair]*

*(Clause 12 agreed to)*

#### *Clause 13*

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

THAT, Clause 13(1) be amended by deleting the word “Authority” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 13 as amended agreed to)*

#### *Clause 14*

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

THAT, Clause 14 (5) (a) be deleted.

*(Question of the amendment proposed)*

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

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

*(Clause 14 as amended agreed to)*

*Clause 15*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 15 be deleted and replaced with the following new clause—

Staff

15. (1) The Board may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Council under this Act, upon such terms and conditions of service as the Board may determine.

(2) The Board shall ensure that, in the appointment of the staff of the Council—

- (a) not more than two-thirds of the staff shall be of the same gender;
- (b) the regional and other diversity of the people of Kenya is taken into account; and
- (c) persons with disabilities are afforded adequate and equal opportunities.

*(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 15 as amended agreed to)*

*Clause 16*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 16 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 16 as amended agreed to)*

*Clause 17*

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

THAT, Clause 17 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 17 as amended agreed to)*

### *Clause 18*

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

THAT, Clause 18 be amended by deleting the word “Authority” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 18 as amended agreed to)*

### *Part III*

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

THAT, the heading to Part III be amended by deleting the words “CLIMATE CHANGE PROGRAMMES AND RESPONSE STRATEGIES” and substituting therefor the words “CLIMATE CHANGE RESPONSE MEASURES AND ACTIONS”.

*(Question of the amendment proposed)*

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

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

*(Part III as amended agreed to)*

Clause 19

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

THAT, Clause 19 be amended—

(a) by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”;

(b) by deleting subclause (1) and substituting therefor the following new subclause—

“(1) The Council shall formulate, publish and coordinate the implementation of national and county climate change action plans, strategies and policies and shall make the action plans, strategies and policies available to the public in the prescribed form.”

(c) in subclause (2), by—

(i) deleting the word “programmes” and substituting therefor the words “action plans, strategies and policies”;

(ii) inserting the following new paragraphs immediately after paragraph (h)—

“(i) national and county action plans and strategies;

(j) measurement, reporting and verification;

(k) statutory obligation with respect to public and private entities in climate change mainstreaming’;

(d) in subclause (3), by deleting the word “programmes” and substituting therefor the words “action plans, strategies and policies”;

(e) in subclause (4), by deleting the word “programmes” and substituting therefor the words “action plans, strategies and policies”;

(f) in subclause (6), by deleting the word “programmes” and substituting therefor the words “action plans, strategies and policies”;

(g) in subclause (7), by deleting the word “programmes” and substituting therefor the words “action plans, strategies and policies”;

(h) in subclause (8), by deleting the word “programmes” and substituting therefor the words “action plans, strategies and policies”;

*(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 19 as amended agreed to)*

Clause 20

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

THAT, Clause 20 be amended—

(a) in subclause (1), by—



- (i) deleting the word “Authority” and substituting therefor the word “Council”;
- (ii) deleting the word “otherwise” appearing in paragraph (e) and substituting therefor the words “measures for”;
- (b) in subclause (2), by inserting the words “by the” immediately after the word “formulated”.

*(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 20 as amended agreed to)*

#### *Clause 21*

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

THAT, Clause 21 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 21 as amended agreed to)*

#### *Clause 22*

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

THAT, Clause 22 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 22 as amended agreed to)*

*Clause 23*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 23(1) be amended by deleting the word “Authority” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 23 as amended agreed to)*

*Clause 24*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 24(1) be amended by deleting the word “Authority” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 24 as amended agreed to)*

*(Clause 25 agreed to)*

*Clause 26*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 26 be amended-

- (a) by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”;
- (b) in sub clause (1), by—
  - (i) deleting the word “Trust”;
  - (ii) inserting the words “which shall be vested in the Council” immediately after the word “Fund”.

(i) in subclause (2), by inserting the following new paragraph immediately after paragraph (a)—

“(aa) such moneys as may be appropriated by Parliament for the purposes of the Council”;

Madam Temporary Deputy Chairlady, the Attorney-General has some comments to make.

**The Attorney-General** (Prof. Muigai): Madam Temporary Deputy Chairlady, I am in total agreement that we should delete this provision because Section 48 of the old Constitution is still in force and applies for purposes of this sort of Bill today. As the Mover agrees, I think there is concurrence.

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I agree with the deletion as proposed by Committee. It is appropriate. I do not mean to delete the entire Clause 26, but the one that is 26(i) (aa) which says: “Such moneys as may be appropriated by Parliament for the purposes of the Council.” We are deleting (i).

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): Dr. Otichilo, let us be very clear about what you are doing. You have proposed an amendment. Are you proposing a further amendment to your amendment or is the hon. Attorney-General seeking to amend your amendment? Are you withdrawing?

**Dr. Otichilo:** No, Madam Temporary Chairlady, I am not withdrawing. It is the hon. Attorney-General who is seeking to make an amendment to my amendment.

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): The hon. Attorney-General cannot do that, hon. Otichilo. You are the one who can. It is not the hon. Attorney-General’s Bill. If you are in agreement with the hon. Attorney-General, then I would suggest that you withdraw Section 26(i). So, you just say that you are moving the amendment, but withdrawing Section 26(i).

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I am moving the amendment to Clause 26, but at the same time, withdrawing Clause 26(i).

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): That is Clause 26(i) as per the Order Paper. For avoidance of doubt, it is not the Roman (i) after the (b), but there is (i) at the end. I think there was a problem with the numbering which reads:

“In (i) in sub clause (2), by inserting the following new paragraph immediately after paragraph (a)—

“(aa) such moneys as may be appropriated by Parliament for the purposes of the Council”.

So, is that what you are withdrawing?

**Dr. Otichilo:** Yes, Madam Temporary Deputy Chairlady.

*(Proposed amendment to clause 26(i) withdrawn)*

*(Question of the amendment proposed)*

*(Questions, 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 26 as amended agreed to)*

*Clause 27*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 27 be deleted.

*(Question of the amendment proposed)*

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, I want the Mover of this Bill to explain to the House as to what has motivated the total deletion of this clause.

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): Maybe you could just have brief remarks, Dr. Otichilo.

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, it was decided to delete the whole clause because it was trying to create a trust fund. It was felt that it was not necessary to create a trust fund, but we create a Climate Change Fund.

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

*(Clause 27 deleted)*

*Clause 28*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 28 be amended by—

(a) deleting the word “Authority” and substituting therefor the word “Council”;

(b) deleting the words “Board of Trustees” and substituting therefor the words “Board of the Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 28 as amended agreed to)*

*Clause 29*

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

THAT, Clause 29 be amended by deleting the word “Authority” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 29 as amended agreed to)*

*Clause 30*

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

THAT, Clause 30 be amended by—

(a) deleting the word “Authority” wherever it appears and substituting therefor the word “Council”;

(b) deleting the words “Board of Trustees” wherever they appear and substituting therefor the words “Board of the Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 30 as amended agreed to)*

*Clause 31*

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

THAT, Clause 31 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 31 as amended agreed to)*

Clause 32

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

THAT, Clause 32 be amended by—

(a) deleting the word “Authority” wherever it appears and substituting therefor the word “Council”;

(b) deleting the word “programmes” wherever it appears and substituting therefor the words “action plans”.

*(Question of the amendment proposed)*

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

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

*(Clause 32 as amended agreed to)*

Clause 33

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

THAT, Clause 33(4) be amended by deleting the word “Authority” and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 33 as amended agreed to)*

Clause 34

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

THAT, Clause 34 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 34 as amended agreed to)*

*Clause 35*

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

THAT, Clause 35 be amended by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”.

*(Question of the amendment proposed)*

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

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

*(Clause 35 as amended agreed to)*

*Clause 36*

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

THAT, Clause 34 be amended—

(a) by deleting the word “Authority” wherever it appears and substituting therefor the word “Council”;

(b) in subclause (1), by—

(i) deleting the word “Commission” wherever it appears and substituting therefor the word “Council”;

(ii) deleting the word “programmes” wherever it appears and substituting therefor the words “action plans”.

*(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 36 as amended agreed to)*

*(Clause 37 agreed to)*

*Schedule*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, the Schedule be amended by renaming it as “SECOND SCHEDULE”.

*(Question of the amendment proposed)*

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

*(Schedule as amended agreed to)*

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): Hon. Members, I give a directive that the drafters will put the new Schedule in the right place in the Bill.

*New Schedule*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, the following new schedule be inserted immediately before the renamed Second Schedule—

FIRST SCHEDULE (s.4(c))

#### **PROVISIONS ON PUBLIC CONSULTATION**

1. (1) Where this Act imposes a requirement for public consultation in matters relating to climate change policy, strategy, programme, plan or action, the Council or respective public or private entity shall publish a notice —

(a) in the Gazette;

(b) in at least two newspapers with national circulation;

(b) in at least one newspaper circulating in the locality to which the climate change policy, strategy, programme, plan or action relates; and

(d) in at least one Kenyan radio station broadcasting in that locality.

(2) The notice shall in each case—

(a) set out a summary of the policy, strategy, programme, plan or activity;

(c) state the premises at which the details of the policy, strategy, programme, plan or action may be inspected;

(d) invite written comments on or objections to the policy, strategy, programme, plan, action;

(e) specify the person or body to which the comments are to be submitted; and

(f) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of the notice.

2. The Council or public or private entity shall make arrangements for the public to obtain copies, at reasonable cost, of documents relating to the policy, strategy, programme, plan or action which are in the possession of the respective entities.

3. The Council or the respective public or private entity shall consider the—

(a) written comments or objections received on or before the date specified under paragraph 1(2)(e); and



(b) comments, whether in writing or not, received at a public meeting held in relation to the policy, strategy, programme, plan or action at which the Council or respective public or private entity was represented, or by any other invitation, to comment.

4. The Council or the respective public or private entity shall publish, in accordance with paragraph 1 of this Schedule, notice of the fact that a copy of the written decision of the Council or the respective public or private entity relating to the policy, strategy, programme, plan or action, and the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2) (b).

5. Where regulations made under this Act so require, the Council or respective public or private entity shall cause a public meeting relating to a policy, strategy, programme, plan or action to be held before the Council or the respective public or private entity makes its decision on the policy, strategy, programme, plan or action.

*(Question of the new schedule proposed)*

*(New Schedule read the First Time)*

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

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

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

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

*Long Title*

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

THAT, the long title be deleted and replaced with the following new long title—

“AN ACT of Parliament to provide for the legal and institutional framework for the mitigation and adaption to the effects of climate change; to facilitate and enhance response to climate change; to provide for the guidance and measures to achieve low-carbon climate resilient development, and for connected purposes”

*(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)*

*(Long Title as amended agreed to)*

*Clause 1*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 1 be amended by deleting the word “Authority”.

*(Question of the amendment proposed)*

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

*(Clause 1 as amended agreed to)*

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Climate Change Authority Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

THE FINANCE BILL

*(Consideration of Memorandum from His Excellency the President)*

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): Hon. Members, you will note that this is only in reference to Clause 28 which is the amendment to the Second Schedule to the National Assembly Remuneration Act, Cap.5.

*Clause 28*

**The Minister for Finance** (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to Move:-

THAT, Clause 28 of the Bill be deleted.

Let me, first of all, take this opportunity to thank hon. Members of this august House for all the support they have given me. I move that Clause 28 be deleted as recommended by His Excellency the President.

Let me just explain how this came about. In the Finance Bill, I had proposed various taxes which could have enabled me obtain certain revenues which then could have enabled me to pay for the teachers’, doctors’, lecturers’ and even the Director of Public Prosecution increments which we had agreed upon. This could also have enabled us to fund the expansion that Parliament is doing in the renovation of the Senate Chamber, the extension of the restaurant and the office block. Therefore, it is important that we pass this, so that we can collect these taxes. Regarding the other issues, certain discussions are going on. I hope, by next week, we will have finalized them.

I beg to move.

*(Question of the amendment proposed)*

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Madam Temporary Deputy Chairlady, in the first instance, it was a mistake---

**The Temporary Deputy Chairlady** (Mrs. Odhiambo-Mabona): If you want to support, I have given you the opportunity.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Chairlady, I beg to support, especially now that the Minister has explained. All of us know that those are very important issues. Obviously, he has done a very good job. He is attentive, listening and always responsive to the House. I think we should give him as much support as possible in what he has proposed.

I support.

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, I want to thank His Excellency the President for guiding this House during that critical moment when there were cries from Kenyans.

I beg to support.

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

*(Clause 28 deleted)*

**The Minister for Finance** (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Memorandum from His Excellency the President on the Finance Bill and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**The Temporary Deputy Speaker** (Mr. Baiya): Hon. Members, we will consider the Bills in the order they were considered by the Committee of the whole House. I will call upon the Chair to move the first one.

## **REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS**

### **THE KENYA AGRICULTURAL RESEARCH BILL**

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Kenya Agricultural Research Bill and approved the same with amendment.

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

**The Minister for Education** (Mr. M. Kilonzo) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya Agricultural Research Bill be now read the Third Time.

**The Minister for Education** (Mrs. M. Kilonzo) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

#### THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered The Seeds and Plant Varieties (Amendment) Bill, Bill No.65 of 2011 and approved the same without amendments.

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

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Agriculture** (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Seeds and Plant Varieties (Amendment) Bill, Bill No.65 of 2011 be now read the Third Time.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Mr. Baiya): Chair, move to the next one.

KENYA PLANT HEALTH INSPECTORATE  
SERVICE BILL

**Mrs. Odhiambo- Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Kenya Plant Health Inspectorate Service Bill, Bill No. 64 of 2012, and approved the same without amendments.

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

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Agriculture (Mrs. Kosgei):** Mr. Temporary Deputy Speaker, Sir, I beg to move that the Kenya Plant Health Inspectorate Service Bill, Bill No.64 of 2012 be now read a Third Time.

*Question proposed)*

*(Question put and agreed to)*

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

#### CLIMATE CHANGE AUTHORITY BILL

**The Temporary Deputy Speaker (Mr. Baiya):** Madam Chairlady, the Climate Change Authority Bill.

**Mrs. Odhiambo- Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the Climate Change Authority Bill, Bill No.26 of 2012, and has approved the same with amendments.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Finance (Mr. Githae)** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the Climate Change Bill, Bill No.26 of 2012 be now read a Third Time.

**The Minister for Finance (Mr. Githae)** seconded.

*Question proposed)*

*(Question put and agreed to)*

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

THE MEMORANDUM FROM H.E THE

PRESIDENT ON THE FINANCE BILL

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the Memorandum from His Excellence the President on the Finance Bill (Bill No.26 of 2012) and approved the same without amendment.

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

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Baiya): Hon. Members, we are going to re-commit two Bills, beginning with The Elections (Amendment) Bill, 2012. I now ask the Chair of the Committee of the whole House to present her Report.

THE ELECTIONS (AMENDMENT) BILL

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Elections (Amendment) (Amendment No.3) Bill, 2012, and approved the same with amendments and subject to re-committal of Clause 2.

**Mr. Oyugi:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**Dr. Otichilo** seconded.

*(Question proposed)*

*(Question put and agreed to)*

THE POLITICAL PARTIES (AMENDMENT) BILL

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to report that the Committee of the whole House has considered The Political Parties (Amendment) Bill, Bill No.72 of 2012 and approved the same subject to re-committal of Clause 2.

**Mr. Oyugi:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**Dr. Otichilo** seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, you may sit down.

There is a bit of confusion, but we have clarified what was happening. Although we have agreed to go to Committee on the Elections Bill and the Political Parties Bill, this will come on the Order Paper on Thursday. Nevertheless, because we had already extended the sitting for today to 8.30 p.m. we cannot move to adjourn without an adjournment Motion. Therefore, we go to the next Order.

Next Order!

## **BILLS**

### *Second Reading*

#### THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT BILL

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Kenya Institute of Curriculum Development Bill (Bill No.64 of 2012) be now read a Second Time.

Allow me, first of all, to thank this House and the country for embracing the reforms in education that have been more or less concluded. Only this afternoon the Basic Education Bill passed through the Third Reading and I want to thank hon. Members.

This institute otherwise known as the Kenya Institute of Education (KIE) was established in 1976. However, it has had a very unstable legal framework as you can see by the fact that there was first of all Legal Notice No.144 of 1980, followed by Legal Notice No.126 of 1984 and Legal Notice No.125 of 2004, Legal Notice No.55 of 2007 and Legal Notice No.120 of 210. It has been like a motherless child.

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

*[The Temporary Deputy Speaker  
(Mr. Baiya) resumed the Chair]*

It has been like a motherless child.

Mr. Temporary Deputy Speaker, Sir, some of the legal notices such as Legal Notice No.126 remove the responsibility of recruitment from the institute to other bodies; consequently creating an enormous problem in the institute. Therefore, it is fair that this country, having embraced reforms in education, also agrees to reform this very important institute.

Mr. Temporary Deputy Speaker, Sir, I do not have to over-emphasize that curricula determines the quality of a country's human resource, the national values and ethos. Therefore, the Kenya Constitution, 2010, recognizes curriculum development as a function of the national Government. I refer in this particular instance to Schedule 4, Part I, Section 15.

The Constitution gave rise to a devolved government and outlined the distribution of functions between the national Government and the county governments under the said Fourth Schedule driven by Articles 185(2), 186(1) and Article 187(2).

The institution carrying out this function needs to be established by an Act of Parliament to give it the necessary legal status to execute its functions effectively. My Ministry, therefore, proposes this Bill without apology and with the confidence that this country now requires a new legal order for curricula development in order to reflect Vision 2030 and the new policies in education and the laws that this House has passed.

As long ago as 2010, the task force on the Re-alignment of the Education Sector recommended the strengthening of the existing KIE by having it established under an Act of Parliament. In view of the critical role the institute is expected to play both at national and county levels, it needs to be entrenched in law.

Mr. Temporary Deputy Speaker, Sir, the highlights of the Bill are pretty straightforward. This House has done this before. We want to change the name, so that what it is supposed to do can be understood; we also empower the institution to vet, approve for application in Kenya any local or foreign curricula and curriculum support materials. This will ensure that such curricula and curriculum support materials conform to the Kenyan standards and values as expected by Schedule 4, Part I, Section 15. The current situation has no vetting mechanism of what is taught to some Kenyan children. If there was time, I would repeat that statement, that we are playing dice with our children's education.

Therefore, this Bill will enable the development of this very important sector and mainstream national values, talent development and leadership values in curricula.

Therefore, I beg to move and I would like to request the hon. Minister for Medical Services, my fellow secretary-general in the CORD Coalition, to second the Bill.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I rise to second this very important Bill by my dear friend and Senior Counsel, Mr. M. Kilonzo, Secretary-General of the Wiper Democratic Movement, and a senior pillar in the Coalition for Reform and Democracy (CORD) Coalition.

Mr. Temporary Deputy Speaker, Sir, the reason I am supporting this Bill is because the institute that is being referred to has played an extremely important role in the development of education.

Mr. Temporary Deputy Speaker, Sir, when I was in high school, I was actually involved in doing some of the programmes at the institute, especially with regard to literature. Some of the things they have done and the way in which they have influenced, not just schools, but subsequent intellectual development in this country to the extent that many countries come to Kenya to study the Kenyan educational system, so as to emulate what this institute has done---

Mr. Temporary Deputy Speaker, Sir, the Minister and his officers have worked very hard and diligently to produce this particular Bill. In the Bill, what is important, among other things, is Part VII, which lays down the transitional provisions. In other words, as we transit from the Kenya Institute of Education (KIE) into the new institute being proposed here as the Institute of Curriculum Development, we must not forget some of the capacity that has been built by the institution that we are replacing nor must we forget the personnel that have been working in this institution. These transitional clauses reassure the human resources at the present KIE that this change does not necessarily render them redundant. At this time of implementing the Constitution, many people working in Government institutions get worried whether they will be there tomorrow earning a living for their families. Therefore, they must be reassured that the



governing organs of the institution may change according to this Bill, but those who have developed skills for running this institution will, definitely, be taken care of by the transitional provisions and the new institution as now by law established.

I beg to second.

*(Question proposed)*

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. While supporting the Bill, I want to say that you must have a standard particularly right now when we have mushrooming institutions. You must have standards that will ensure that there is continuity. You need a sober organization that will set standards. Those standards must be stringent enough for us to be respected around the world.

I congratulate the Minister for Education for declaring that we are 85 per cent literate. We would be happier if they also told us that in the top 100 universities or institutions in the world, there is one from Kenya. Our own University of Nairobi apparently is facing some challenges and has not featured well in that long list of excellence. I see others coming in, although late, like Strathmore, and being among the top in East Africa. I congratulate them.

I beg to support.

**The Minister for Finance (Mr. Githae):** Mr. Temporary Deputy Speaker, Sir, I rise to support this important Bill. It has been in the offing for a long time, but I can see that it is now coming during the Jubilee Year. This is the year of the jubilee. It is never too late. Now that it is coming during the jubilee year, it has given other people also an opportunity to name their pacts and coalitions as jubilee. It is a good thing.

I hope that when this curriculum development is in place, they will not keep on changing textbooks every year. This makes it very expensive for the parents to buy new books every year. So, the curriculum should not be changed every year. If that happens, then it only makes the parents incur unnecessary expenses. I hope that now it will become professional and will not fall into that trick.

With those remarks, I beg to support.

**Mr. C. Onyancha:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. Let me thank the Minister for bringing it to the House. Any institution which cannot have the mandate to hire its employees cannot succeed. This is one of the proposals in this Bill. We are now in a new constitutional dispensation, which needs to be translated into the academic curriculum of our nation right from the beginning of schooling up to the end. Of late, we have been seeing a lot of unrest in the country with regard to pay rises, trouble here and there and people sometimes, rightly so, shouting “*haki yetu*”, but I think that we have gone beyond what is required in gaining our rights and forgetting our responsibilities. You can never enjoy rights when you have other people also wanting to enjoy their own rights and creating conflicts.

Mr. Temporary Deputy Speaker, Sir, we, citizens, must have it in our mind all the time that as much as we enjoy those rights, others have the same rights to enjoy and also that we must be responsible. We cannot have rights when some of us do not pay taxes. We cannot have rights when we break the law. Recently, *matatu* operators were on the streets basically requesting Parliament to withdraw an Act of Parliament that appeared to be too harsh to them. The majority of Kenyans have never gone to school for civic education. We have forgotten our cultural civility and values. We go on the road without respect. We do things with impunity and I believe some

of the measures that the Curriculum Development Institute can develop would go a long way in ameliorating this situation where we have got the notion that is actually in a sense reckless and willing to destroy itself because of lack of civility and responsibility.

I fully support this Bill and I wish the Minister well in his endeavour as the new Secretary General of Coalition for Reform and Democracy (CORD).

Thank you.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. As a Member of the Education, Research and Technology Committee, we have gone through this Bill and we are very happy with it. On behalf of the Committee, I want to congratulate the Minister. For the short time that he has been in the Ministry, we have achieved what we could not have achieved in the last three years. He has worked so hard. He has brought the Basic Education Bill which we have just passed this evening and again he has brought this Bill which is very important. This Bill is going to refocus our education system particularly as regards curriculum development. The curriculum must adhere to the needs of the country. It must be tailored to achieve Vision 2030.

So, without wasting a lot of time since I have had a chance to go through this Bill, I want to support.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, let me start by thanking the very hardworking Minister for bringing major reforms in the Ministry. The new face of the Minister has really transformed the Ministry in the way things have been done. One thing that I have noted is that the Ministry is becoming more accountable in the way it is using resources. The Minister has been quite vocal in pointing out some of the things that are affecting the lives of our people in this country.

One issue that I have noted that the Bill has really tried to address is the Early Childhood Care Education. This is an area that has been neglected in this country for so many years and the new Bill now focuses to reforming this area. Teachers in this sector have been neglected. They are almost given peanut salaries which are not able to maintain them. I note that this institute will be given money for research and aware that now we have the Minister for Finance who is a very keen supporter of the education sector, I would urge him to make sure that this sector is given adequate money to address those glaring concerns in this sector.

Mr. Temporary Deputy Speaker, Sir, adult education should be given special attention, teachers, salaries and facilities. This is the time to redeem and reclaim glory in those areas. It is high time the education sector is reformed.

With those few remarks, I fully support the dedication by the Minister and call for full implementation of this Bill.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill and congratulate the CORD Minister for being very hard working. Indeed, he has brought many Bills before this House even though they make us work late in the night. I want to congratulate him and also encourage the Minister for Finance to be informed what Jubilee is about and not to be copycats without knowing what it means. Jubilee is a year of deliverance. So, for those of us who have been oppressed, you are actually just telling us that you will be delivering us. So, we are happy with that name which you stole from us because it means you are endorsing us.

Having said that, I just want to give one brief comment. I want to thank the Minister because curriculum development is about setting standards. I have been harping on the issue of setting standards. I believe in standards especially educational standards. Our educational standards have been falling very dismally. Therefore, I am happy that we will regulate

curriculum development save that I would want to urge the Minister to remember that in The Basic Education Bill that we have just passed, we have done away with the provision for different mediums of instructions for different schools. This, therefore, means that even in curriculum development, you cannot say that in urban, peri-urban or rural areas you have different languages as a medium of instruction. So, a child who goes to school in Suba, the medium of instruction will be the same language as that of a child in Nairobi by the amendment we passed. So, if the medium of instruction in Nairobi is English, it will be the same for the child in Mfangano.

However, I would, therefore, suggest that one of the provisions or functions that we should add for the institute is curriculum development for indigenous languages. Where there is a student who would want to be taught a specific language, for example, if I want to learn Suba, Kuria or Maasai, then there must be a specific curriculum because it will no longer be a medium of instruction. If I want to learn Luo, it has to be provided. There must be a curriculum set specifically for it.

I would also want to encourage the Departmental Committee on Education, Research and Technology that following the other amendments that we have done, where we have done away with non-formal education, I guess that should apply here as well. I will also urge the Minister to think through the issue of seeking to devolve progressively to counties. Even though I moved an amendment that set up universities in every county, I am not too sure. This is a standard setting body which is a policy body. I am not too sure whether it really serves any purpose if you devolve its functions to counties. Then you will be talking about setting different standards for different counties, which I do not think is what we are saying. As a policy body, it should be a national body. If they want to do or perform tasks, it should be within the national framework. So, I am not persuaded that we should devolve them whether progressively or at once. They should be a national body.

With those few remarks, I beg to support and also thank the Minister for setting up all these different panels including a monitoring and evaluation panel which ensures continuity in terms of standards.

I beg to support.

**The Temporary Deputy Speaker** (Mr. Baiya): Hon. Members, we will now move to The Kenya Institute of Curriculum Development Bill.

#### THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT BILL

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, there is a saying that goes “a journey of a thousand miles starts with one step.” The country is looking forward to new curriculum, new methods of education and protection of the child rights entrenched in the Constitution. I have heard you, hon. Members and I thank you very greatly. History will judge you rightly that you have stood up on the occasion to support this very important law.

On ECD, indeed, this is a very important thing. I have already asked the Teachers Service Commission (TSC) to give me guidelines on how they intend to implement the ECD including the recruitment of teachers. The same thing applies to adult education. The contributions have been wonderful. The issue raised by my very good student, Mrs. Odhiambo-Mabona, on indigenous languages, non-formal education and the lack of use of different mediums of training are very important and very dear to the heart of the Ministry of Education. I hope that after 4<sup>th</sup>

April, 2013, my successor in that Ministry will follow the example that we have set that only if you built, your children can you really talk about real growth for the sector of human resource development.

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

*(Question put and agreed to)*

THE PUBLIC HEALTH OFFICERS (TRAINING,  
REGISTRATION AND LICENSING) BILL

*(Second Reading)*

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Mr. Temporary Deputy Speaker, Sir, before I move this Bill I want to draw your attention to the number of mosquitoes in this Parliament and that gives me an extra burden as the Assistant Minister for Public Health and Sanitation.

*(Laughter)*

I beg to move that The Public Health Officers (Training, Registration and Licensing) Bill, 2009 be now read for a Second Time.

In moving this Bill, I wish to inform this august House that promotion of health of the public and prevention of diseases will continue to remain key priorities of the health sector for a very long time. This is in recognition of the provisions of Articles 43 and 46 of the Constitution of Kenya, 2010. Article 43 requires that the country provides for the highest standards of health for everyone. This includes accessible and adequate housing, reasonable standards of sanitation, adequate food of acceptable quality, clean and adequate safe water.

Article 46 complements Article 43 by providing for protection of public health and safety. In addition, the Bill seeks to contribute significantly to the reallocation of the social pillar of Vision 2030. The health sector and, indeed, the Ministry of Public Health and Sanitation is committed to achieving the health related Millennium Development Goals (MDGs). In particular, MDG No.4 is on reduction of child mortality, MDG No.5 is to improve maternal health, MDG No.6 is on elimination of HIV/AIDS, Tuberculosis and Malaria and MDG No.7 ensures environmental sustainability.

Mr. Temporary Deputy Speaker, Sir, this Bill provides for training, registration and licensing of public health officers and public health technicians.

The Bill further provides for the regulation of practice and establishment of core functions of these cadres. These officers are the frontline soldiers of the Ministry as they are usually the first response to any immediate threats to the health of the general public.

The Bill further establishes the Public Health Officers and Public Health Technicians Council as a body corporate. The Council will exercise general supervision and control over the training, practice, conduct and employment of public health officers and public health technicians. In addition, the Council will approve training institutions and prepare the courses for the training of public health officers.

The Bill also contains financial provisions and provides for funds of the Council, investments of the funds and annual estimates. This is to ensure prudent financial management

through promotion of accountability and transparency. The Public Health Officers (Training, Registration and Licensing) Bill, 2009, is a Health Bill aimed at protecting the health of the public through health promotion and prevention of diseases. The group of diseases that are related to the environment account for approximately 80 per cent of communicable and non-communicable diseases in the country, a situation that calls for proper supervision and regulation of practice of public health officers and public health technicians.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to move that The Public Health Officers (Training, Registration and Licensing) Bill, 2009 be read a Second Time.

I request Prof. Anyang'-Nyong'o to second this Bill.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I rise to support and second this Bill. I want to second this Bill. The nation now realizes that this House is prepared to sit into the wee hours of the night to make sure that we pass appropriate Bills and laws that will implement the Constitution. I would like to advise the mosquitoes that they should go and register to vote rather than being here and harassing us!

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, having said that, the training of competent manpower and human resources to deliver health is very important. As the Assistant Minister has eloquently and ably gone into the details of substance in the Bill, I would not like to repeat it too much only to emphasize again that in order for all the laws we are making to be meaningful, Kenyans must go out and register to vote so that they elect people like my friends, Dr. Gesami, Dr. Otichilo, Amos Kimunya and the Minister for Finance - the Attorney-General is excused from this and the senior counsel - so that they can come back, either in the Senate or in this House to pass similar Bills. As the President said, if they do not do that, they will be totally useless. I appeal to Kenyans to heed the President's call. I do not want to be totally useless. I hope that they will not be totally useless by not registering to vote.

I beg to second this Bill.

*(Question proposed)*

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I rise to support this very Bill.

Mr. Temporary Deputy Speaker, Sir, as you can see, it is now past the normal time but you can see this House has risen to the challenge. If it requires us to sit until midnight, we are prepared. If it requires us to come even tomorrow, we are prepared. Only that the Deputy Leader of Government business did not request the House to sit late. We are prepared to support you, if you want us to even meet here on Jamhuri Day. We want to clear all the pending Bills. We want to clear all the pending Sessional Papers. We want to clear all the pending departmental committees reports. We want to give a clean slate to the next Parliament that will be elected, so that they will start on a clean page; we want to do the bulk of the business.

Mr. Temporary Deputy Speaker, Sir, lastly, if there is one House that has performed to expectations, it is this one. If there is one Parliament that has worked tirelessly, it is this Parliament. This Parliament needs to be commended. This Parliament needs to be congratulated for a job well done.

With those few remarks, I beg to support.

**Mr. C. Onyancha:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. In supporting it, I also want to support what hon. Githae has said about clearing our in-tray. I hope that he will remember to pay salary, which has not been paid for the last 12 years by the Treasury.

Mr. Temporary Deputy Speaker, Sir, the issues of mosquitoes and public health are very much related. This Parliament of ours is full of mosquitoes everywhere; the Minister is here with us, but he does not know that we could possibly be able to benefit from his instructions to his officers to even spray our surroundings, so that we live in a healthy atmosphere. I hope he will take the cue from this.

One of the problems our country has is the issue about quacks in the medical field. This Bill addresses that issue very well. We have lost a lot of friends, relatives and Kenyans due to bad administration of medicine. This was initially because of lack of sufficient number of qualified medical practitioners. Now that we almost have enough - indeed, many of them are not employed - I think it is time we became very strict. I am happy that the Minister has addressed this issue in this Bill, and I support it fully.

Mr. Temporary Deputy Speaker, Sir, Articles 43 and 46 of the Constitution, indeed, address the issues of giving the public all their requirements in health and good sanitation. But we cannot have good health and sanitation without water. I think it is a matter of prioritization. The two go together.

Mr. Temporary Deputy Speaker, Sir, I appeal to my colleagues who will be in the next Parliament to allocate sufficient resources for water. With the increase in availability of drinking water, we will get rid of at least 40 per cent of the common diseases that have to be dealt with public health personnel.

With those few remarks, I beg to support.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this very important Bill. In fact, I am surprised that this Bill was drafted in 2009 but it came to the House in 2012. I want to thank the Assistant Minister for, finally, bringing it to the House.

Mr. Temporary Deputy Speaker, Sir, if we take care of our public health and sanitation, we shall minimise so many diseases which afflict our people. I am very happy about this Bill because it is bringing into place a code of conduct for these officers. We know these officers to be very straightforward. They are officers who ensure that cleanliness in our hotels is upheld. Currently, you find that many hotels are operating without even toilet facilities yet we have public health officers. I hope that once this Bill is passed, we shall have a code of conduct which will ensure that facilities like toilets are availed by hotel operators.

On the issue of water, we need to put a lot of emphasis on the provision of clean water. If we can have clean water in this country, we can minimise 40-50 per cent of the diseases that afflict our people.

So, this is a very important Bill and I support it wholeheartedly.

**The Temporary Deputy Speaker** (Mr. Baiya): Yes, hon. Njuguna.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, in supporting this Bill, let me start by thanking the Minister for Public Health and Sanitation for issuing a statement on GMO foodstuffs. Kenyans are waiting for the Government's findings as well as assurance as to why this decision was taken.

Mr. Temporary Deputy Speaker, Sir, you realise that the Constituencies Development Fund (CDF) has done a lot in the constituencies. We have constructed many dispensaries to make sure that health care is closer to our people. However, to-date, the Ministry has not provided nurses. Therefore, it is important that the Ministry is given more resources for recruitment of nurses.

I also want to thank the Minister for Medical Services, Prof. Anyang-Nyong'o, for launching the Cancer Foundation. This is a very positive move because it gives Kenyans a lot of awareness and encouragement. Kenyans can live longer, given the move that has been taken. More resources must be given to both Ministries because patients at the Kenyatta National Hospital, where most of the serious cases are referred to; cannot afford their medical bills. Therefore, the Government should set aside adequate resources, so that Kenyans can get healthcare at the referral centres. It is high time that the Government invested quite a lot in this sector.

With those few remarks, I beg to support this Bill which is long overdue.

**The Temporary Deputy Speaker** (Mr. Baiya): Yes, hon. Millie Odhiambo.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill.

In doing supporting the Bill, I wish to congratulate the Minister, especially in the definition of “public health officer”, who has been clearly defined as “person who has undergone the prescribed course of training in an approved institution and holds a diploma, higher diploma or degree in environmental health”.

Mr. Temporary Deputy Speaker, Sir, the reason as to why I am singling out this aspect is that during the time we were lobbying for the passage of the Constitution, the church was particularly unhappy with the inclusion of the words “public health officer” in the issue of performing a procedure where the life of a mother is in danger. The church felt that the provision was opening the door for abortion by untrained people. I remember my good brother; hon. Isaac Ruto, in his “NO” campaigns, was moving around the country and telling people that morgue attendants would be the ones defined as “public health officers”. So, this is a very clear departure from what Isaac and his allies were pushing for.

Therefore, the Bill provides for very high standards. There are people who are very well schooled. Our women and children will be in safe hands once we pass this Bill. I would want to encourage the Minister or the relevant Departmental Committee, especially because of time; if they could provide for open and competitive processing of appointment of officer bearers under this Bill, and not the very many staff, especially for providing very strict standards for approving institutions for training of public health officials and for disciplinary measures to be taken where people have gone wrong as well as for publishing names of persons who are approved and registered.

Mr. Temporary Deputy Speaker, Sir, regarding practicing by a person who has not been registered, the amount of money being levied as fine is extremely low. If you compare it with a similar provision in The Universities Bill, where we said that if you con members of the public, who spend several years and commit a lot of money in university programmes; you will be fined Kshs10 million, you will appreciate that this is very low. Therefore, by borrowing from The Universities Bill, we should enhance these sentences because there are so many quacks who are taking advantage of poor Kenyans, who are putting a lot of money and time into degree programmes.

Again, there is a provision which appears punitive on persons who have gone through training. I know that the provision says that once you have finalised the training, you shall not be penalised but if I had undertaken two years of training, why should I be penalised for a fault which is not mine?

If the Government failed to exercise due diligence to ensure that there are no wrong people who are conning Kenyans, it should not be the problem of members of the public. I would want to encourage the Minister to look into that especially the Part I was talking of lenient sentencing in Clause 28(2).

With those few remarks, I beg to support.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I rise to support. In supporting, I want to say that we really need to bring much more creativity in this field.

We need to have public health officers (PHO) who are able to interact with people even informally. I have been to funerals where you can see abuse of public health principles. You are at a funeral yet you see people still exposing themselves to danger. I think it is high time that the curriculum is expanded so that public health officials are able to communicate to people at informal set-ups such as churches and funerals.

Mr. Temporary Deputy Speaker, Sir, we have done a lot of work in our rural areas by putting up health facilities that require these public health officials. Besides the public health officials, we also require nurses so that these facilities could help in immunization and preventive actions. In this way, we can reduce expenditure on the Exchequer.

Similarly, I have seen that this country spends a lot of money on insecurity just as it spends a lot of money on medicare because we are not investing adequately on public health. I think this Bill is going to go a long way in reducing the Exchequer's strain on medicare.

With those remarks, I support.

**The Temporary Deputy Speaker** (Mr. Baiya): I now call upon the Mover to reply.

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Mr. Temporary Deputy Speaker, Sir, I want to thank Members who have contributed to this Bill. We shall try as much as possible to include all the information we got from them in improving on this issue.

I beg to move.

**The Attorney-General** (Prof. Muigai) seconded.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

*Second Reading*

THE OFFICE OF THE ATTORNEY-GENERAL BILL

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Office of the Attorney-General Bill, Bill No. 64 of 2012 be now read a Second Time.



Mr. Temporary Deputy Speaker, Sir, I will be very brief. The necessity to have a statute setting out the functions and the powers of the Office of the Attorney-General is self-evident. Article 156 of the Constitution requires that a law be passed to give effect to the functions and powers of this office. It is my distinct privilege to be serving in this office today, and it is my privilege to be the one to present this Bill before this Parliament.

What we seek to do here is simple and straightforward. It is to structure in a clear fashion the manner in which this, in my very humble view, important constitutional office functions in order that we may ensure that what is entrusted to this office by the Constitution is effected.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General as chief legal advisor to the Government handles a special responsibility; I might say a very heavy responsibility.

From Independence, the full scope of the duties and responsibilities of that office have been left to tradition and convention. It is inappropriate to continue to do so now, because of the high threshold we now have in our Constitution for accountability.

The Attorney-General must have the independence to do his job, and also there must be sufficient oversight over how the occupant of that office goes forward and is able to do that job. This Bill does that and I would urge hon. Members to pass it as soon as it is possible, so that we may have continuity and help to use this office to reinforce the rule of law in this country and the accountability to the public that elects the Government.

I beg to move. I will ask Mr. M. Kilonzo to second.

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, this law is so fundamental. In fact, if you look at the architecture of the Constitution, as the hon. Attorney-General has mentioned, this is one office that clearly survived the change over from the retired constitution to this one. Therefore, it is fundamental that we enact this law now, and not tomorrow or next year, so that by the time the next Government is formed, hopefully as I expect by CORD, on 4<sup>th</sup> March next year, then there will be no doubt in anybody's mind as to the functions of this very important office; the office of the legal advisor to the Government of the people of Kenya.

Therefore, it is my pleasure and privilege--- I want to salute the hon. professor who is now my junior senior counsel, because he has been recognized. I want to salute him and congratulate him, but I will still remain his senior although the law requires that he is the head of the Bar in the legal profession. So, it is my pleasure to recommend this law to the House and the country.

I beg to second.

*(Question proposed)*

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I rise to support this important Bill, which is part of the constitutional Bills that are required.

Since the Attorney General assumed office, he has impressed us with his diligence. He is very hardworking only that he does not smile as much as his predecessor.

*(Laughter)*

Nevertheless, he has worked hard and fitted very well into that office. The only thing that I would like to correct him is that the Attorney-General is the head of the legal profession in

Kenya. Therefore, the Secretary General of CORD Coalition is not his senior. He is his senior as the Attorney-General of the sovereign Republic of Kenya.

This is an important Bill. It is setting out the duties of the Attorney General as the Chief Government Legal Adviser. It is also important to warn, particularly civil servants and other Government officials, that under the new Constitution, if you do not comply with the Attorney-General's opinion, you stand the risk of assuming personal responsibilities. If you defy his opinion and something goes wrong, you assume personal responsibility. It is important that this is said. It is now in the Constitution. You cannot now afford to ignore the opinion of the Attorney-General when he is acting as the Chief Government Legal Adviser.

With those few words, I support.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I want to start by correcting hon. Githae, that hon. M. Kilonzo remains senior to Prof. Githu Muigai. Despite being the senior most in the profession, he is the Secretary General of the biggest Coalition, bigger than all the coalitions combined.

*(Laughter)*

Allow me to say that this law is most timely to regulate the functions of the Office of the Attorney General. We have seen, in the past, that the Attorney-General is the luckiest man in the land whose opinion is normally sought and everybody abides by that opinion. As much as most of the time that opinion is personal, it cannot be faulted. We have seen instances in this country where the opinion of the Attorney-General has been relied on and the country has ended up suffering huge losses, yet there are no penalties to be meted on the Attorney-General; either to the office or even to the person. I hope that this law will go a long way in spelling out the functions, but also with the necessary provisions to ensure that should the Attorney-General mislead in giving his opinion, then there are consequences to that. I trust the Attorney-General because he is an Attorney-General who never smiles, but speaks his mind very clearly. In most cases, he has always turned out to be right.

I also want to point out that now that the two offices; namely, the Office of the Director of Public Prosecutions and the Office of the Attorney-General, have been constitutionally separated, there is a risk of there being a struggle for power in between. I hope that the Bill sets out this very clearly for posterity.

With those nearly many remarks, I support.

**Mr. M'Mithiaru:** Mr. Temporary Deputy Speaker, Sir, we all know previously for those who have followed this in court when we are being told that the file is at the Attorney-General's office seeking his authority to prosecute and things like those ones. I am sure this Bill is coming out to address those issues. We also know that the issues of prosecution are all lying at the Attorney-General and now we have a new dispensation whereby the Attorney-General is the legal adviser to the Government and also heads the legal profession within the country. I will not bother considering the issues of seniority as my colleagues have put it. All I know is that the legal adviser even when he is in that Coalition for Reform and Democracy (CORD) which I doubt will form the next Government, will still seek the opinion of the Attorney-General. So, I think seniority there now speaks for itself.

Mr. Temporary Deputy Speaker, Sir, we are also aware that in issues where the Government departments have been seeking due advice from the Attorney-General, sometimes those departments ignore the advice and I am sure now with the new Constitution and now this

Bill, it will now make it mandatory that whoever ignores the advice from the Attorney-General will do so at their own peril.

Let me also congratulate the Attorney-General for the job he has done so far including bringing this Bill and also in today's ruling where he made the interpretation of the gender issue from the Supreme Court. I am sure now the way forward has been given through the efforts of the Attorney-General and that stalemate which was to be there come the elections, is now a relief.

So, with those few remarks, I beg to support.

**The Minister for Medical Services** (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I will be very brief and right from the beginning say that I also want to support this Bill and congratulate the Attorney-General for bringing it here. However, Mr. Attorney-General, let me just assure you that there has been a lot of exchanges about seniors and so on but you know in the Bible it is said: "The last shall be first and the first shall be last." Although you entered the Cabinet much more recently than most of us, you are first in the sense that there is only one Attorney-General in the Republic of Kenya. Therefore, I just want to tell you that all eyes are looking upon you for the making of good laws in this country with impartiality, wisdom and with a sense of the future that the future will remember you for what you did in this country in terms of law making. I think that prosperity is so important that a Bill like this will go into history that it came during your time.

I beg to support.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I rise to support and in doing so, I want to tell hon. Anyang'-Nyiong'o that I am the first because when I think of the counsel that are here, I was the last to sign the Roll of Advocates. So, if being the last, then actually I shall be the first.

Secondly, I would like to encourage hon. Ntoitha M'Mithiaru not to be worried about CORD forming the next Government because in law, we say *ipso loquitur* – the first speaks for themselves. We shall form the next Government. So, relax. We shall take your concerns into account and we shall continue with the good services of the Attorney-General who has really performed way above your expectations. So, congratulations to the hon. Attorney-General who was also my teacher of jurisprudence.

Mr. Temporary Deputy Speaker, Sir, I just want to make one or two remarks. One, perhaps there is need to cross-reference to The Treaty Making and Ratification Bill. We need to know where that Bill is because there are some references that we are making in this Bill which are in The Treaty Making and Ratification Bill. Again, I want to declare that I worked at the Office of the Attorney-General before this Attorney-General. So, I know that some of the issues that are covered in this Bill are seeking to deal with some of the challenges that we were facing there as officers of the Office of the Attorney-General and to clarify roles between the Office of the Attorney-General and that of the Solicitor-General. However, in relation to Clause 8, we need to provide the aspect of willfulness, so that you do not find people without laid down legal rules.

Again, in Clause 12(2), I want to thank Attorney-General that he is alive to the spirit of the Constitution and provided for competitiveness in terms of appointments of staff. Perhaps, as the Government Legal Adviser, he should inform us if Clause 26 is not against Article 35 of the Constitution.

Otherwise, I support.

**Mr. C. Onyancha:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and congratulate the Attorney-General for bringing it before the House. I also recognize that this is one of the constitutional Bills that we need to pass and I am happy we are doing it in good time.

One of the problems that we have in our country today is not bad laws or lack of laws, but lack of enforcement. Now that I have heard about the powers of the Attorney-General, I wish to encourage him to even give unsolicited advice where things are going wrong. That is one way that we can assist our country to go forward. Good laws alone cannot make a good country. Enforcement is key to all of it and it is what is lacking. I will not go into the argument of seniority here, but when I studied Latin, I heard that in the provisional BOG now, you say “*Roma locuta est, causa finita est*”. When the Attorney-General speaks, everything is finished, but in terms of the Cabinet, he is first, but he is *primus inter pares*, namely, first among equals.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I will be very brief. This Bill is long overdue and I support it. The Attorney-General has done very well. He should continue like that.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, very briefly, I want to thank the very humble and eloquent Attorney-General. I hope that he will address the issue of disappearing of files and burning of law courts. I hope that he will make sure that we have speedier investigations of cases and prosecutions. Otherwise, we are happy with the start of the Attorney-General. I support.

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I have realized that you have tolerated so many other languages. People are possessed here. Some are speaking in tongues and I was wondering whether you have---

**The Temporary Deputy Speaker** (Mr. Baiya): Are you sure that your interruption is not belated? Anyway, it is now time for the Mover to reply.

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I want to thank my colleagues for their very kind comments about my efforts at bringing this office to where the Constitution would like it to be. I want to thank them very much for supporting the Bill itself. I move that this Bill now be read a Second Time.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

*Second Reading*

#### THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS BILL

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Office of the Director of Public Prosecutions Bill be read a Second Time.

The reasoning behind this is the same as that of the Office of the Attorney-General. It is to complete the constitutional separation of these two offices. The people of Kenya in their infinite wisdom decided that the functions of the Chief Prosecutor of the Republic should be in the hands of an independent person who enjoys security of tenure. We will recall that under Statute Law (Miscellaneous Amendment) Act No.1, 2012, we donated some of the powers that were in the Evidence Act, the Criminal Procedure Code and the Penal Code itself to the Director of Public Prosecution. We are trying to finalize that. It is very important that this office should

have complete and total autonomy from the Executive and from those of us in this House so that it may function as anticipated by the Constitution.

With your permission, I move and invite, Mr. Githae, the Minister for Finance and a distinguished lawyer, to second this Bill.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, again, I wish to second this very important Bill. With this Bill, the Director of Public Prosecution is really independent and is not subject to control by any person. That is the way it should be.

I second.

*(Question proposed)*

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill, and in supporting I now wonder where the *nolle prosequi* issue will come from. Will it come from the Director of Public Prosecutions or from the Attorney-General? I believe that this Bill will go a long way in creating where that power now lies. I think that is good for the administration of justice in this country.

I support.

**Mrs. Odhiambo-Mabona:** I support.

**The Temporary Deputy Speaker** (Mr. Baiya): I now call upon the Mover to respond!

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir I thank hon. Members again for their support in this endeavour. I think we have done the right thing and history will judge us very kindly on this issue.

I beg to move that the Director of Public Prosecutions, Bill No.69 of 2012 be read a Second Time.

*(Question put and agreed to)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Baiya): Hon. Members, it is now time for interruption of business. Therefore, the House stands adjourned until Thursday, 13<sup>th</sup> December, 2012, at 2.30 p.m.

The House rose at 8.30 p.m.