

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 18th December, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

Mr. Speaker: Order, hon. Members! We have a couple of communications and that is why you may have noticed that there was a bit of hesitation just before we started. We may have to make them a little later because they have not arrived on my desk much as I have signed them.

PAPERS LAID

The following Papers were laid on the Table:-

Sessional Paper No.15 of 2012: Kenya Government Guarantee of a Loan of US\$93 million equivalent to Kshs7,994,280,000 from the European Investment Bank to the Kenya Airports Authority for the Rehabilitation and expansion of Jomo Kenyatta International Airport.

(By the Minister for Finance)

Third Report of the Departmental Committee on Energy, Communications and Information on the Coal Development in Mui Basin, Kitui County.

(By Eng. Rege)

DELAY IN LISTING CMC HOLDINGS DEBATE ON ORDER PAPER

Prof. Kaloki: Mr. Speaker, Sir, I rise to seek your direction on a matter pertaining to the Departmental Committee on Finance, Planning and Trade. The Committee laid a Report in this House pertaining to the CMC Holdings sometime in September, this year.

Dr. Khalwale further sought directions from the Chair in November this year. The Chair assured us that the Report on the CMC Holdings was to be tabled in this House. Our Chairman, hon. Chris Okemo, further sought directions from you and you told the House that you would allocate some time for that matter and that the House Business Committee (HBC) was to undertake that task so that the business is listed on the Order Paper. However, that item does not appear on today's Order Paper.

I raise this matter because it is a matter of concern to our Departmental Committee. When will the HBC allocate time to this business so that it is listed on the Order Paper?

Thank you, Mr. Speaker, Sir. I need your direction.

Mr. Speaker: Hon. Members, indeed, the matter which has been canvassed by the Member for Kibwezi is grave. A Report of a Departmental Committee of the House and Reports of the House are under normal circumstances, both as a matter of practice, law and as a matter of traditions of the House, given priority once those Reports are tabled in the House.

The matter was raised previously by the Member for Ikolomani. I spoke to it in conformity with the Standing Orders which are really the golden book that governs the business of the House. I directed that the HBC should endeavour to allot time to that Committee Report for deliberation by the House. Apparently, those directions were not followed. The matter was then raised again by the Chairman of the Committee a week later. Again, I gave directions in conformity with the Standing Orders. It is not even something that the Speaker is making a precedent over because it is a matter which is long established, regulated and provided for in the Standing Orders. You all know that the Standing Orders have anchoring in the Constitution. Therefore, our Standing Orders are a constitutional matter.

There is no reason the Leader of Government Business should not comply with directions issued by the Speaker in accordance with the Standing Orders unless he wants to subscribe to anarchy. Therefore, without saying more, I want to hear from the Leader of Government Business. Why are those directions not being complied with? Why are we not acting in accordance with the Standing Orders? What will the matter be? Minister for Finance, your colleague is not here. In Government hierarchy, you are the senior most now present in the House and, perhaps, closer to the Leader of Government Business.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I must confess that this must have been an oversight. We, as Government, believe in the rule of law which includes the Standing Orders of Parliament, the Speaker's Rules, orders and guidelines. Immediately after this, I will give this information so that this matter is swiftly handled and finalized. I must really apologize for that. It was an oversight and it was not deliberate. I think the Minister just forgot.

Mr. Speaker, Sir, we will take the necessary action.

Mr. Speaker: Thank you, Mr. Minister for that undertaking, but note that this matter has now had to be spoken to by three Members in plenary. It is not just the general membership. The first concern was raised by the Member for Ikolomani who also chairs the Public Accounts Committee. I think that he initially raised the matter in the House by way of a Question. It was then visited by the Member for Nambale who is the Chairman of the Departmental Committee on Finance, Planning and Trade which investigated this matter. Now, it is being spoken to by the Vice-Chairman of the same Departmental Committee. So, that tells you how grave this matter is.

I do not want to say any more save to add that a report of a Committee once tabled, really it becomes the property of the House. If you want to do anything at all with it then you must do so procedurally. It is not for the Speaker to say whether or not the report is good. It is for the House to determine. So, let the process run.

Let us hear you, Prof. Philip Kaloki. What do you have to say?

Prof. Kaloki: Thank you, Mr. Speaker, Sir, for your direction. Since the Minister is here and he is able, could he assure this House that this matter will appear on the Order Paper tomorrow?

Mr. Speaker: The Minister has done so. He has done so, except, perhaps, if you want him to expressly state that the matter will be on the Order Paper tomorrow. However, I do not think he can do so. This is because allocation of time is the preserve of the HBC which will meet this evening as the House rises. So, he cannot go further than he has done.

Yes, the Member for Kisumu Town East!

Mr. Shakeel: Mr. Speaker, Sir, I also seek your guidance specifically on this report. Concerns have been raised by certain Members of the Departmental Committee on Finance, Planning and Trade in respect of it. I was wondering whether that could be the reason it has not been put on the Order Paper. Could the Chair kindly, inform us whether you have received any communication from other Members of this Departmental Committee and whether that is the reason it may not have been listed on the Order Paper?

Mr. Speaker: The Member for Kisumu Town East and, indeed, all hon. Members, that is not a matter that we can go into. The Speaker really cannot talk to those issues or concerns, how it was prepared and what kind of product it is. Really that has to be away from the Speaker. I think we will leave the matter as I have directed. It is a Report of the Departmental Committee. It was tabled in this House and a Notice of Motion was subsequently given. I do not recollect and, indeed, I have looked at the HANSARD, there is no any objection to the tabling of that it. So, logically it must go to the next step.

The Member for Kisumu Town East, if there are issues, please, deal with them in the Committee. Leave the Speaker out of it!

Next Order!

NOTICES OF MOTIONS

APPROVAL OF TOTAL INDEBTEDNESS

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

THAT, pursuant to Section 52 of the Public Finance Management Act, 2012, this House approves the increase of total indebtedness for the time being outstanding in respect of principal amount of money borrowed or credit obtained from US\$9.3 billion which is equivalent to Kshs800 billion to US\$14 billion which is equivalent to Kshs1,200,000,000,000.

ADOPTION OF REPORT ON COAL DEVELOPMENT IN KITUI COUNTY

Eng. Rege: Mr. Speaker, Sir, I beg to give notice of the following Motion: -

THAT, this House adopts the Report of the Departmental Committee on Energy, Communications and Information on the Coal Development in the Mui Basin, Kitui County laid on the Table today Tuesday, 18th December, 2012.

Mr. Speaker: Member for Rangwe that, obviously, does not add value to the notice of Motion given. I am afraid that I have to be a little radical on this one. You are completely out of step with the Standing Orders, our practice, procedures and traditions. Notice of Motion has been given by the Minister for Finance. The content of what should go into that Motion by way of contribution, documents that he should produce or canvass are matters that should be left to be deliberated upon when the Motion is allotted time and it appears on the Order Paper.

Secondly, that you had then raised that matter which, obviously, is not helpful, I am afraid; after notice of another Motion had been given. So, the timing is wrong. We cannot allow the HANSARD to record that intervention at the point where it is. So, I am afraid, with utmost respect, Member for Rangwe, I will order that, that is expunged from the record. It cannot remain there. That is not to say that there is no substance in what you have said. What you have

said is important and hon. Members will note, but it has to be expunged from the record because it cannot stay there.

(Mr. Ogindo's point of order following Notice given by the Minister for Finance was expunged from the record of proceedings as ordered by the Hon. Speaker)

Next Order!

QUESTIONS BY PRIVATE NOTICE

FAILURE TO REGISTER DIPLOMA GRADUATES FROM KENYAN UNIVERSITIES BY TSC

Mr. Lessonet: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(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?

Mr. Speaker: Where is the Minister for Education to deal with Question No.1 by Private Notice? Hon. Githae, I think you would want to hold brief for the Minister.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, the Minister was on his way, but even the Assistant Minister was aware. So, I would ask for the indulgence of the House that we give them a few more minutes. I do not know what is holding them back.

Mr. Speaker: Fair enough! It is reasonable to do so. So, we will re-visit the Question a little later on.

Next Question, Member for Gichugu. The Member for Gichugu is normally dutifully here. Could anybody be having an explanation as to why she is not here?

Yes, Member for Kisumu Town East.

Mr. Shakeel: Mr. Speaker, Sir, I cannot explain, but I did see her arrive at Kisumu Airport. So, I know that she is in Kisumu. I do not know whether she informed you or she is there on Parliamentary business. That bit, I do not know.

Mr. Speaker: Hon. Shakeel, that would not be a good reason within our Standing Orders to defer the Question. So, the Question is dropped.

DELAYED PAYMENT OF SALARY/ALLOWANCES FOR MR. RASHID M. OSAKULO BY KAMPALA COACH LTD

(Ms. Karua) to ask the Minister for Labour:-

(a) Is the Minister aware that M/s Kampala Coach Ltd. has not paid Mr. Rashid Maulid Osakulo his salary and allowances for the last seven months?

(b) What steps is the Minister taking to ensure that he and the other workers who have not been paid their dues are paid immediately?

(Question dropped)

Mr. Speaker: Next Question, Member for Moyale. Is the Member for Moyale not here? I am afraid, the Question will also be dropped.

LACK OF EQUIPMENT/MEDICINE
IN MOYALE DISTRICT HOSPITAL

(Mr. M.M. Ali) to ask the Minister for Medical Services:-

(a) Is the Minister aware that Messrs. Hassan Noor Wario Diba and Hassan Abdulahi Roba died in Moyale due to lack of assistance from Moyale District Hospital following a road accident on Thursday, 22nd November, 2012?

(b) Is the Minister further aware that Abdulahi Gababo Huqa is undergoing treatment at Awasa Hospital in Ethiopia, about 250kilometres from Moyale town, due to lack of facilities and medicine at Moyale District Hospital?

(c) What urgent action is the Minister taking to ensure that the hospital is equipped so that it serves all the people in the district as intended?

(Question dropped)

Mr. Speaker: Next Question, Member for Kirinyaga Central.

AVERTING IMMINENT CLASHES BETWEEN
KAGUMO/KERUGOYA MARKETS

Mr. Gitari: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Is the Minister aware that there is a lot of tension both in Kagumo and Kerugoya markets after traders were attacked and injured by thugs while on their way to Karatina market on 19th November, 2012?

(b) What is the Minister doing to ensure that the suspects who perpetrated the attack are arrested and arraigned in court?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is tension within Kagumo market after a series of attacks between 19th and 20th November, 2012, by thugs believed to be *Mungiki* adherents targeting members of the public within Kirinyaga Central District. However, I am not aware of tension within Kerugoya market.

(b) Following the attacks, the police launched investigations into the incidents and one suspect, namely, Phillip Mwangi Muthee alias Pilipili; was arrested on 30th November, 2012 and arraigned before Baricho Law Court vide Police CR222/140/2012, Court File No.1,278/2012. Four other suspects who have been identified are at large and are being sought by the police. However, the situation is calm and under control

Regarding measures being taken, I want to inform the House that security has been enhanced in the area. We have regular surveillance on all suspected *Mungiki* members and their

respective hideouts. We have also increased foot and mobile patrol and beefed up security to ensure that *wananchi* can continue with their affairs in relative calm.

We have also re-activated community policing. We are happy that the public is co-operating by volunteering information on the whereabouts of suspected criminals.

Thank you, Mr. Speaker, Sir.

Mr. Gitari: Mr. Speaker, Sir, I thank the Assistant Minister for his answer. As we tried to calm down the people we call "vigilante" groups from Kirinyaga Central on the eve of 18th November, 2012 and dissuade them from going on a retaliatory mission, a politician said on an FM radio station that they could not tolerate such actions. He also said that he did not have faith in the police. Is the Assistant Minister aware that the particular politician went ahead to threaten the police and told them that they were doing nothing, and that he would even go to State House, so that they could be transferred?

Mr. Khang'ati: Mr. Speaker, Sir, I am not aware of the said politician. It would be very useful if the hon. Member gave me the name of that politician. What I know is that the Member of Parliament was very helpful in addressing the public, together with the District Commissioner, and in helping to calm down some rowdy youth who wanted to take the law into their own hands.

Mr. Speaker: Yes, Member for Juja.

Mr. Kabogo: Mr. Speaker, Sir, you have heard the Member for Kirinyaga Central say that a certain Member did this and that and threatened to go to State House to have police officers sacked. Could he substantiate?

Mr. Speaker: Order! Order, Member for Juja! That is not accurate. The Member for Kirinyaga said "a politician". I did not hear him say "a Member of Parliament". That is actually accurate. I trust my sense of hearing. I am certain that, that is the position. So, I will not let you go that way.

Mrs. Shebesh: Mr. Speaker, Sir, could the Assistant Minister say clearly what charges were preferred against Phillip Mwangi Mutheee *alias* Pilipili and whether those charges are related to belonging to unlawful groupings, or whether he was charged with a different crime and then branded *Mungiki* adherent?

Mr. Khang'ati: Mr. Speaker, Sir, for hon. Shebesh to appreciate the kind of insecurity that has occurred in Kirinyaga, I need to inform her. I am not aware of the specific charges preferred against the suspect, but I know for certain what happened on specific dates. There were no deaths reported, but we have had abductions of traders. We have had minor injuries. There was nothing beyond that.

So, I do not know whether it will be helpful to Mrs. Shebesh for me to go through a list of the various incidents. I will need your guidance on that.

Mr. Ochieng': Mr. Speaker, Sir, there are several militia groups in this country whom we fear if not well tracked will interrupt the next general elections. What assurance is the Assistant Minister giving us that they have enough firepower and manpower to make sure they keep these groups into check?

Mr. Khang'ati: Mr. Speaker, Sir, the issue of assuring this House and, indeed, the country about the security of *wananchi*, especially as we approach the elections and participate in the elections has already been done by those who are even higher than me, including His Excellency the President.

For purposes of the question, I want to state here that the issue of security does not only belong to those in the Ministry in charge of internal security. It is a collective responsibility

which Members of Parliament should also participate in. I have already mentioned the measures that have been taken to ensure that Kirinyaga Central remains peaceful.

We have already identified the hotspots; areas where we anticipate problems, for example, Mombasa and Tana River. You all know what has been happening in these areas and also here in Nairobi. Every effort is being made to ensure that we go through elections and continue beyond elections in a peaceful manner.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Assistant Minister for that very elaborate answer and aware that there have been brutal attacks on innocent Kenyans in Kirinyaga Central, what is the Government or the Ministry doing to make sure that the leaders of these criminal gangs are brought to book immediately?

Mr. Khang'ati: Mr. Speaker, Sir, speaking about the case in Kirinyaga Central, I have already reported here that it is being perpetrated by *Mungiki* followers. A gang of five has been identified. We know them by names. Their leader, Mr. Mwangi *alias* Pilipili, has already been arrested and charges preferred against him. I have indicated that the other four have gone into hiding and we are looking for them. We believe that in a very short while we will have apprehended them and preferred charges against them.

Regarding *Mungiki*, it is something that has been there. It is a gang that has been with us for more than ten years. Maybe it has been with us for 20 years. I am happy to say that it is not as active and as dangerous as it was before. In fact, its activities had gone down until these incidents of Kirinyaga. We are keeping tabs on them, their leadership and operations. I have already stated here that their hideouts are under surveillance and we will not allow them to cause any disruptions.

Mr. Speaker: Last question, Member for Kirinyaga Central.

Mr. Gitari: Mr. Speaker, Sir, while thanking the Assistant Minister and specifically thanking the Officer Commanding Police Division (OCPD) Kirinyaga, Mr. Oduma, for this good work of arresting this one man Pilipili, could he confirm to this House that when we had a meeting at Kagumo with the security team a list of six names was forwarded to the police and not five names as alleged in part (b) of his answer?

Mr. Khang'ati: Mr. Speaker, Sir, I cannot confirm an incident which the hon. Member is more informed on than myself. However, my officers have briefed me that they were five names. Maybe six names were presented, but going through further investigations, they have zeroed down on five. Therefore, the five are the ones we know of and we want to bring them to book.

Mr. Speaker: Member for Kirinyaga Central, maybe after the sitting, you want to have a session with the Minister so that you can give him any additional information that you might have.

Next Question by the Member for Nyakach.

IMMINENT EVICTION OF ADING'O OPANGA FAMILIES BY FORESTRY DEPARTMENT

Mr. Ochieng': Mr. Speaker, Sir, I beg to ask the Minister for Forestry and Wildlife the following Question by Private Notice.

(a) Is the Minister aware that the Ministry is planning to evict families in Anding'o Opanga Location, Nyakach, on a piece of land purported to belong to the Forestry Department?

(b) Why has the Ministry failed to hold any stakeholders meeting for the last 70 years to sensitize the occupiers that the land belongs to the Forestry Department?

(c) Why has the department of Forestry failed to engage the affected families on the way forward on this matter before issuance of the 30 days notice and could the Minister confirm that the eviction notices issued are, therefore, null and void?

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, the answer to this Question is not yet ready. We are still gathering information from the field. I have already discussed with the hon. Member. I want to request you to put this Question for Thursday.

Mr. Speaker: If I have the concurrence of the Member for Nyakach, I will do so.

Mr. Ochieng': Mr. Speaker, Sir, I have one problem; the notice given by the Ministry is expiring on the 21st of this month. I do not want to anticipate debate, but I am afraid, we may go for recess for a few weeks---

Mr. Speaker: Member for Nyakach, Thursday is 20th, so I direct that the Question comes on Thursday at 2.30 p.m.

Mr. Ochieng': Thank you. That is fine, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Next Question by Member for Sotik.

DELAYED COMPENSATION FOR LAND ACQUIRED
FOR CONSTRUCTION OF KCC-GORGOR ROAD

Dr. Laboso: Mr. Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

(a) Why have the residents along KCC-Gorgor Road that is being tarmacked not been compensated for land acquired during the construction of the road?

(b) When will they be compensated?

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) Indeed, I am aware that there have been delays in compensation for land acquired for road construction because of lengthy procedure in land acquisition.

(b) May I inform the Member that compensation for those affected will be done immediately my Ministry receives payment schedule from the Commissioner of Lands.

Dr. Laboso: Mr. Speaker, Sir, as you have heard, the Assistant Minister has given a very scanty answer. This matter is quite serious. In fact, the residents of the area have resorted to protests. There are people who have lost their own quarter acre or half-an-acre of land to the road and, therefore, have been rendered homeless. There are schools that have lost part of their land. Could he tell this House what the Ministry is doing to expedite the process in the Ministry of Lands?

Dr. Machage: Mr. Speaker, Sir, whereas the answer may not be very pleasing to the Member, it is the truth. Indeed, we had Gazette Notice on 30th of March this year which was showing the intention to acquire the land.

Valuation of the affected properties was done in July this year. The valuation reports and the payments to be made are being awaited for from the Commissioner of Lands. My hands are tied up by the law. There is nothing I can do, but to tell the hon. Member to be patient. From now to July is not too long. I know that the citizens are suffering, but I am also equally concerned.

Mr. Olago: Mr. Speaker, Sir, I share the concerns of Dr. Laboso about this issue. The Assistant Minister ought to know that once he applies the Compulsory Land Acquisition Act,

valuation is done and inquiries are held. The persons affected are compensated before the land is acquired and not after. That is the position in law. The problem that we have in this House from the Ministry and the Kenya National Highways Authority is the same; the problem in Otonglo and Kisiani it is the same. The Kenya National Highways Authority (KENHA) is acquiring land without first compensating land owners. So, what is the Ministry doing to ensure that the KENHA, first of all, goes through the process of compensation before they actually take the land?

Dr. Machage: Mr. Speaker, Sir, I have heard the request from the hon. Member. It is true that it should be that way. I will endeavour to ensure that, that is done. May I assure Dr. Laboso that, by the end of January, these citizens will have been paid this money. I will follow it up.

Mr. Olago: Mr. Speaker, Sir, what the Assistant Minister says is good enough, but my question was, what is the Ministry doing to ensure that this will not be done again? It is happening everywhere. Is it in order for him to repeat that he will do something about it?

Mr. Speaker: Mr. Assistant Minister, the contention is that you have not answered the question.

Dr. Machage: Mr. Speaker, Sir, I have heard it. As the Assistant Minister for Roads, I will act.

Mr. Gitari: Mr. Speaker, Sir, while I thank the Assistant Minister for the short answer, I would like him to tell this hon. House whether hon. Members must bring Questions to this House for them to act while they know the procedure to follow before they start construction work under the compulsory acquisition procedure.

Dr. Machage: Mr. Speaker, Sir, hon. Members do not have to bring Questions to this House for that to be done. But once a Question has been brought to the House by a Member, it is my duty to give answers and information that is in the Ministry. The information I have given today is not as a result of hon. Member's Question, but it is what has been planned and is being done.

Mr. Shakeel: Mr. Speaker, Sir, I beg to ask Question---

Mr. Speaker: Order, Member for Kisumu Town East! You put in a request. We have not concluded Question No.6 by Private Notice. If you have no supplementary question, that is fine.

Mr. Njuguna: Mr. Speaker, Sir, as the people of Sotik wait for their due compensation, could the Assistant Minister tell them when this road will be completed, so that they can start enjoying its benefits?

Dr. Machage: Mr. Speaker, Sir, that is a completely different Question. We are still acquiring the corridor for construction of this road. We are in the process of designing it, but patience will be required before I give that answer.

Dr. Laboso: Mr. Speaker, Sir, I clearly heard the Assistant Minister say that this will be done by the end of January; he has given a firm date. So, we will wait and hope that, by the end of January, the payments will have been made. These people have been suffering and I hope they will purchase alternative land where they can stay and some also be able to do what they would normally be doing on the land that has been acquired by the Government.

ORAL ANSWERS TO QUESTIONS

Question No.1783

EXTRADITION OF KENYANS ARRESTED IN MOZAMBIQUE
TO TANZANIA BY KENYAN POLICE

Mr. Kabogo asked the Attorney-General:-

(a) under what circumstances 12 Kenyan businessmen Messrs. Peter Giruka Mburu, David Ngugi Mburu, Simon Gathinji Kariuki, Michael Mbanya Wathigo, Patrick Muthee Miriithi, Boniface Mwangi Mburu, John Odhiambo Odongo, Gabriel Kung'u Kariuki, Jim Maina Njoroge, Wilfred Onyango Nganyi, Simion Ndung'u Kambuthi and Peter Mahera Kariba were arrested in Mozambique, handed over to Tanzania Police by the Kenya Police delegation under the watch of J. Nyaga Reche (SSP) and former Nairobi Area PCIO, Sammy Githui, on the 16th December, 2005;

(b) whether he is aware that two of the above mentioned Persons, Messrs. John Odhiambo Odongo and Peter Mahera Kariba, have since died in Karanga Prison in Moshi, Tanzania, as a result of injuries from torture; and,

(c) whether he could undertake to extradite the remaining 10 Kenyans, who are languishing in a foreign jail, to face trial in Kenya, if there are any charges against them.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, since you last gave directions on this matter, I contacted my counterpart, the Attorney-General of the United Republic of Tanzania, hon. Justice Fredrick Werema via a communication from my office dated 14th December, 2012, in which I communicated the sentiments of the Speaker in the House, that we would like to receive from the friendly, sisterly Republic of Tanzania a comprehensive report relating to these Kenyans. I have shared this communication with the hon. Member for Juja; I have explained to him that I await a response from the Attorney-General of Tanzania.

Mr. Speaker, Sir, were we not very engaged with the Bills now before the House, I had undertaken to travel to Tanzania specifically to meet the Attorney-General, hopefully, in the company of Mr. Kabogo, and visit these Kenyans in prison. I still undertake to do so, hopefully, before the end of this year.

Mr. Kabogo: Mr. Speaker, Sir, the Attorney-General has shared the communication with me and I thank him for it. Actually he wrote on the same day that this Question came to the House. He rightly mentioned what he would have done if he was not as busy as he is. You realise that these are 10 Kenyans who keep on going for mention of their cases in a foreign State. They have been detained there without trial for the last six years; this is the seventh year. I want to quote the HANSARD what he undertook to do. It says:-

“I would like to undertake, as I did a few minutes ago, to personally visit my counterpart in Tanzania to raise this matter personally and to go to the place where these persons are being held.”

I understand that we have a lot of work here, but these are Kenyans who are suffering in a foreign nation. Is he sure that sometime towards the end of this year something will be done when it has not been done for seven years?

Mr. Speaker: When did the Attorney-General give that undertaking that you have recited from the HANSARD?

Mr. Kabogo: Mr. Speaker, Sir, it was on Thursday, 29th November, this year. He said:-
“I shall bring this report to the House before the 18th.”

So, what he has brought to us is his communication in writing to the Attorney-General of the United Republic of Tanzania. So, I am asking for more---

Mr. Speaker: Member for Juja, your point is made. Attorney-General, that appears to be an unequivocal commitment on your part.

The Attorney General (Prof. Muigai): Mr. Speaker, Sir, I gave this undertaking in good faith, believing at the time that there would be sufficient time to attend to the matter. As the House knows, I have been processing in excess of 20 Bills for this House in the weeks after this undertaking. I promise, once again, that as soon as this House breaks for Christmas, I shall attend to this matter and report back. Thank you for your indulgence.

Mr. Speaker: Member for Juja, indeed, our Attorney-General is very hardworking, at least, as per the record that we have this far. Please, extend a little more indulgence to him. I know that you will still keep this interest alive. So, perhaps, you will want to do a session with him, maybe, in the second week of January. I know that you still have interest in these matters because you are running for the position of Governor in one of the counties in this country.

Mr. Kabogo: Mr. Speaker, Sir, yes, indeed, I am running for Governor in the County of Kiambu and I know I will get it, God willing. I understand the Attorney-General and I also understand your sentiments, but he is coming short of telling the House his frustrations with the Ministry of Foreign Affairs which would assist him to get this job done. So, as we wait for him to do whatever it is, he should speak to the Permanent Secretary, Ministry of Foreign Affairs, to get the ball rolling as we wait for Christmas, so that, at least, by the end of the year, we may be able to release Kenyans who are held captive in another nation.

Mr. Speaker: Very well, Member for Juja. I trust the Attorney-General to invoke all the requisite machinery to ensure that he gets a desirable outcome on this matter as much as possible, as he has undertaken, not later than the end of the year. So, let us give him that indulgence.

Question No.1683

REHABILITATION OF KISUMU-MUHORONI
-MIWANI-CHEMELIL ROAD

Mr. Shakeel asked the Minister for Roads:-

(a) whether he is aware that the road from Kisumu to Muhoroni via Miwani and Chemelil (C34) is in a bad state;

(b) how much money the Ministry has spent on repairing the road using gravel and what the cost of repairing the same road using bitumen over the same period would have been; and,

(c) when the road will be re-tarmacked.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, this Question had been answered by my colleague sometimes back. To my knowledge, only some information was necessary, namely, the confirmation that Kshs46 million had been allocated for repairing this road, which was not done. The reason was that the contract to Igara Construction limited was terminated due to non-performance. I will invite further questions if there are any.

Mr. Speaker: That was the only matter that was left lingering. So, we will just take the Questioner alone.

Mr. Shakeel: Mr. Speaker, Sir, in the HANSARD of 1st August, the contractor was named as MECE/ITEC. We also asked the Minister to tell us who that contractor was, because these are initials for a name. Could he, kindly, tell us what name is reflected? Is that the name of the contractor that he is talking about?

Dr. Machage: Mr. Speaker, Sir, if the Member heard me correct, the MECE/ITEC was a contractor that was contracted to do the design for rebuilding of the road. The contractor whose name I have given has been contracted to repair the road. These are two different contracts. In case the Member wants to know the owners of MECE/ITEC, this is public knowledge in the Registrar's Office.

(Mr. Ochieng' raised his hand to catch the Speaker's eye)

Mr. Speaker: Order, Member for Nyakach! You know that, that is not the way we do business anymore. If you want to catch the Speaker's eye, you have to use the technology that is available to you.

Mr. Ochieng': Mr. Speaker, Sir, I have already done so.

Mr. Speaker: What makes you think that if you have already done so? I am unable to see you, so that you go ahead and even begin to raise your hand? This is not a classroom.

Proceed! What is your point of order?

Mr. Ochieng': On a point of order, Mr. Speaker, Sir. I was getting concerned because you said that you will only allow one question.

Mr. Speaker: Proceed, Member for Nyakach!

Mr. Ochieng: Mr. Speaker, Sir, is the Assistant Minister in order to tell this House that Igara Construction Company was awarded this job and they did not perform, after which the contract was cancelled? On the ground, the job has never started. When does the Ministry normally terminate contracts?

Dr. Machage: Mr. Speaker, Sir, I have given the Member information on this road. If I may remind him of his request in the earlier Question which he had asked on the same road that I attempted to answer, he complained that Kshs46 million was inadequate. I took that complaint and I have allocate Kshs80 million to this road. We are sourcing for the person to do the work. So, whatever is going on, on the ground should be ignored.

Mr. Speaker: Last question, Member for Kisumu Town East!

Mr. Shakeel: Mr. Speaker, Sir, if I heard the Assistant Minister correctly, he says the work will start shortly. If that is the case, I have no further questions. I just want a clarification as to when the work will start.

Mr. Speaker: Fair enough! Assistant Minister, when is the work going to start?

Dr. Machage: Mr. Speaker, Sir, indeed, by the end of his week or early next week, I will have identified the contractor for that work.

Question No.1849

NON-ELECTRIFICATION OF BUCHANA COFFEE FACTORY

Mr. Waibara asked the Minister for Energy:-

(a) how many projects have been undertaken to completion by the Rural Electrification Authority in Gatundu North Constituency since its inception and how much has been utilized;

(b) whether he could provide details of all new service lines that have been installed in the constituency since 2008; and,

(c) what the capacities of all the transformers that have been installed in the constituency are and when one will be installed near Buchana Coffee Factory to serve the factory and its environs.

Mr. Speaker, Sir, I have not received a written answer.

Mr. Speaker: Minister for Energy, you have heard the hon. Member's complaint.

The Assistant Minister for Energy (Eng. M. M. Mahamud): Mr. Speaker, Sir, I beg to reply.

Mr. Speaker: Mr. Assistant Minister, are you making no response at all to the Member's complaint that he has not received a written answer?

The Assistant Minister for Energy (Eng. M. M. Mahamud): Mr. Speaker, Sir, I am sorry. I am not aware that he has not received a written answer, but we submitted the answer.

Mr. Speaker: Do you have an extra copy?

The Assistant Minister for Energy (Eng. M. M. Mahamud): No, Mr. Speaker, Sir.

Mr. Speaker: Just proceed. If the Member for Gatundu North, for any reason, is unable to interrogate the Question, then we will defer it, after you have given the answer, perhaps, to Thursday afternoon.

The Assistant Minister for Energy (Eng. M. M. Mahamud): Mr. Speaker, Sir, I beg to reply.

(a) Fifteen projects have been undertaken to completion by the Rural Electrification Authority (REA) in Gatundu North Constituency since its inception at a total cost of Kshs42.14 million.

(b) The number of service lines installed in Gatundu North since 2008 is 15. The list of the service lines is given in the table as follows:-

- (i) Mbarigitu Secondary School.
- (ii) Kanjuki Shopping Centre.
- (iii) Kagwathi Shopping Centre
- (iv) Gathirwa TBC
- (v) Gathuru TBC
- (vi) Karimiru Water Project
- (vii) Gachege/Kanjambi Market Primary School
- (viii) Mwimuto- Kaimbere Nursery School
- (ix) Muthunguci Market
- (x) Mwigu TBC
- (xi) Mbici Secondary School
- (xii) Kamwiyake Market/Secondary School
- (xiii) Gaitai/Kiangunu/Kairua Market
- (xiv) Thuraka.

(c) The REA has installed 19 transformers in the constituency. Out of which, 18 are rated as 50KVA each and one at 100 KVA. The REA will provide a transformer to Buchana Coffee Factory by 31st January, 2013.

Mr. Waibara: Mr. Speaker, Sir, I wanted to go through the answer, with your indulgence.

Mr. Speaker: Are you able to proceed this afternoon or you want us to defer this Question to Thursday afternoon?

Mr. Waibara: Mr. Speaker, Sir, please, defer it to Thursday afternoon, so that I can go through the answer.

Mr. Speaker: Very well, we will do so. Mr. Assistant Minister, please, be present on Thursday at 2.30 p.m., so that Mr. Waibara can ask supplementary questions and other Members have an opportunity to supplement that effort.

(Question deferred)

We will go back to Question No.1 by Private Notice.

(Resumption of Question by Private Notice)

FAILURE TO REGISTER DIPLOMA GRADUATES FROM KENYAN UNIVERSITIES BY TSC

Mr. Lessonet: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(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?

Mr. Speaker: Where is the Minister for Education? Minister for Finance, you held brief for your colleague, but apparently, there has been no progress.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, indeed, I am so sorry. I was expecting the Minister and the Assistant Minister, but they are not here. I beg the indulgence of the House that the Question be deferred to tomorrow. I will make sure that either the Minister or the Assistant Minister will be here.

Mr. Speaker: Fair enough! I will defer this Question to tomorrow morning. Is that good, Mr. Githae?

The Minister for Finance (Mr. Githae): Yes, Mr. Speaker, Sir.

Mr. Speaker: Fair enough! The Question is deferred to tomorrow morning. Mr. Lessonet, please, note to be available.

Hon. Members, that brings us to the end of Order No.6. I have some Communication to make, as I had intimated earlier on, before we go to Order No.7.

COMMUNICATION FROM THE CHAIR

REPLACEMENT OF NON-CITIZEN MEMBERS OF JUDGES AND MAGISTRATES VETTING BOARD

Mr. Speaker: Hon. Members, first, this is with respect to the Judges and Magistrates Vetting Board. Section 6 of the Vetting of Judges and Magistrates Act, 2011, establishes the

Judges and Magistrates Vetting Board. Section 7 of the Act provides for the membership of the Board and requires that six members be citizens of Kenya and that three members be non-citizens. Section 9(3) of the Act requires the President, in consultation with the Prime Minister and with the approval of the National Assembly, to appoint three distinguished non-citizens to be members of the Board. These non-citizen members are to be drawn from among serving or retired judges, each of whom shall have served as the Chief Justice or Judge of a superior court in the Commonwealth.

Consequently, by a letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Acting Head of Public Service dated 17th December, 2012, the National Assembly has been advised that His Excellency, the President has, after consultation with the Right Hon. Prime Minister, nominated the following persons to be considered by the House for its approval for appointment as non-citizen members of the Judges and Magistrates Vetting Board by way of replacement of the outgoing non-citizen members.

- (a) Hon. Justice (Rtd) Barnabas Albert Samatta, from Tanzania;
- (b) Hon. Lady Justice A. E. M. Mpagi-Mahigeine, from Uganda; and,
- (c) Hon. Justice Joseph Asoka Nihal De Silva, from Sri Lanka.

I, therefore, direct that the names of these nominees and their accompanying curriculum vitae be forwarded to the Departmental Committee on Justice and Legal Affairs for consideration prior to approval by the House. The Committee is directed to proceed with dispatch and table its report in the House on or before Thursday 20th December, 2012.

APPROVAL FOR APPOINTMENT OF MR. DAVID
KIMAIYO AS IG OF KPS

Hon. Members, you will recall that on 11th October, 2012 this House approved the appointment of--- Hold on, hon. Members, I think I have a problem. Just give me one minute to reconstruct myself.

(Mr. Speaker consulted)

Hon. Members, I am sorry for that short lapse, but it is attributable to the fact that one Communication was actually missing from my folder and it is an important Communication as you will hear.

You are aware that Article 245 of the Constitution provides for the establishment of the Office of the Inspector-General of the National Police Service. Article 245(2), in particular, provides for the appointment of the Inspector-General by the President with the approval of Parliament. The procedure for the appointment of the Inspector-General is set out in Section 12 of the National Police Service Act, 2011, and *inter alia* requires the National Police Service Commission (NPSC) to declare a vacancy in that office, invite and consider applications made for that office, conduct public interviews and shortlist, at least, three persons qualified for the position of Inspector-General. Thereafter, the Commission is required to forward the shortlisted names to the President who is then required to nominate one person for appointment as the Inspector-General from among the shortlisted names and submit the name of the nominee to Parliament for approval.

Hon. Members, it is in the public domain that public interviews for the position of Inspector General of the Kenya Police Service were held recently by the NPSC which shortlisted

persons who qualified for appointment as Inspector General, pursuant to Section 12 of the National Police Service Act, 2011.

Consequently, via a letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Acting Head of Public Service, dated 17th December, 2012, the National Assembly has been advised that His Excellency, the President, has, after consultation with the Right Hon. Prime Minister, nominated Mr. David Mwole Kimaiyo to be considered by the House for its approval for appointment as the Inspector General of the KPS. I, therefore, direct that the name of this nominee, the accompanying curriculum vitae and the report of the NPSC on the recruitment of Inspector General be forwarded to the Departmental Committee on Administration and National Security for consideration prior to approval by the House. The Committee is directed to proceed with dispatch and table its report in the House on or before Thursday, 20th December, 2012.

RETIREMENT OF MR. P.G. GICHOHI AS THE CLERK OF THE
NATIONAL ASSEMBLY OF KENYA

Hon. Members, you will recall that on 11th October, 2012 this House approved the appointment of Clerks-designate for both the National Assembly and the Senate. As was explained to the House, these appointments were made as part of the preparation of the bicameral legislature that will usher in the Eleventh Parliament. Hon. Members, today, 18th December, 2012 marks the date for the retirement of our Clerk, Mr. Patrick Gichohi, after a continuous service transcending seven parliaments encompassing the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Parliament.

(Applause)

Mr. Patrick Gichohi joined the service of Parliament as a clerk assistant trainee on 3rd October, 1979 and through diligence and dedication in the fulfilment of his duties rose through the ranks to become the fourth clerk of the Kenya National Assembly on 26th May, 2008. He is retiring after serving in Parliament for 33 years and two months. I believe that is easily the age of some Members of Parliament. As the principal advisor on matters of procedure to the House and to the Speaker, during his tenure as the clerk, Mr. Gichohi supervised at the technical level the revision of our Standing Orders in 2008 and the implementation of live broadcasting programme that took effect from the month of June, 2008. Mr. Gichohi has been responsible to administratively oversee the implementation of Parliamentary reforms. I am grateful for the support that he has provided to the Parliamentary Service Commission, to the House and to the Office of the Speaker.

May I further acknowledge that Mr. Gichohi has documented his experiences in a number of parliamentary publications that are available for Members' use. He has many friends in the commonwealth having worked as Commonwealth Parliamentary Association (CPA) secretary for many years. He served as the 56th Chair of the Commonwealth Society of Clerks-at-Table in 2010.

Hon. Members, on behalf of the Parliamentary Service Commission, the National Assembly and on my own behalf, may I take this opportunity to thank Mr. Gichohi for the service that he has rendered to the legislature, this House, and by extension to the country and wish him all the best in his retirement and in his future endeavours.

Hon. Members, I want to plead that in our usual tradition we appreciate Mr. Patrick Gichohi.

(Applause)

Very well, given the length of that tenure, I have taken the liberty to allow 20 minutes. If you share 20 minutes, then each of you may want to, perhaps, say a word or two by way of acknowledgement of the long service of Mr. Gichohi. It will, therefore, be restricted to two minutes each. We want to begin with the Minister for Trade. I have had that request lingering for some time. Mr. Wetangula, will you press or intervene.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, I also want to add my voice to your very kind and measured words about Mr. Gichohi. I came to this House in the Seventh Parliament and I found Mr. Gichohi here and worked with him very well, particularly in the CPA activities where through his support and guidance, I rose to serve on the international committee of the CPA.

In the Seventh Parliament, I also sat on the Speaker's Panel and Mr. Gichohi was a very valuable advisor on procedure and Standing Orders of this House.

The change in the Standing Orders of this House that was undertaken in the Seventh Parliament under the Chairmanship of the late Dr. Godana, myself, Mr. Julius Sunkuli, Mr. Henry Obwocha and Bishop Kimani was ably guided and advised by Mr. Gichohi.

As he retires, I want to go on record to wish him well. He still looks very energetic and youthful. He is the sort of person who if political parties were to find favour, would give him a promotion upstairs to the new House of the Senate to continue providing valuable service, but politics being what it is, I wish you well Mr. Gichohi as you go to your next call of duty. We will continue requiring you here for advice or any other valuable contribution that you can make. Your book on procedure, which I have read is a must read, particularly for incoming Members of Parliament. I hope it will assist Members of the next Parliament when they come in.

Thank you and I wish Mr. Gichohi well.

Mr. Imanyara: Mr. Speaker, Sir, let me also say that, speaking as one who has sat with you in the Speaker's Panel and travelled to the CPA with you and as a Member of the Pan-African Parliament (PAP) where I have been the delegation leader, I can attest to the fact that Mr. Gichohi's influence, knowledge and contribution to Parliamentary practice has not just benefitted this Parliament but very many commonwealth countries and the PAP.

Mr. Speaker, Sir, Mr. Gichohi, whom I have worked very closely with in the Standing Orders Revision Commission and also as a Member of the first Constitution of Kenya Review Commission (CKRC) when we were busy drafting the new Constitution, I can say from personal knowledge that his contribution to the making of the new Constitution on emergence of this House's parliamentary practices and traditions will be long remembered. His publications and his advice to the Speaker and the Speaker's Panel in the interpretation of the Standing Orders which you and Members of the Panel deliver on a regular basis from the Chair have gone a long way towards establishing a parliamentary practice in this House that is envy of many in the commonwealth. I am sure that I speak for very many people, not only in Kenya, but within the East African region, the Pan-African Parliamentary system and the Commonwealth Parliamentary system. I want to tell Mr. Gichohi that he goes with tremendous support and the best wishes from all of us. We wish him well.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, on my own behalf as the Member for Kipipiri and as the Deputy Leader of Government Business, I want to associate myself with the remarks that have been made on the service and distinguish career of Mr. Patrick Gichohi. I have been with him for the last ten years, particularly the last three years when I have been tied in this House as the Deputy Leader of Government Business. I found him a valuable resource to support me and to tell me what we need to do. It is, obviously, a service that I will miss personally. However, people have to move on and the good thing is that he is leaving at a time when Kenya is about to have 47 new county assemblies plus a Senate. We hope that the long service, capacity and institutional memory that has been built over the time will be available for this country. Indeed, for the emerging assemblies and senates in whichever capacity that Patrick wishes to provide that advice between now and the time that he eventually decides to stop thinking, which I do not see coming soon.

I am particularly happy that the capacity that he has built and shared with his colleagues and staff are documented in the books as has been said. This is something that will be available for prosperity. That writing will not stop because there is still much more. As we are documenting this transition, we need somebody who knows how to do it.

(Off record)

Mr. Speaker: Somehow, you have disappeared. Press “intervene” and see whether we can reclaim you.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Speaker, Sir, for the reconnection. I was saying that his documentation will be very good, as we move now from the central to the devolved systems. In documenting this process, we will need somebody who understands where it all started and what was there before. I hope that Patrick will be available to do so for us.

In the interest of sharing this time with everyone else, I want to say that, yes, we appreciate and on behalf of Government, I want to commend him for the distinguished service and to wish him the very best in his future endeavours. I hope that this House will be available for him when he needs us in his future endeavours. The recognition we have made to him today also goes to all the other staff who may be retiring and whom we may not have the opportunity to know as we move on, and even by extension, all the Members of Parliament who will be retiring after this first phase. We all know that we have done our bit and we thank him for having been there to facilitate all of us to contribute to this nation.

Mr. Speaker: Very well! That was an exemption because of his position as the Deputy Leader of Government Business.

The Member for Sotik, take two minutes.

Dr. Laboso: Thank you, Mr. Speaker, Sir. I would also like to add my voice to the speakers who have spoken before me and give a very warm send off to our dear friend, the Clerk, Mr. Gichohi. My interactions with him have been very invaluable being a new Member of the Speaker’s Panel. His knowledge of House Procedures has been helpful. I have always gone to him whenever I have had any issues. I just want to thank him and hope that he will share the knowledge he is leaving us with. We hope he will continue being a resource to those who want to further their knowledge and interest in parliamentary business.

I want to wish him the very best in whatever endeavours he plans to get into. He should not just go into retire because from what we are seeing he is not yet tired.

Mr. Olago: Thank you, Mr. Speaker, Sir. I want to join you and my fellow hon. colleagues in appreciating what Patrick has done to Parliament since his appointment. Mr. Speaker, you and I may remember that we met him at the university when we were in our early twenties and he was our senior by a year; a humble and self-respecting person, right from his university days. Having served with him in the Parliamentary Service Commission for just less than five years, I can say with certainty that the rich experience of Mr. Patrick Gichohi has been useful in guiding the Commission.

On many occasions, we have had to listen to his advice and experience, not just collected from the Kenya Parliament, but across the Commonwealth. He has been very useful to us and has made us undertake some of the reforms that you have mentioned. As we sit in this Chamber now, a lot has to do with the input of Mr. Patrick Gichohi.

As Mr. Gichohi joins the rank of senior citizens of this country, I hope that he will continue to serve this Parliament as a consultant from time to time, particularly, as we enter this difficult part of the bicameral system. I expect Members of this House will extend the cooperation that they extended to Mr. Patrick Gichohi to his successor, Mr. Justin Bundi.

With that, I wish him well in his retirement.

Mr. Speaker: Very well! The Member for Kisumu Town West, except to add that whereas you and I met Mr. Patrick at the University of Nairobi, I had met him earlier. I had met him in 1973 in Kagumo High School. So, we met even before both of us grew beards.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I also rise to associate myself with the sentiments that have been expressed by hon. Members. I first met Patrick Gichohi when I joined Parliament in 2002. He took us through the Standing Orders and gave us a very good tour of Parliament. For that, I will always forever be grateful to him. After I was appointed to my new docket in the Ministry of Finance, he became very helpful in showing me how to find my way through the numerous Bills. For that, I will personally, be forever grateful to him for the tips that he has given me on how to maneuver and bring various Finance Bills to this Parliament.

I take this opportunity to wish him well in his new endeavours. He may have retired, but he is not tired. This may give him an opportunity to write even more books. The new House; both the National Assembly and the Senate may require a consultant. Mr. Speaker, Sir, since you will be the Chairman of the Parliamentary Service Commission in the new dispensation, it will be a good idea to start thinking how he can assist the new clerks who will be there, the new Speaker of the Senate and the new Members of the National Assembly and Senate who will be there, so that they can benefit from his experience.

Mr. Speaker: Thank you, the Member for Ndia for your prophetic soul! We will take the Member for Ugenya.

The Minister for Lands (Mr. Orengo): Thank you, Mr. Speaker, Sir, for giving me this chance to join my colleagues in saying a few things about Mr. Gichohi. To me, out of the four Clerks that I have worked with in this House, Mr. Gichohi far surpasses the rest in terms of his performance and commitment to parliamentary democracy. The only other person I could compare to him who did not rise to that high position is Mr. Gicheru. I would like to tell Mr. Gichohi that he owes us a book because he has seen this House in good and bad times. I value his service to this House because there was a time when it was difficult for a Back-Bencher to consult the Clerk of the National Assembly because the Clerk was part of the Office of the President. So, to be seen to be talking to the Clerk of the National Assembly or any of the Clerks of the House was not something that any Clerk was ready to do. He was always available even the days when it was very difficult to do so. I think the only trip I made as a Member of

Parliament, because I would never be chosen to go out with other Members of Parliament, except under his leadership, Mr. Speaker, Sir, was the one to Botswana. We went there with him and he knows what happened to me in that country. I think he needs to write a short footnote of what happened to me in Botswana.

(Laughter)

Mr. Speaker, Sir, I hope he will be available to advise and induct the new Members. It will be a big House. I hope that he will be able to share his experience with those who will be in Parliament, as I hope to be.

Thank you very much.

Mr. Ruteere: Mr. Speaker, Sir, I also take this opportunity to join my colleagues who have expressed very good sentiments about services by the Clerk to the National Assembly, Mr. Gichohi. I joined this Parliament in 2008; I was very new, but the advice that I got from him in handling parliamentary business and Committee affairs has been very valuable to me. He has been readily accessible and has given priority to Members of Parliament whenever they have wanted to see him in his office. He has been a very good staff of this National Assembly, and has given very valuable guidance to those of us, who were new. At times, he even told us where we could go wrong if we did not follow the Standing Orders or House procedures.

I had an opportunity to travel with him and Mr. Speaker to Egypt. That was a very good time when I came to know him personally and his interaction with other people. He was very friendly to those of us who had not gone outside this country.

I wish him the best in his new endeavours. I wish him a merry Christmas when he will be a new person in a new environment. Let him try things as a new person, but not as tired or retired person. Let him try something fresh. He can also continue with the wisdom that he has gathered to guide those of us who will be in the next Parliament.

Thank you.

The Attorney General (Prof. Muigai): Mr. Speaker, Sir, I want to thank you, first and foremost, for helping us to strengthen this tradition, where we appreciate our leaders in their life time. Mr. Patrick Gichohi has done a great job. We are appreciating him when he is alive, well, healthy and continuing, I hope, to a second career.

Mr. Speaker, Sir, selfless public servants such as Mr. Gichohi who go about their work quietly and with tremendous dignity requires the gratitude of this nation. I want to thank him personally because of the support he has given my office, particularly the office of the Chief Parliamentary Draftswoman, who would have, I am sure, wanted me to thank him very warmly. I thank him for his scholarship and for availing his knowledge in our library. I hope that in our new institutions, there will be a place for such dedicated public servants to inculcate their wisdom and knowledge to a new generation in the legislature. Best wishes; thank you.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I want to join the other Members of Parliament in congratulating Mr. Gichohi for his sterling performance in Parliament. For the duration that I have been here, he has distinguished himself with a wealth of knowledge on parliamentary procedure. Indeed, I think he is the single individual with superb institutional memory of this Parliament.

I also want to congratulate him for his dedication and contribution to the service of Parliament, especially when we are doing our procedures. When we were coming with the Constitution, I especially remember the amazing work that he did in Naivasha. We sat for long

hours and he guided parliamentary staff and even Members of Parliament with exemplary knowledge.

I wish him very well wherever he goes. I hope he will still be available for service of Parliament, especially in relation to our institutional memory.

I wish him all the best.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I stand here to join my colleagues in paying tribute to Mr. Gichohi.

Mr. Speaker, Sir, I joined the Eighth Parliament and immediately I was appointed to the Chairmen's Panel. I want to say here that if it were not for Mr. Gichohi, I would not have succeeded in my work. I think I did so well, as a Member of the Chairmen's Panel that during the Ninth Parliament, I was elected by this House to be the Deputy Speaker.

Mr. Speaker, Sir, I received tremendous assistance from him. I do not think I would have succeeded in my duties as a Deputy Speaker, were it not for the service rendered to me personally by him.

Mr. Speaker, Sir, during the Tenth Parliament, where we are now, he joined you in your endeavour to reform Parliament. We have seen many reforms undertaken by you, with a lot of assistance from him. One of which, is the refurbishment of this Chamber, where we are speaking from. I was privileged to Chair the Committee that was doing the plans for this Chamber and his advice was invaluable.

Mr. Speaker, Sir, Mr. Gichohi was also in the Standing Orders Committee which I chaired. I want Members to know that when we came here during the Eighth Parliament, there were no Committee systems. It was him, and others, who developed the Committee system; now every Member of Parliament can participate in a committee.

Mr. Speaker, Sir, Mr. Gichohi respects Members of Parliament---

(Off record)

Mr. Speaker: Okay; press "intervene", Mr. Musila, and I will just allow you one more minute.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I was saying Mr. Gichohi has developed his staff. So, we do not need to lament his going because he has competent staff working under him.

He will be missed, not only by us, but other organisations. He has become an international civil servant; the Commonwealth Parliamentary Association, Inter Parliamentary Union and all other organisations will also miss him.

I wish him very well together with his family.

Mr. Ruto: Mr. Speaker, Sir, I also rise to associate myself with the sentiments expressed by my colleagues.

Mr. Speaker, Sir, I have known Mr. Gichohi for quite a bit of time. At one time Parliament was more or less like an extension of the Office of the President, as hon. Orendo has just mentioned. During that time Parliament did not quite have the independence it has enjoyed during the tenure of Mr. Gichohi.

Mr. Speaker, Sir, this Tenth Parliament, for example has asserted itself, and he has religiously stuck to the Standing Orders and the independence of Parliament. This is a fit that has not been attained before. He has also been ready to advise us as Members of the Back Bench

without discrimination or thinking that we are not in Government, or that, probably, we were pushing a line that was not popular with the powers that be.

I expect and hope that Parliament will continue along this line. I will only recommend hon. Gichohi, as he leaves this place, to a few institutions. For example, if there is a church that could give him the position of Assistant Bishop, I am sure that he will religiously stick to the Bible in the same way he has stuck to the Standing Orders and the practice of Parliament.

(Laughter)

Nevertheless, I will also invite him to the various summits of governance, so that he could give lectures to the new governors who have never been to Parliament. Many of them will take their shortcuts in those areas and may not understand how to deal with governance issues.

Mr. Speaker: Your time is up, hon. Ruto. So, I will take the next hon. Member. I have room for only three hon. Members. So, I will take hon. Beth Mugo.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, may I join my colleagues in the sentiments expressed about Mr. Gichohi. I agree with all of them. I would like to add a few.

When a new Member comes to Parliament, he feels lost in some areas. I want to express my gratitude because when I joined this House during the Eighth Parliament, Mr. Gichohi guided me through some very important Motions I brought to the House, including one on affirmative action. He showed me how to lobby hon. Members and how to even go about getting the Motion accepted.

Mr. Speaker, Sir, that is not the only area in which Mr. Gichohi guided me. He also helped me in many international meetings like the Inter-Parliamentary Union (IPU), to which I was a Member throughout before I became a Cabinet Minister. During those meetings, Mr. Gichohi made sure that the delegation of the Kenyan Parliament shone out there by guiding us.

As one of the hon. Members said, he has very many friends in the international community, especially within the IPU; and he would guide us in many areas wherever there was one of us vying for a certain position. I remember that when I was being elected President of the Second Committee of IPU, and hon. Kaparo was being elected into the Executive Committee, Mr. Gichohi worked so hard that each time I and the Speaker got the positions.

Mr. Speaker: Yes, Member for Gem.

Mr. Midiwo: Mr. Speaker, Sir, let me also join my colleagues in saluting the good public service record of Mr. Gichohi. There are very rare Kenyans like him. If it was up to me, I would have wished that a man who is at his peak with so much knowledge about legislation would, maybe, get five or 10 more years of service on contract basis, so that this country could continue enjoying his services. It is a terrible thing to waste a mind like that of Mr. Gichohi. That is what is happening with our people because we have set such low standards for retirement in a country like ours, where people go to school until they are 40 or 50 years old. The country invests money in such people through training. We then retire them before we exploit the full potentiality of their brains.

I would like to wish Mr. Gichohi well. I know that with his tenacity, he is going to do well. I only hope that he does not retire somewhere in the village and do something amorphous called “farming”. I would like to see him offer technical services to many African parliaments as well as ours as we further our democracy.

Congratulations, Mr. Gichohi!

Mr. Speaker: Yes, hon. Yusuf Haji.

The Minister of State for Defence (Mr. Y. Haji): Mr. Speaker, Sir, I do not have much to add to all the good things that have been said about our brother, Mr. Gichohi. However, there is one outstanding matter I want to bring to the attention of the House.

As we all know, Mr. Gichohi is a very humble and religious man. Among the revolutions that he has brought in this House is that when we came to Parliament 14 years ago, we had only one chapel here. Muslims used to go to the mosque outside the precincts of Parliament. When we approached him, he provided us with a room where we say our prayers. We do not have to be late for voting or for prayers because of traffic jam. We are able to come and pray here. That God which he recognises, I pray with him as he retires. He should know that he leaves behind friends on whom he can count whenever he needs their assistance.

With those remarks, I say “farewell”. We wish you good retirement, *inshallah*.

Thank you.

Mr. Speaker: Hon. Members, I have 13 more requests but I am afraid, we must close. We will finish with the Leader of Government Business, Who is also the Vice-President and Minister for Home Affairs, Mr. Stephen Kalonzo Musyoka.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I want, on behalf of all of us, to truly celebrate and congratulate our brother, the outgoing Clerk of the National Assembly, Mr. Gichohi.

I joined this august House when it was at its Fifth Session. I met Mr. Gichohi. He was one of the Clerks-at-the-Table. I recall his predecessors, the late Ndindiri, may the Lord continue to rest his soul in peace. Before Ndindiri, there was Mr. Masya. Before Mr. Masya, there were Messrs. Gicheru and Leonard Ngugi.

Mr. Speaker, Sir, Mr. Gichohi stands out as the Clerk of the National Assembly who has presided over the business of this House at a time when this country had its first major challenge in terms of parliamentary governance. I am referring to the Grand Coalition Government. I have had moments, as Leader of Government Business, when I had to consult Mr. Gichohi, asking him what we should do and he has always been there, smiling. Nothing has been too difficult for him. Mr. Gichohi is an officer and a gentleman. Those words would appropriately describe him.

So, I just want to join my colleagues in wishing him well. I had to really cancel everything to be able to make it to this House, so that I can officially, on behalf of the House Business Committee and the Office of the Leader of Government Business, thank Mr. Gichohi wholeheartedly and wish him well. I think this House does commend him wholeheartedly.

Whatever comes your way, Mr. Gichohi, you know that you have 222 Members of Parliament at the moment, all of whom are standing by you. If they were to join any of the interviewing panels, I am quite sure that you would understand which way the scales would go. So, we wish you well. I know that this is your home. I look at the wonderful work that you have done, even as Secretary to the Parliamentary Service Commission. In fact, it is very difficult to distinguish between you and Mr. Speaker, because you have worked so closely together that it would be inappropriate to try to separate you from one another.

Even Mr. Bundi, sitting next to you, who went to Arusha, and others, are very qualified Clerks-at-the-Table. I want to suggest that we maintain those standards even as we look forward to the Eleventh Parliament. We wish you, in the first instance, a Merry Christmas together with your family and all your loved ones, and wish you well. I am sure that we are not seeing the last of Mr. Gichohi.

Thank you very much and God bless you!

Mr. Speaker: Hon. Members, we must bring that to a close.

Hon. Members, please, note that we are on record as a transformative Parliament. We have earned that distinction. The Clerk of the National Assembly, Mr. Patrick Gichohi, is the first to retire in office regularly when Parliament is in session. So, we have set the precedence. Those clerks who serve well, and who merit recognition, we will appreciate them when they retire, if they do so in office and when we are still in session. I want to encourage you, hon. Members; that those of you who may opt to retire when Parliament is still in session, we will accord you this privilege.

(Laughter)

Mr. Speaker: I want to thank you and we will rest the matter there.
Next Order!

STATEMENTS

POINTS OF ORDER

Mr. Speaker: Are there any Statements due for delivery today? None! Then we will take requests for new Statements. We want to begin with the Member for Imenti Central.

Mr. Imanyara: Mr. Speaker, Sir, I have two requests to make. The first one relates to an undertaking given to this House by the Minister for Finance last Thursday; I hope he is listening to me.

DISBURSEMENT OF CDF FUNDS TO VARIOUS CONSTITUENCIES

This Statement is with regard to disbursement of the balance of CDF for this financial year. You will recall that this House was told that these funds would be disbursed by the end of September. But as of now, less than half has been released. You assured us that this afternoon you will be giving a Statement on the state of CDF disbursement.

Mr. Speaker, Sir, if I could get the Minister's response on that before I do my second one or shall I do the second Statement also?

Mr. Speaker: Proceed and do the second one.

FATE OF THE INTERNALLY DISPLACED PERSONS' BILL

Mr. Imanyara: Mr. Speaker, Sir, the second Statement is closer to the communication you gave regarding passage of Bills. You will recall that on 4th October this year, this House passed the Internally Displaced Persons' Bill. Under the provisions of Article 115 of the Constitution, the procedure following the passage of any law is set out very clearly and when it goes to the President and he fails to assent to it or send it back to Parliament with proposals for amendment, it stands passed as law. It ought to have been gazetted by today but up to now, we do not know the fate of this law that this House passed and which by the operation of the Constitution should now be law and should have been published in the Kenya Gazette.

Mr. Speaker, Sir, because I see the Attorney-General is here and he is the one who communicates with the President with regard Bills passed, perhaps he could shade some light on this.

Mr. Speaker: Very well. There are two concerns; first, a request for a Statement with respect to release of CDF. Minister for Finance maybe you want to either make a response or give an indication when you will speak to this.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I will be in a position to do so on Thursday.

Mr. Speaker: Fair enough. So directed; Thursday at 2.30 p.m.

Attorney-General, do you want to respond to assent to Bills or you want time as well?

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, with your permission, may I undertake to provide an answer tomorrow afternoon.

Mr. Speaker: Tomorrow afternoon, no. It may not be convenient. How about tomorrow morning?

The Attorney-General (Prof. Muigai): How about Thursday afternoon?

Mr. Speaker: Tomorrow morning or Thursday afternoon, yes.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, Thursday afternoon.

Mr. Speaker: Very well. It is so directed. We will then take requests.

Mrs. Shebesh, please, proceed!

BARRING OF HON. WAITITU/HON. MBUVI FROM CONTESTING
FOR ELECTIVE POSITIONS

Mrs. Shebesh: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the recommendation by the Chairman of the Commission on Administrative Justice that the Members of Parliament for Embakasi and Makadara constituencies should not contest for any post in the next general election.

Mr. Speaker, Sir, in the Statement the Minister should:-

(a) indicate the mandate of the Commission and clarify whether or not the Commission is the right organ to determine the integrity question of the two Members;

(b) clarify whether the declaration by the Chairman does not infringe on the constitutional rights of the two Members to contest for public office;

(c) clarify whether barring the two Members from contesting the next general election does not violate the constitutional rights of the voters in Nairobi from electing their leaders.

Mr. Speaker: Deputy Leader of Government Business, when will this Statement come? I think it is supposed to be by the Minister for Justice, National Cohesion and Constitutional Affairs.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I would have gone for next week, but knowing there are holidays, we will attempt to have him by Thursday this week at least to get a status update.

Mr. Speaker: Fair enough, Thursday at 2.30 pm.

Member for Mathioya, please, proceed!

Mr. Wambugu: Mr. Speaker, Sir, I do not have a request for a specific Ministerial Statement. However, I had made my request to contribute to congratulate the outgoing Clerk of

the National Assembly. That is when I put my button on, however, because you have given me a chance, let me also say that Mr. Gichohi has always been---

Mr. Speaker, Sir, I had pressed the button when I wanted to congratulate Mr. Gichohi for the good work that he has provided to this House.

Mr. Speaker: Order, Member for Mathioya! That would be spent obviously, which is fine. That is doing well. You save the time of the House.

I have three other requests and I am not sure what the interventions are in respect of. I see an intervention by Mr. Yusuf Haji. What will you be looking for, Minister?

Minister, will you, please, switch off your request for the Floor.

Member for Chepalungu, I also see a request from you. What is it?

Mr. Ruto: Mr. Speaker, Sir, I rise on a point of order---

Mr. Speaker: Order! I have given you directions on that one and the timing obviously is not correct. I told you where you can rise.

Member for Imenti Central, please, proceed!

STATUS OF THE OPINION POLLS BILL/STATUTORY INSTRUMENTS BILL

Mr. Imanyara: Mr. Speaker, Sir, with your indulgence, I apologize because I needed to raise the issue of the Opinion Polls Bill and I had indicate this to you. However, when I stood up, I omitted to do so.

Therefore, when the Attorney-General is giving us a report on the IDPs Bill could he also give us the status on the Opinion Polls Bill and also the Statutory Instruments Bill, all of which have gone through this House and have been passed.

Mr. Speaker: Attorney-General, I think it is necessary that you note those.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, since I gave my undertaking to the hon. Member, I have since received communication from my office that the Government Printer is in the final process of preparing the vellums so that His Excellency the President may append his signature.

Mr. Speaker: You now have a request for an additional two. So maybe you still want to give yourself time until Thursday.

The Attorney-General (Prof. Muigai): Most obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well.

Next order!

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME

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

—
THAT, notwithstanding the provisions of Standing Order No.20(2)---

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

Mr. Speaker: Member for Chapalungu, you know I do not want to say anything that is unkind. If you cannot recollect the advice that I gave to you, then you may have to approach the Chair. In the meantime, Deputy Leader of Government Business, you may proceed!

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

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

The rationale for this is simple. We have a lot of business to transact, and, in line with the decision of the House Business Committee and the request by Members of this House that we create enough time to clear as much business as possible during the time we have, we are asking the Members of the House to agree that we extend the sitting by an extra two hours, so that we can clear at most whatever is on the Order Paper. If we do the same tomorrow and the next day, we hope we will really have caught up on all the lost time. That way, we will leave this House as the transformative House that it is; we will have cleared most of the Bills. It is a record that no other House has set before; we still have capacity between now and when we will adjourn to do more.

Mr. Speaker, Sir, this is a very straight forward matter. We did it last week and I want to thank hon. Members for doing that and for staying behind. I do hope that we will do the same today and tomorrow. When we meet in the House Business Committee, we might even have to recommend some extra sittings to clear as much business as we can, given the capacity of hon. Members to respond to these challenges.

Mr. Speaker, Sir, I beg to move and ask the Minister for Finance to second.

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, this House has always risen to the occasion when called upon. It will not be asking too much if we say that we continue with the House business until 8.30 p.m. Last week, we did it and we were able to transact a lot of business.

Mr. Speaker, Sir, even if it is necessary that we even meet on Friday, Saturday and Sunday to complete all the pending business of the House, we shall do it. If there is one Parliament that has risen to the occasion, it is this Tenth Parliament. If there is one Parliament that requires to be commended, it is this Parliament. If history serves me right, this Parliament has transacted the most number of Bills since this country obtained Independence.

Mr. Speaker, Sir, I second.

(Question proposed)

The Assistant Minister, Office of the Prime Minister (Mr. Mbadi): Mr. Speaker, Sir, even though I appreciate that the time remaining between now and the time when we are likely to end the life of this Parliament is short, and that we require more time, I am reluctant to support this Motion.

(Laughter)

When I say I am reluctant, it does not mean I oppose. The problem is that you do not understand---

Mr. Speaker: Order, Member for Gwassi! If you are not supporting the Government position, then I am afraid you will be out of order. Unless you opt to take my offer which I made earlier on this afternoon, that those of you who want to retire are at liberty to do so; if we are still in session, we will give you an opportunity and you will appreciate it.

The Assistant Minister, Office of the Prime Minister (Mr. Mbadi): Mr. Speaker, Sir, I have just said that I am reluctant. Being reluctant does not mean you do not support. It is just an expression of my reluctance. I am very careful in the choice of my words.

Mr. Speaker: Then you may proceed.

The Assistant Minister, Office of the Prime Minister (Mr. Mbadi): Mr. Speaker, Sir, I am really reluctant to support the Motion as it is. If you look at the Order Paper, the time remaining and the commitment on the part of Members of Parliament, you will realize that we are not doing a lot of justice to the Bills that we are passing currently in this House. I am concerned that some of the Bills that are being presented to us; even though I support retention of the Provincial Administration, this is not the right time for this House to debate some of these Bills. It is really not a must that they should be passed before the life of this Parliament comes to an end. They could be deferred to the Eleventh Parliament. Let us have faith in the incoming Parliament to transact some of the business.

Mr. Speaker, Sir, it is not even enough for the House Business Committee to ask us to extend time, yet some of the critical Bills that should be brought to this House like the Division of Revenue Bill are not before us. If you ask me, in the entire Order Paper, it is only the Election Campaign Financing Bill that, to me, is a priority. The rest of the Bills here are just meant to buy time. Some of the Bills here, like the National Government Co-ordination Bill--- I would ask this House not to debate this Bill in the Tenth Parliament. We need to give this Bill enough time. We need proper deliberations as a country to know how we want the Provincial Administration to fit into the new devolved system of governance.

I have justified my reluctance to support this Motion. I urge the Back-benchers to oppose this Motion even as I support it.

Mr. Speaker: Is the Deputy Leader of Government Business taking note of that, that a Member of the Front Bench is urging the Back Bench to oppose Government business?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, some responsibilities take a bit long to filter through and to be accepted. So, I take it that the hon. Member is still learning the ropes. We will give him a private session on what is expected of him since he has moved into the Government.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I rise to support the proposal by the Deputy Leader of Government Business that we extend the sitting hours of the House. Contrary to what my colleague to the right said, I think all the Bills that have been listed here are important to the development of this nation. If you look at most of them, they are what I call social Bills. This House has passed enough constitutional Bills and Bills related to the Executive. It is important that we now pass Bills on where the tyre touches the ground, because this is what will make a difference to devolution.

Mr. Speaker, Sir, being a Member of the House Business Committee, I know that there are still many more Bills that it is the responsibility of the Tenth Parliament to pass. Indeed, we are going to leave a legacy that we did not only pass constitutional Bills and Bills related to the structure of the Executive but we also did pass Bills that relate to human relations, social welfare and on where the rubber touches the ground.

So, I would like to urge the House that it is not a sacrifice too big to make; it is not a journey too long to travel. It is not a dream too large to be dreamt. This House should, indeed, support the Deputy Leader of Government Business. We have deliberated on this to a wide extent, and we have chosen wisely the Bills that need to come to the House. We wish we had a longer time. Since elections are beckoning, this House is called upon to sacrifice as, indeed, the

Deputy Leader of Government has said, and do as much as it can before we go to the elections, so that we shall be proud of the legacy that we will leave behind, and the people of Kenya will hold us in high esteem.

I beg to support.

Mr. Oyugi: Mr. Speaker, Sir, I rise to oppose this Motion. My hunch is that we should not be a House that will go down in history as one that passed very many quantitative Bills as opposed to them being qualitative.

A Member of my constituency just said that we are a House that debates for two hours to extend for two hours on whether we should extend sitting time by two hours. If you look at the Order Paper, most of the Bills that have been herein listed, apart from the Election Campaign Financing Bill, are not meant to help in implementing the new Constitution. It is with those reasons then that I would be happy to oppose this particular Motion.

I will be happy to stay here if at all this particular Motion is passed, but most of Bills that are on the Order Paper today also have several elements of unconstitutionality. If, at all, we will go into the later hours of the day, most of the Bills will unfortunately be passed, but with several elements of unconstitutionality. It is not proper for us, as a House, to do the same. That is the reason I am opposing.

Mr. Speaker: Hon. Members, I have heard the mood of the House. We have listened to both sides of the matter and I am satisfied that it is an appropriate point at which to put the question.

(Question put and agreed to)

REDUCTION OF PUBLICATION PERIOD
OF THE CIVIL AVIATION BILL

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

THAT, pursuant to the provisions of Standing Orders 107, this House orders that the Publication period of the Civil Aviation Bill (Bill No.81 of 2012) be reduced from 14 to 11 days.

I want to make a special appeal to this House because this is one of the Bills under my Ministry. As this House will be aware, I have been sitting here with you doing all this work and almost forgot to fast-track my own Bill, which was signed in November, but did not come out of the Press until 11 days ago. It is very important that we discuss this Bill. It will open our airspace, even for the direct flights, by getting our civil aviation at par with other civil aviations in the rest of the world. It is a very important Bill that we should have dealt with earlier. I want to appeal to this House to do this one for me. Let us agree to reduce the publication period of the Bill, so that it can be read the First Time and then get through the Committee. Hopefully, before we go home, we will have given our aviation industry the framework to operate at par with the rest of the world especially given where we are going.

I beg to move and seek the support of Prof. Anyang'-Nyong'o to second.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, in the same spirit that I have spoken before, I rise to second the proposal by the Deputy Leader of Government Business to shorten the publication period of the said Bill.

This is a procedural matter, a matter that I am sure the House will have consensus upon. Indeed, after passing the Motion that we have just passed, this should be passed *mutatis mutandis*.

I beg to second.

(Question proposed)

Mr. Wambugu: Mr. Speaker, Sir, I rise to support the Procedural Motion that the publication period for the Civil Aviation Bill be reduced from 14 days to 11 days.

It is true that this Bill has been pending for quite some time. We have very many issues, especially within the civil aviation industry, that we need to streamline. If this Bill is passed, it is going to open up our airspace, especially for Kenyans to get into this industry which has been locked out for most of the Kenyans for a long time. There are a few issues that we need to handle as we get into this Bill. Of late, we have had issues to do with various accidents which we need to look at. We also need to look at the regulations that deal with that. The earlier we get this Bill into this House the better.

I beg to support.

Mr. Mututho: Mr. Speaker, Sir, I rise to support this Procedural Motion. I am very clear in my mind because I have sat in this House now for four-and-a-half years. I am here to regrettably tell the Members that not all the Members come here regularly. There are hardly 20 or 30 Members who come here on a regular basis and among them is the Minister himself. He is a very regular attendant and a very committed Member of this House.

Looking at our side here, it is the same group that will be here up to midnight, if you so desire, tomorrow and the day after. We are the same people who debate here. Because, you, the hon. Members, form the core business of this House, let us close this business in style. Let us go through all the matters that are before us and then we can all break for Christmas happily having, at least, one assurance that our airspace is safe. I support more strongly after listening to Capt. Wambugu, an active captain, who flies the big jumbos.

I beg to support.

Mr. Ruto: Mr. Speaker, Sir, I am really shocked by what the Government is trying to do. Some of these things that we are being given do not make sense at all. For instance, we are being told to shorten the publication period of a Bill so that we can do the First Reading. Then, it is committed to the relevant Departmental Committee, hopefully, if we are still following procedure. Then it comes here for the Second Reading and we expect to have it for the Third Reading. At the very earliest, that should be Wednesday next week. There will be no such Parliament next week. I do not understand what we are up to. Instead of this Government bringing us proper Bills that are very urgent, they are busy telling us to come and sit here and discuss things that are obviously going to lapse with time.

Where is the Division of Revenue Bill to tell us how we are going to operationalize the devolved governments come March next year? Where is the Statute Law (Miscellaneous Amendment) Bill from the Attorney-General, so that we can facilitate issues that will ensure that we have smooth transition? What is all this about marriages? What is the hurry about come-we-stay? Come-we-stay is not a very urgent thing.

Mr. Speaker: Order! Order, Member for Chepalungu!

(Mr. Ruto continued standing in his place)

Member for Chepalungu, you cannot continue to have the Floor and breach the Standing Orders. Just resume your seat for a moment. That is our practice. When the Speaker begins to address you, you resume your seat.

(Mr. Ruto resumed his seat)

Member for Chepalungu, the matter which is being deliberated now is Order No.9, which is a Procedural Motion seeking to reduce the publication period of the Civil Aviation Bill (Bill No.81 of 2012). The Standing Orders tell you that in your contribution, you must be relevant to the matter before the House. If you now begin to talk about other Bills, then, obviously, you are not relevant. Can you now carry on and be relevant? Live within the Standing Orders.

Mr. Ruto: Mr. Speaker, Sir, I had sought to stand earlier to request to debate---

Mr. Speaker: Order, Member for Chepalungu! Obviously, you will have time.

Mr. Ruto: Mr. Speaker, Sir, I will stick to the rules. I am back to Order No.9.

The point that I am putting across is that the Government is telling us to shorten the publication period of the Bill. It is not bringing the right Bills. The Government understands that this particular debate on Order No.9 is simply a waste of our valuable time.

It is not possible for us to finish anything to do with this Civil Aviation Bill. Maybe, the Minister has read it and has his own intentions. We do not know. We are here to ensure that we pass proper legislation. The job of a Member of Parliament is representation. Our other job is legislation. We should offer qualitative legislation. Why do you want to rush us? You could, as well, assume that this Bill has, therefore, been passed, but we will not have looked at it. I do not understand what we expect to achieve by shortening this publication period. There is no public participation. It is expected that the public should be aware of what we are trying to do, but we are sneaking in Bills through these Procedural Motions. Although I respect hon. Kimunya for sitting in the House, his sitting here continuously is now becoming suspect because his intention, apparently, is to pass every Bill, probably which he has an interest in. I do not want to be misunderstood. By interest, I mean interest as in the word "interest" as the Minister concerned.

(Laughter)

I want to oppose this extension. I suggest to the Government to either bring that relevant Bill or go back and bring Ministers to come and fill these benches. They are only eight. How do they expect to proceed with this thing by steam-rolling them? They are not going to proceed because they have to respect Parliament. We are not here, ourselves, to sit through disrespect for the legislative process. A few minutes ago, we paid accolades to some of the most dedicated members of this august House. We, as Members, should even be seen to be doing the right thing at the right time. We have just three days. What are we doing?

Mr. Speaker: Order, Member for Chepalungu!

Mr. Ruto: Mr. Speaker, Sir, I am not being repetitive.

I beg to oppose.

Mr. Speaker: Order, Mr. Ruto! I do not really want to interrupt you, but you know, even this business, you notice, it is citing Standing Order No.107. That tells you that it is procedural. So, why are you saying that you are breaching procedure? Certainly, that is not well founded.

Mr. Njuguna: Thank you, Mr. Speaker, Sir, for the opportunity to very briefly make a contribution on this Motion. I want to start by supporting the reduction of the publication period of the Bill, so that the issue relating to this Motion will be addressed. In addition, let me thank the Minister for Transport for starting an airstrip in Lari Constituency. I would urge the Ministry to make sure that we have airstrips and more airports in this country to ease and enhance transport.

Finally, I want to urge the Minister to make sure that we have maximum security in our international airports and even in the other small airports.

Mr. Speaker: Order, Mr. Njuguna! You are now speaking to the substance of the Bill. You are supposed to speak to the Procedural Motion.

Hon. Members, I am satisfied that there has been adequate ventilation on this matter and I will now put the question.

(Question put and negatived)

Hon. Members, with that vote taken and the outcome as it is, Order No.10, which is the next Order, is dispensed. We cannot take it.

COMMUNICATION FROM THE CHAIR

PRESIDENTIAL ADDRESS TO THE HOUSE

Mr. Speaker: At this point, I wish to make a Communication to the effect that His Excellency the President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces will address the House tomorrow afternoon from just about 4.00 p.m. After the Presidential Address to the House, there will be a dinner hosted in honour of His Excellency, the President by the National Assembly beginning from 6.00 p.m., at the Hotel Inter-Continental. All the Members are invited to the dinner. Please, diarize it and be there.

Next Order!

BILLS

First Readings

THE CIVIL AVIATION BILL

THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL

THE MARRIAGE BILL

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

(Mr. Ruto stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): We are now in the Committee of the Whole House. Hon. Ruto, what is your point of order?

Mr. Ruto: Mr. Temporary Deputy Chairman, Sir, it was a mistake.

THE AGRICULTURE, LIVESTOCK,
FISHERIES AND FOOD AUTHORITY BILL

RE-COMMITTAL OF CLAUSES 4, 5 AND 11

The Temporary Deputy Chairman (Mr. Imanyara): We will begin with The Agriculture, Livestock, Fisheries and Food Authority Bill. I think it is just for re-committal of Clauses 4, 5 and 11.

Clause 4

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, as the House can recall, we agreed that we delete the word “function of the Authority and insert---

The Temporary Deputy Chairman (Mr. Imanyara): Let me just guide you. We had actually concluded but just read the amendment that we introduced. That is all.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT the Bill be amended by deleting Clause 4 and substituting therefor the following new Clause-

Functions
of the
Authority

4. The Authority shall, in consultation with the county of the government, perform the following functions-
 - (a) administer the Crops Act and the Fisheries Act in accordance with the provisions of these Acts
 - (b) promote best practices in, and regulate, the production, processing, marketing, grading, storage, collection, transportation and warehousing of agricultural and aquatic products excluding livestock products as may be provided for under the Crops Act and the Fisheries Act;

- (c) collect and collate data, maintain a database on agricultural and aquatic products excluding livestock products, documents and monitor agriculture through registration of players and provided for in the Crops Act and Fisheries Act;
- (d) be responsible for determining the research priorities in agriculture and aquaculture and to advise generally on research thereof;
- (e) advise the national government and the county governments on agricultural and aquatic levies for purposes of planning, enhancing harmony and equity in the sector;
- (f) carry out such other functions as may be assigned to it by this Act, the Crops Act, the Fisheries Act and any other written law while respecting the roles of the two levels of governments.

(Question of the amendment proposed)

Mr. Ruto: On a point of order, Mr. Temporary Deputy Chairman, Sir. I just want to confirm that we had deleted the word “regulate” in Clause 4.

The Temporary Deputy Chairman (Mr. Imanyara): If you listened to the Assistant Minister, he was just explaining that. That was the reason for the re-committal.

Mr. Ruto: I agree, Mr. Temporary Deputy Chairman, Sir.

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

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

(Clause 4 as amended agreed to)

Clause 5

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 5 of the Bill be amended in sub-clause (1)-

- (a) in paragraph (a) by inserting the words “with the approval of the national Assembly” at the end of the paragraph;
- (b) by inserting the following new paragraph immediately after paragraph (j)-
- (k) the chairperson of the Transition Authority or his representative;

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 11

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended-

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

(1A) the directorates to be established under sub-section (1) shall include a directorate on fisheries and a separate directorate on food.

(b) in sub-clause (3) by deleting the words “crops or produce” and substituting therefor the words ‘agricultural and aquatic product’;

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

(4) The appointments of any director or head of directorate under this section shall only be done with the prior approval of the National Assembly.

(Question of the amendment proposed)

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

(Clause 11 as amended agreed to)

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Agriculture, Livestock, Fisheries and Food Authority Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE PUBLIC HEALTH OFFICERS (TRAINING, REGISTRATION
AND LICENSING) BILL

Clause 2

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Munyaka, you have an amendment and may be also the Assistant Minister has something to say. Have you consulted with Dr. Munyaka just to clear that there is no duplication and if so, Dr. Munyaka, let us hear the Assistant Minister first.

Mr. Gesami, just confirm that the amendments being proposed by Dr. Munyaka are different from the amendments that you are about to make so that we can move forward with speed.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, we have consulted and have agreed on a few amendments which are common but there are others which are different.

The Temporary Deputy Chairman (Mr. Imanyara): Are you in agreement on this particular one?

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): This is purely ours and he has no objection.

The Temporary Deputy Chairman (Mr. Imanyara): Very well, you can go ahead.

The amendments are in the Order Paper and you can propose that the amendments be as per the Order Paper which has been circulated.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 2 of the Bill be amended—

(a) by deleting the definition of the term “Minister” and substituting therefor the following new definition—

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

(b) by renumbering the existing provision as subsection (1);

(c) by inserting the following new subsection immediately after subsection (1)—

(2) Despite subsection (1), until after the first elections under the Constitution references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister”.

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Gesami, once you have moved the amendment, the Chair proposes to enable hon. Members who may wish to contribute and if there are none wishing to, then I will just put the question. That is the procedure. Unless there are hon. Members who wish to participate, I take it that you are in agreement and therefore, I will put the question.

(Question of the amendment proposed)

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

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

Dr. Munyaka: Mr. Temporary Deputy Chairman, Sir, indeed we have consulted with the Assistant Minister and we have agreed that Clause---

The Temporary Deputy Chairman (Mr. Imanyara): The amendments you are proposing are set out in the Order Paper, you do not have to read them because they have been circulated and are in the Order Paper.

Dr. Munyaka: Mr. Temporary Deputy Chairman, Sir, we had agreed that I withdraw Clause 2b.

The Temporary Deputy Chairman (Mr. Imanyara): So, it had been circulated except that sub clause “b” has been withdrawn?

Dr. Munyaka: Yes, Mr. Temporary Deputy Chairman, Sir. That is correct.

The Temporary Deputy Chairman (Mr. Imanyara): So, if that is the case, then you do not need parts “a” and “b.”

Dr. Munyaka: We will retain part “a”.

The Temporary Deputy Chairman (Mr. Imanyara): But you do not have to rename it “a” because there is no “b” now. Is that the position?

Dr. Munyaka: Yes, Mr. Temporary Deputy Chairman, Sir.

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Mr. Imanyara): Perhaps you could explain the substance if you so wish.

Dr. Munyaka: Mr. Temporary Deputy Chairman, Sir, I do not wish.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Chairman, are you in agreement with him?

Dr. Monda: Yes, Mr. Temporary Deputy Chairman, Sir.

(Proposed amendment to part “2b” by Dr. Munyaka withdrawn)

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

(Clause 2 as amended agreed to)

Clause 3

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 of the Bill be amended in subclause (3)–

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

(b) by deleting paragraph (b) and substituting therefor the following new subclause–

(c) the Director of Medical Services or his representative;

(c) by deleting paragraph (d) and substituting therefor the following new paragraph– (d) a representative of the Ministry for the time being responsible for urban areas and cities, appointed by the Cabinet Secretary in consultation with the Association.

(d) by deleting the word “Minister” appearing in paragraph (e) and substituting therefor the word “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Munyaka, after the proposal by the Assistant Minister, I do not know how that affects you.

Dr. Munyaka: Mr. Temporary Deputy Chairman, Sir, I have consulted with the Assistant Minister. We have agreed that we retain my proposed amendments to Clause 3(a) and (b) but I withdraw parts “c”, “d” and “e”.

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

THAT, Clause 3 of the Bill be amended in sub clause (3)-

(a) by deleting the words “representing local authorities, appointed by the Minister in consultation with the Association” appearing in paragraph (d) and substituting therefor the words “representing counties, nominated by registered associations in such manner as may be prescribed and appointed by the Minister”

(b) by deleting the words “local authority” appearing in paragraph (e) and substituting therefor the words “county”;

(Proposed amendments 3(c),(d) and (e) by Dr. Munyaka withdrawn)

(Question of the further amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended in subclause (2) (e) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

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

THAT, Clause 4 of the Bill be amended in sub clause (2)-

(a) by deleting the words “with such approved institutions as the Council may deem appropriate” appearing in paragraph (a) and substituting therefor the words “approved institutions”;

(b) by inserting the words “other than those established or accredited under the Universities Act, 2012” immediately after the words “institutions” appearing in paragraph (e);

(c) by deleting the words “the business and” appearing in paragraph (f);

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Munyaka, what is the import of your amendment?

Very well!

(Question of the further amendment proposed)

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

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

(Clause 4 as amended agreed to)

(Clauses 5 and 6 agreed to)

Clause 7

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 of the Bill be amended in paragraph (b) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

(Clause 8 agreed to)

Clause 9

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended in subclause (3) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I seek your guidance on this matter. Except for Clause 21, I can see that all the other clauses are substituting the word “Minister” for “Cabinet Secretary”. Could an omnibus clause be moved to the effect that wherever the word “Minister” appears---

The Temporary Deputy Chairman (Mr. Imanyara): Let me guide you. Because we are in the Committee, that is, unfortunately, not permitted by the Standing Orders. Therefore, we have to live by them.

Clause 11

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

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

Clause 17

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 17 of the Bill be amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”;

(Question of the amendment proposed)

*(Question, that the word 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 17 as amended agreed to)

(Clauses 18 and 19 agreed to)

Clause 20

The Temporary Deputy Chairman (Mr. Imanyara): Assistant Minister, you do have proposal for amendment. It has been dully circulated and stated clearly on the Order Paper. Could you move it?

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I think we have an amendment to Clause 19.

The Temporary Deputy Chairman (Mr. Imanyara): Assistant Minister, it is not on the Order Paper. In any case, unless you recommit, we have already passed there. There is no amendment to Clause 19 on the Order Paper.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, okay. I beg to move:-

THAT Clause 20 of the Bill be amended in subclause (2) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

*(Question, that the word 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 20 as amended agreed to)

Clause 21

The Temporary Deputy Chairman (Mr. Imanyara): There are two amendments there, one by the Assistant Minister and you will start. Both have been circulated and are on the Order Paper.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 21 of the Bill be amended in subclause(2) –

(a) by deleting the words “one million” and substituting therefor the words “ten million”;

(b) by deleting the words “five years” and substituting therefor the words “ten years”.

(Question of the amendment proposed)

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, could the Assistant Minister explain to the House why he is proposing that huge rise.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, we just want to make the penalty much stiffer, so that anybody who is caught doing something wrong under this Act-- People should avoid doing some of the wrong things that they have been doing. It is just enhancing the penalty.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Njuguna, are you happy.

Mr. Njuguna: Yes, Mr. Temporary Deputy Chairman, Sir.

*(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)*

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Munyaka, you have a further amendment proposed to this clause.

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

THAT, Clause 21 of the Bill be amended-

(a) in sub clause (1) by inserting the words “established or accredited under the Universities Act, 2012 or” immediately after the words “unless such institution”;

(b) in sub clause (3) by inserting the words “other than those established or accredited under the Universities Act,2012” immediately after the word “institutions”

(Question of the further amendment proposed)

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

(Clause 21 as amended agreed to)

Clause 22

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

THAT, Clause 22 of the Bill be amended by inserting the following new sub clause immediately after sub clause (5)-

(6) This section shall not apply to universities established or accredited under the Universities Act, 2012.

(Question of the amendment proposed)

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

(Clause 22 as amended agreed to)

(Clause 23 agreed to)

Clause 24

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Munyaka, you have a proposal for amendment. It is duly circulated and set out fully on the Order Paper. You may move it.

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

THAT, Clause 24 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2)-

(2A) Despite subsection (2), all certificates, diplomas or degrees issued by a university established or accredited under the Universities Act, 2012 shall be recognized by the Council.

Question of the amendment proposed)

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

(Clause 24 as amended agreed to)

(Clauses 25 and 26 agreed to)

Clause 27

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Munyaka, you do have an amended to propose.

Assistant Minister, do you also have an amendment? Yes, on page 4566. I will start with you, Assistant Minister. Sorry, Dr. Munyaka, we will take the Assistant Minister first.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 27 of the Bill be amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

*(Question, that the word 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)*

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Munyaka, could you move your amendment, which is also circulated?

Dr. Munyaka: Mr. Temporary Deputy Chairman, Sir, I do not have any amendment.

The Temporary Deputy Chairman (Mr. Imanyara): Sorry; the Order Paper here has a mistake; where it shows hon. Munyaka, it should have been the Assistant Minister. I think there is a typographical error. So, I do apologise. It is not your amendment.

(Clause 27 as amended agreed)

(Clauses 28, 29, 30, 31, 32, 33 and 34 agreed to)

Clause 35

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 35 of the Bill be amended in subclause (4) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

*(Question, that the word 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 35 as amended agreed to)

(Clause 36 agreed to)

Clause 37

The Temporary Deputy Chairman (Mr. Imanyara): There are two amendments proposed, one by the Assistant Minister and the other one by you.

Assistant Minister, you may move yours, which is duly circulated and is on the Order Paper.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 37 of the Bill be amended in subclause (1)(a) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairman (Mr. Imanara): Hon. Dr. Munyaka, could you move your amendment, which is also circulated and is on the Order Paper?

Dr. Munyaka: Mr. Temporary Deputy Chairman, Sir, I have discussed with the Assistant Minister and I have agreed to withdraw this particular amendment.

The Temporary Deputy Chairman (Mr. Imanyara): Very well, the proposal for amendment by Dr. Munyaka is withdrawn.

(Proposed amendment by Dr. Munyaka withdrawn)

(Clause 37 as amended agreed to)

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

Clause 46

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, I notice that there are two proposals for amendment, one by the Minister and the other one by hon. Munyaka. Minister, your proposal for amendment is set out in the Order Paper. You may proceed to move it.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 46 of the Bill be amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

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

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

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Munyaka, you have a proposal for further amending that clause.

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

THAT, Clause 46 of the Bill be amended by deleting the words “under this Act” appearing in paragraph (b) and substituting therefor the words “other than those established or accredited under the Universities 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 46 as amended agreed to)

(Schedule agreed to)

(Title agreed to)

Clause 1

The Temporary Deputy Chairman (Mr. Imanyara): Minister, you have a proposal for amendment. It is actually set out on the Order Paper. So, just move it.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 1 of the Bill be amended by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

(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 1 as amended agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Minister, please, move to report.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Public Health Officers (Training, Registration and Licensing) Bill (Bill No.20 of 2009) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, next is The Public Private Partnerships Bill (Bill No.12 of 2012).

THE PUBLIC PRIVATE PARTNERSHIPS BILL

Clause 2

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, there are no proposals for amendment to Clause 2. Therefore, I will put the Question.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, there are proposals for amendment.

The Temporary Deputy Chairman (Mr. Imanyara): Yes, Mr. Minister, they are circulated, please, move.

The Minister for Finance (Mr. Imanyara): Mr. Temporary Deputy Chairman, Sir, before I move, just for the purpose of expediting things, I would like to say that the amendments that I am going to propose are as a result of comments received by various stakeholders after the Bill was published. In particular, during debate by Members of Parliament, during the Second Reading and discussions with the Departmental Committee on Finance, Trade and Planning as well as comments from the Kenya Private Sector Alliance, among others.

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

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

So as to expedite matters, we have agreed with the Departmental Committee that where I have an amendment, it goes through and where they have an amendment and I do not have any, I accept theirs. Where I have an amendment and they have an amendment, mine will take precedence. That is what we have agreed, so that we can finalise matters.

Madam Temporary Deputy Chairlady, therefore, I beg to move:-

THAT, Clause 2 of the Bill be amended—

(a) in the definition of the term—

(i) “transaction advisor” by inserting the words “or the unit” “accession” immediately after the word “authority” appearing in line four;

(ii) “project company” by inserting the words “special purpose vehicle” immediately after the word “a” appearing in the first line;

(b) by inserting the following new definitions in the proper alphabetical sequence—

“special purpose vehicle” means a company incorporated in Kenya by the successful bidder, the sole purpose of which shall be to execute the public private partnership contract awarded”;

“public private partnership agreement” means a contract concluded between the contracting authority and a project company under which the project company is entrusted to undertake a project”.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

The Temporary Deputy Chairlady (Dr. Laboso): Yes, Chair of the Departmental Committee.

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 3(2) be deleted.

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

Clause 4

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

THAT, Clause 4 of the Bill be amended—

(a) by deleting sub clause (2)(a);

(b) in subclause 3(a) —

(i) by deleting the words “in any of the following fields; and,

(ii) by deleting subparagraph (i), (ii), (iii) and (iv).

Madam Temporary Deputy Chairlady, my amendment and that of the Departmental Committee are the same. So, I would like---

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, the proposal of the Departmental Committee is different. So, let us dispense of yours first and then we will move to the one by the Committee.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Dr. Laboso): Committee Chair, you also have an amendment to Clause 4. It would help if you could briefly explain what the import of your amendment is.

Mr. M'Mithiaru: Madam Temporary Deputy Chair, in view of the amendment by the Minister, we have talked and we are withdrawing our amendment. We will go by the Minister's amendment.

(Proposed amendment by Mr. M'Mithiaru withdrawn)

(Clause 4 as amended agreed to)

(Clauses 5 and 6 agreed to)

Clause 7

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

THAT, Clause 7 of the Bill be amended by inserting the following paragraph immediately after paragraph

(g)—

(ga) examine and approve the feasibility study conducted by a contracting authority under this Act.

The Temporary Deputy Chairlady (Dr. Laboso): What is the import of your proposed amendment?

The Minister for Finance (Mr. Githae): It is just to put in a new clause that before they do this they would examine and approve the feasibility study conducted by the contracting authority under this Act. It is basically improving it. The Committee has the same amendment, so maybe they will withdraw theirs.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): I will pose for a minute because of the statement by the Minister.

Mr. M'Mithiaru, are you in agreement? The Minister has just stated that the Committee's amendment is similar to his.

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, our amendment has been adequately covered by the Minister. Therefore we withdraw ours and go by the one proposed by the Minister.

(Proposed amendment by Mr. M'Mithiaru withdrawn)

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

(Clause 7 as amended agreed to)

(Clauses 8, 9, 10 and 11 agreed to)

Clause 12

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

THAT, Clause 12 of the Bill be amended—

(a) in sub clause (1)(b)—

(i) by deleting the words “deputy Directors” and substituting therefor the word “staff”;

(ii) by deleting the word “Committee” and substituting therefor the word “Director”;

(b) in subclause (2) by deleting the words “ deputy Director”and substituting therefor the word “ staff” ;

(c) in subclause (3) by deleting the words “or a deputy director”;

(d) in subclause (4) by deleting the words “and deputy Directors”.

Instead of the words “deputy Directors”, we are substituting with the word “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 12 as amended agreed to)

(Clause 13 agreed to)

Clause 14

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

THAT, Clause 14 of the Bill be amended in sub clause (2)(i) by deleting the word “it” appearing immediately after the word “where” and substituting therefor the words “the unit”.

This, again, is for polishing; instead of “it”, we want to be specific that we are referring to the unit.

(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 14 as amended agreed to)

(Clauses 15 and 16 agreed to)

Clause 17

Mr. M’Mithiaru: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, clause 17(1)(d) be amended by inserting the words “and any other written law” immediately after the word “Act”.

Madam Temporary Deputy Chairlady, this amendment gives this clause some power to properly conform to other provisions like clause 34 and clause 32 to ensure that it is in conformity with other written laws.

(Question of the amendment proposed)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, in accordance with the agreement, I support.

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

(Clause 17 as amended agreed to)

(Clauses 18, 19, 20, 21, 22 and 23 agreed to)

Clause 24

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

THAT, Clause 24 of the Bill be amended in sub clause (1) by inserting the words “and print” immediately after the word “electronic”.

(Question of the amendment proposed)

Mr. M’Mithiaru: Madam Temporary Deputy Chairlady, we also had an amendment but the one brought by the Minister adequately covers our concerns. Therefore, we withdraw ours.

(Proposed amendment by Mr. M’Mithiaru withdrawn)

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

(Clauses 25 and 26 agreed to)

Clause 27

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

THAT, Clause 27 of the Bill be amended—

(a) in sub clause (2) by deleting the words “and end users”;

(b) in sub clause 3 by deleting the words “request for qualification” and substituting therefor the words “tender documents”.

Madam Temporary Deputy Chairlady, again this is basically cleaning it up.

(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 27 as amended agreed to)

(Clauses 28 and 29 agreed to)

Clause 30

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

THAT, Clause 30 of the Bill be amended—

(a) in subclause (1) by inserting the words “together with the unit and the node” immediately after the word “Act”.

(b) in sub clause (3) by inserting the words “a report of the consideration and analysis under subsection (2) and” immediately after the word “submit”.

Madam Temporary Deputy Chairlady, again this is just basically cleaning it up.

(Question of the amendment proposed)

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

(Clause 30 as amended agreed to)

Clause 31

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

THAT, Clause 31 of the Bill be amended in sub clause (3) by deleting the words “may co-opt into” and substituting therefor the words “shall include in”.

Madam Temporary Deputy Chairlady, we want to make it mandatory that the experts will be included and not be co-opted.

(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 31 as amended agreed to)

Clause 32

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

THAT, Clause 32 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (c)—

(d) the affordability, value for money and public sector comparator for the project as prescribed in the regulations made under this Act.

Madam Temporary Deputy Chairlady, again this is to make sure that the Government gets value for its money.

(Question of the amendment proposed)

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

(Clause 32 as amended agreed to)

Clause 33

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 33 be amended by inserting the words “not later than two months after the study” immediately after the word “form”.

Madam Temporary Deputy Chairlady, after the study there is no timeframe given as to when the report must be filed. So, this is just to give time to ensure that once the report has been prepared, it is not just kept; it must be presented within two months.

(Question of the amendment proposed)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I was going to oppose that amendment but since we have entered into a gentleman's agreement, I support it. We thought that two months without any possibility of an extension would have been too much for the civil servants. But in view of our agreement, I support.

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

(Clause 33 as amended agreed to)

Clause 34

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

THAT, Clause 34 of the Bill be amended—

(a) by inserting the following new sub-clause immediately after sub clause (1)—

(1A)The unit shall submit the feasibility report to the debt management office for assessment and approval of the fiscal risk and contingent liabilities of the project;

(b) in subclause (2) by inserting the words “and the approval of the debt management office“ immediately after the word “recommendations”.

(c) in subclause (3) by inserting the words “and the approval of Cabinet” at the end thereof.

Again, this is just improving the clause as was recommended to us by the private sector.

(Question of the amendment proposed)

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

(Clause 34 as amended agreed to)

*(Clauses 35, 36, 37, 38, 39, 40,
41, 42 and 43 agreed to)*

Clause 44

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

THAT, Clause 44 of the Bill be amended by inserting the following new sub clause immediately after sub clause (4)—

(5) After concluding the competitive dialogue stage, the contracting authority may alter project specifications, risk matrix or structure and may reopen pre-qualification for the project, while keeping the initial prequalified parties qualified.

Again, this is improving the clause to make sure that all the necessary procedures will be agreed upon.

(Question of the amendment proposed)

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

(Clause 44 as amended agreed to)

Clause 45

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

THAT, Clause 45 of the Bill be amended—

(a) in sub clause (1) by deleting the words “unless otherwise stipulated in the invitation to bid or tender documents prepared by the contracting authority”;

(b) in sub clause (2) by deleting the words “tender document ” and substituting therefor the words “bid submission”;

(c) in sub clause (7) by inserting the words “except for construction and design criteria at the later stage of the project ” at the end thereof.

This is just to make sure that there are no anonymous bids, and that every bid has a name.

(Question of the amendment proposed)

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

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

(Clause 45 as amended agreed to)

Clause 46

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

THAT, Clause 46 of the Bill be amended—

(a) in sub clause (2) by inserting the following new paragraphs immediately after paragraph (c)—

(d) a representative of the unit;

(e) a representative of the Attorney- General;

(b) in subclause (4) by deleting the words “and may co-opt into the Committee a representative of the unit”.

This is just to include representatives of the Attorney-General and a representative of the unit.

(Question of the amendment proposed)

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

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

(Clause 46 as amended agreed to)

(Clauses 47, 48, 49, 50 and 51 agreed to)

Clause 52

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

THAT, Clause 52 of the Bill be amended—
(a) in subclause (4) by deleting the words “for assessment” and substituting therefor the words “for confirmation of its initial approval at feasibility stage based on final contract and preferred bidder submission”;

(b) by deleting subclause (5).

Again this is just an improvement.

(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 52 as amended agreed to)

(Clause 53 agreed to)

Clause 54

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

THAT, the Bill be amended by deleting Clause 54.

This is to include even social projects and not just basically commercially viable projects.

(Question of the amendment proposed)

Mr. Njuguna: Madam Temporary Deputy Chairlady, I do not know whether I got the Minister right, because according to the Bill it appears as if participation by Parliament is being withdrawn in Clause 54. Am I right, hon. Minister?

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, it is not so. Clause 54 actually reads:-

“The Committee shall not, where it is of the opinion that the cost or financial risk that would be incurred in undertaking the project outweigh the benefits of undertaking the project under this Act, recommend the approval of the undertaking of the project as a public private partnership under this Act”.

This is the clause that we are withdrawing. We are saying that even social projects can be included.

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

(Clause 54 deleted)

(Clauses 55, 56 and 57 agreed to)

Clause 58

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 58(1) be amended by inserting the words “if fundamentally serious adverse consequences are likely to occur if the tender process is allowed to go on”.

This is to correct or cure any mischief that the contracting authority may have in terms of cancelling the tender as and when they wish. So, it is giving a condition that the tender will not just be cancelled without proper reason. I will also be quick to point out that there was a typographical error. It is after the word “contract.”

(Question of the amendment proposed)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, the Chairman of the Committee has properly explained, but for purposes of procedure, I would like to propose a further amendment after what the Committee has said, so that it now reads:-

“THAT, Clause 58(1) be amended by inserting the words “if fundamentally serious adverse consequences are likely to occur if the tender process is allowed to go on”.

The word I am adding is immediately after the word “contract”.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, you are actually the one who is allowed to do any amendments on the Floor.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, that is what I have done. I have proposed a further amendment.

The Temporary Deputy Chairlady (Dr. Laboso): So, you are not asking the Committee to do it? You are proposing a further amendment. Is the Committee in agreement with that amendment?

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I am in agreement with that further amendment by the Minister.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, can we have the signed copy of your further amendment?

(Question of the further amendment proposed)

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

(Clause 58 as amended agreed to)

(Clause 59 agreed to)

Clause 60

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

THAT, the Bill be amended by deleting Clause 60.

This is again to remove that complicated process given by Clause 60. We want to make the process simpler.

(Question of the amendment proposed)

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

(Clause 60 deleted)

(Clause 61 agreed to)

Clause 62

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

THAT, Clause 62 of the Bill be amended—

(a) by deleting sub clause (1) (d);

(b) in sub clause (2)(e) by inserting the words “in the regulation of this Act” at the end thereof.

Again, this is just to improve the original clause.

(Question of the amendment proposed)

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

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

(Clause 62 as amended agreed to)

(Clause 63 agreed to)

Clause 64

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

THAT, Clause 64 of the Bill be amended by inserting the following new sub clause immediately after sub-clause (2)—

(3) Upon the approval of the Committee, it may be agreed to resolve disputes arising under the project agreement through arbitration, or any other non-judicial means of dispute resolution agreed upon in the project agreement as specified in paragraph 18 of the Third Schedule.

Again, this is to propose that where there is a dispute, arbitration and mediation be given the first opportunity.

(Question of the amendment proposed)

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

(Clause 64 as amended agreed to)

(Clause 65 agreed to)

Clause 66

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

THAT, Clause 66 the Bill be amended—

(a) in sub-clause (1) by inserting the words “together with sector regulators, where applicable” immediately after the word “shall”;

(b) by inserting the following new sub clause immediately after sub clause (5)—

(6) The sector regulatory bodies shall play an active role in the project implementation phase through monitoring the performance of the contracting authority and the private party in accordance with the procedures prescribed by the Cabinet Secretary under this Act.

This is to include other sectors also to be consulted.

(Question of the amendment proposed)

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

(Clause 66 as amended agreed to)

(Clause 67 agreed to)

Clause 68

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

THAT, Clause 68 of the Bill be amended—

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

(c) the unit director;

(b) by inserting the following new sub-clause immediately after sub-clause 4—

(4A) The decision of the Committee shall be final and shall be binding on both parties.

This is basically to clean it up.

(Question of the amendment proposed)

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

(Clause 68 as amended agreed to)

(Clauses 69, 70 and 71 agreed to)

Clause 72

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

THAT, Clause 72 of the Bill be amended in subclause (2) by inserting the following new paragraphs immediately after paragraph (b)—

(c) provide for the minimum value of investment cost and tenor for a public private partnership project less than which will not be subject to this Act;

(d) provide for the procedure of appointment of the members of the Committee.

This is to avoid all PPPs going through this committee. We are now saying that the Cabinet Secretary will set a minimum value and if it is below that, then it does not have to go through the PPP.

(Question of the amendment proposed)

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

(Clause 72 as amended agreed to)

(Clauses 73, 74, 75, 76, 77, 78 and 79 agreed to)

New Clause 19A

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted immediately after Clause 19—

Sector diagnostic study and assessment.

19A. A contracting authority shall, prior to entering into public private partnership arrangements pursuant to section 19, undertake a sector diagnostic study and assessment covering the following—

(a) technical issues;

(b) legal, regulatory and technical frameworks;

(c) institutional and capacity status;

(d) commercial, financial and economic issues; and

(e) such other issues as the Cabinet Secretary may stipulate.

We are bringing in this clause because when the contract is being made between the parties, there is no provision on their ability. So, we are bringing in a clause to ensure that a diagnostic study is done before the contract is signed to ensure that there is the ability in the agreement that is going to be signed.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I rise to second the amendment. We have agreed with the Committee that this study is important so that we take into account all the other relevant factors. I, therefore, support.

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

(The new clause was read a Second Time)

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

(First Schedule agreed to)

(Second Schedule agreed to)

Third Schedule

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

THAT, the Third Schedule be amended—

(a) by deleting paragraph 22 and substituting therefor the following new paragraph—

22. Direct agreements and lenders rights where applicable;

(b) by inserting the following new paragraph immediately after paragraph 24—

25. Cases of emergency step in by either contracting authority or lenders in case of private party default.

This is just to improve on the Schedule.

(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)*

(Third Schedule as amended agreed to)

(Title agreed to)

Clause 1

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 1 be amended by inserting the words “which date shall not be later than thirty days from the date of assent” immediately after the word “appoint”.

The reason for this is that after the assent of the Bill, sometimes Cabinet Secretaries may delay in gazetting the operationalization of the Bill. So, this is just giving a timeframe within which the Cabinet Secretary must gazette the operationalization of the Bill.

(Question of the amendment proposed)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I agree with the Chairman of the Committee, but we thought that 30 days was a bit onerous. However, in view of a gentleman’s agreement, I support.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, the only thing I would want the Chairman of the Committee to consider is that there are times we pass Bills with those provisions and the relevant Minister does not abide by even the specified timelines. So, unless we give a provision for automatic passage, then it really does not cure what we are trying to do.

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I hear what my colleague is saying, but at the same time, we recognize that there is now a Committee on Implementation and I am sure once the House and the Committees are properly active, they will ensure that all the provisions that have been passed are implemented as per the Act.

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

(Clause 1 as amended agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chair, I beg to move that the Committee doth report to the House its consideration of The Public Private Partnerships Bill, 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE OFFICE OF THE ATTORNEY-GENERAL BILL

The Temporary Deputy Chairlady (Dr. Laboso): The next Bill is The Office of the Attorney-General Bill, Bill No.64 of 2012.

(Clauses 2, 3 and 4 agreed to)

Clause 5

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Baiya on behalf of the Committee! I am told that it is Mrs. Odhiambo-Mabona who will move on behalf of the Committee.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 5 be amended—

- (a) in subclause (1), by—
 - (i) deleting the word “legislation” and substituting therefor the words “legislative proposals” in paragraph (e);
 - (ii) deleting paragraph (f);
 - (iii) inserting the word “national” immediately before the word “Government” in paragraph (j);
- (b) in subclause (2), by deleting the words “and shall not be under the direction or control of any person or authority”.

This is to bring it in conformity with the Constitution.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): The Attorney-General, do you have a further amendment?

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I have a very minor amendment. I have already given notice. I beg to move:-

THAT, Clause 5 of the Bill be amended in sub-clause 1(g) by deleting the words “copyright, patents, trademarks” and substituting thereof the word “charities”.

The reason being that we have, by other legislation, donated the power of the registration of copyrights, patents and trademarks to independent bodies and we do not want to interfere with that.

The Temporary Deputy Chairlady (Dr. Laboso): But you are happy with the Committee’s amendments? Anyway we have already--- and it was an oversight.

The Attorney-General (Prof. Muigai): I had negotiated something with the Chair of the Committee and I had requested her if we could save Clause 5(2) where they say we delete “shall not be under the direction or control of any person or authority”. I had explained here and I thought my learned colleague and distinguished friend had sympathized with the position. The Attorney-General does a lot of work that requires independent reflection on the law and if he were to be under the direction of any other officer, it is conceivable that he could be required to come up with an outcome determined by somebody else. Whether somebody else is his immediate boss, the President or the Vice-President or the Cabinet, I think that there is a little danger there because what the Constitution intended is that in terms of institutional authority, the Attorney-General is a Member of the Cabinet acting collectively with Cabinet on Government policy. In his role as the legal advisor, it is intended that he should give independent and

unbiased professional opinion. So, I would recommend that we delete the words as proposed to Clause 5(2) and that should apply *mutatis mutandis*.

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Attorney-General, I did not see your interest in saying anything before so the amendment by the Committee was carried.

Mrs. Odhiambo-Mabona, do you want to say something?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, Sir, I would like to say that we agreed with the Attorney-General is Clause 6(5) which has a similar provision. So, even if you delete this, it does not really make a difference because it is already contained in Clause 6(5) and this is an amendment that was carried by the Committee. I would encourage the Attorney-General that we stay by what we agreed because what we discussed was that I was going to propose a deletion of Clause 6(5). We agreed that I do not move the amendment to delete Clause 6(5) which has similar provisions.

The Attorney-General (Prof. Muigai): I can deal with that compromise, Madam Temporary Deputy Chairlady.

(Question of the further amendment proposed)

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

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

The Temporary Deputy Chairlady (Dr. Laboso): I can see your light, Mr. Nyamweya.

Mr. George Nyamweya: Madam Temporary Deputy Chairlady, I am also a Member of the Justice and Legal Affairs Committee and I am not sure if that has been presented the way it is; as far as I recall. The independence we are talking about is not about tenure of service. It is the professional integrity, to give him independence to be able to come out. As a lawyer, you can give an opinion but on whether it is acted upon or not, it is something else. So, it ought to be the way the Attorney-General has proposed. Otherwise, it will make life very difficult for any Attorney-General to give proper advice if he is under instruction of the client. Therefore, what the Attorney-General was proposing is what I thought the Committee carried.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, for purposes of legislative history I am glad that Mr. Nyamweya has put that on record. One of the things that the Committee was uncomfortable with is that it seems to imply that it has given the Attorney-General certain powers that he does not have within the Constitution. The Committee understands that it is professional independence that he has. By virtue of this Bill, we will give him precedence over a whole lot of lawyers within courts. Just to clarify for Mr. Nyamweya, what we have carried is what was agreed by the Committee, which was to delete Clause 5(2) and retain Clause 6(5). In my view, that is what we have done and the Attorney-General has proposed a different further amendment. So, what we have done is what was agreed upon by the Committee.

(Clause 5 as amended agreed to)

Clause 6

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 6 be amended—

(a) in subclause (2), by—

(i) deleting paragraph (a) and substituting therefor the following new paragraph—
“(a) with leave of the court or tribunal, appear at any stage of proceedings, appeal, execution or any incidental proceedings before any court or tribunal”;

(ii) inserting the word “services” immediately after the word “legal” in paragraph (d);

(b) by deleting subclause (4) and substituting therefor the following new subclause—

“(4) The Attorney- General may, upon request, appear and advise on any legal matter in any committee of Parliament”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Attorney-General, do you have anything to say?

The Attorney-General (Prof. Muigai): I have no problem with the proposals of the Committee in respect of Clause 6.

(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)

(Clauses 7 and 8 agreed to)

Clause 9

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 9 of the Bill be amended in subclause (5)(c) by deleting the word “Supreme”.

The intention of moving this amendment is to clarify that the Solicitor-General is not only to deal with Supreme Court cases. We want to delete the word “Supreme” and say “all court cases.” I have discussed that with the learned Deputy Chairperson of the Committee on Justice and Legal Affairs and she is in agreement.

(Question of the amendment proposed)

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

(Clause 9 as amended agreed to)

(Clauses 10, 11, 12, 13 and 14 agreed to)

Clause 15

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:- THAT, Clause 15(2) be amended by deleting the words “or Commissions”. The aim of this is to retain the independence of commissions.

(Question of the amendment proposed)

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I want to persuade my distinguished learned friend that if she looks at Clause 15(1), she will see that the idea is to make all State Counsel officers of the Attorney-General’s Office. If they are seconded to a Commission, they still remain answerable to the Attorney-General. However, if they are legal officers hired independently by the Commission, the Attorney-General has no authority over them or any influence. So, I would propose that we drop that amendment. This is just to give the Attorney-General continuing supervisory authority over officers of his Chambers who serve in commissions. In practice, it will bring no problem whatsoever because most commissions hire their own independent counsel.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I am not persuaded. If the hon. Attorney-General were to give direction to State Counsel who serve in commissions, then that would jeopardize the independence of those commissions. However, if the Attorney-General feels that his supervisory role is compromised, then the option is to recall the officer that has been seconded. So, I am really not persuaded and I would like to retain the amendment as proposed by the Committee.

We had negotiated this with hon. Attorney-General. So, he is surprising me on this one.

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I will not pick a big fight on this one. The truth is that even if a commission hired its own independent lawyers, the Constitution and the Supreme Court have said that those independent lawyers must seek the advice of the Attorney-General. Therefore, if the Committee feels very strongly, I will allow their amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Well, it appears like they feel that very strongly.

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

(Clause 15 as amended agreed to)

(Clauses 16, 17 and 18 agreed to)

Clause 19

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 19 be amended by deleting the word “Commissions”.
This is for the same reasons as the amendment on Clause 15.

(Question of the amendment proposed)

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, because of the harmonious working relationship with the Committee, I will not object.

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

(Clause 19 as amended agreed to)

(Clause 20 agreed to)

Clause 21

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 21(8) be amended by inserting the word “services” immediately after the word “legal”.

This is basically to add the word “services” immediately after the word “legal.”

(Question of the amendment proposed)

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I concur with the Committee. I have no objection.

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

(Clause 21 as amended agreed to)

*(Clauses 22, 23, 24, 25, 26, 27, 28,
29, 30, 31, 32 and 33 agreed to)*

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Office of the Attorney-General Bill, Bill No.64 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS BILL

The Temporary Deputy Chairlady (Dr. Laboso): We will now consider the Office of the Director of Public Prosecutions Bill, Bill No.69 of 2012. Hon. Members, we do not have any amendment to this Bill.

The Attorney General (Prof. Muigai): Madam Temporary Deputy Chairlady, the Chair of the Committee has just intimated to me that they have proposed certain amendments that are not yet before the House. I do not know whether she wishes to address you on that before I address you on my own proposal.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairlady, the Committee only had opportunity to look at the earlier Bill on the Office of the Attorney General. We have not had an opportunity to finalize on this Bill. So, I was requesting the hon. Attorney General that this Bill be placed before the House on Thursday.

The Attorney General (Prof. Muigai): Madam Temporary Deputy Chairlady, I was very anxious to complete this assignment today. But I would like to work with the Committee as much as it is practically possible. So, I do not know if it will be possible to place this business on the Order Paper on Thursday as priority business, because the two Bills are much related; I would be obliged, and I leave this to your discretion.

The Temporary Deputy Chairlady (Dr. Laboso): The Attorney General, I think this is a very important Bill and we need to have the input of the Committee. So, we shall allow it to be deferred to Thursday afternoon.

(The Bill was deferred)

The Next Bill also does not have amendments from the relevant Departmental Committee, and we will also defer it to tomorrow morning.

THE SOCIAL ASSISTANCE BILL

(The Bill deferred)

(The House resumed without following any procedure)

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

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE AGRICULTURE, LIVESTOCK,
FISHERIES AND FOOD AUTHORITY BILL

Dr. Labos o: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Agriculture, Livestock, Fisheries and Food Authority Bill, Bill No.61 of 2012, and approved the same with amendments.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report.

Mr. Ruto seconded.

(Question proposed)

(Question put and agreed to)

The Vice-President and Minister for Home Affairs (Mr. Musyoka): I beg to move that The Agriculture, Livestock, Fisheries and Food Authority Bill, Bill No.61 of 2012, be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded

(Question proposed)

Mrs. Odhiambo- Mabona: Mr. Temporary Deputy Speaker, Sir, I hope hon. Ruto is giving me proper advice; I wanted to contribute to this Bill.

The Temporary Deputy Speaker (Mr. Imanyara): You are perfectly in order.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister for this Bill; I want to say particularly that I am happy that one of the things that the Bill has done is to do away with the seasonal ban on fishing. That means fishermen can now fish without problems throughout the year.

Secondly, I am happy also that with the passing of this Bill, the Government will be obligated to remove the water hyacinth plant.

Thank you, I support.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I see the point of order from hon. Attorney General; are you on a point of order?

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, no.

The Temporary Deputy Speaker (Mr. Imanyara): You may proceed, hon. Issac Ruto.

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister for Agriculture, hon. Sally Kosgei, for actually listening to the contributions by Members of Parliament and for her tolerance and concurrence. We had to correct the issues in that particular Bill which were contradicting the system and the spirit of the devolved governments. I am sure that this Bill lays a proper framework for implementation of proper agriculture next year.

Thank you, Mr. Speaker, Sir.

(Question put and agreed to)

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

THE PUBLIC HEALTH OFFICERS (TRAINING,

REGISTRATION AND LICENSING) BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Public Health Officers (Training, Registration and Licensing) Bill (Bill No. 20 of 2009) and approved the same with amendments.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for East African Community (Mr. Munya) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Public Health Officers (Training, Registration and Licensing) Bill, 2009 be now read the Third Time.

The Assistant Minister for East African Community (Mr. Munya) seconded.

(Question proposed)

(Question put and agreed to)

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

THE PUBLIC PRIVATE PARTNERSHIPS BILL

Dr. Laboso: Mr. Temporary Speaker, Sir, I beg to report that Committee of the whole House has considered The Public Private Partnerships Bill (Bill No.12 of 2012) and approved the same with amendments.

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 Vice-President and Minister for Home Affairs (Mr. Musyoka) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Public Private Partnerships Bill be now read the Third Time.

The Vice-President and Minister for Home Affairs (Mr. Musyoka) seconded.

(Question proposed)

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

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, let me start by thanking the Minister for doing a wonderful job and say that this law will spur economic growth in the country thus creating employment for our youth.

With those remarks, I beg to support.

(Question put and agreed to)

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

THE OFFICE OF THE ATTORNEY GENERAL BILL

Dr. Laboso) Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Office of the Attorney General Bill (Bill No.64 of 2012) and approved the same with amendments.

The Attorney-General (Prof. Muigai): 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 Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Office of the Attorney General Bill be now read the Third Time.

The Minister for Youth Affairs and Sports (Mr. Namwamba) seconded.

(Question proposed)

(Question put and agreed to)

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

BILL

Second Reading

THE SPORTS BILL

(The Minister for Youth Affairs and Sports on 10.10.2012)

(Resumption of Debate interrupted on 10.10.2012)

The Temporary Deputy Speaker (Mr. Imanyara): Who was on their feet?
Minister for Youth Affairs and Sports!

The Minister for Youth Affairs and Sports(Mr. Namwamba): Mr. Temporary Deputy Speaker, Sir, I am pleased to conclude moving this Bill which I had started moving on Wednesday, 10th October, 2012.

Mr. Temporary Deputy Speaker, Sir, in conclusion let me just say that this Bill has come a very long way and it is the culmination of tremendous efforts that have been taken previously to streamline sports in this country. That has included the Kenya National Sports Policy of March, 2002 and Sessional Paper No.3 of 2005 on Sports Development among other documents that have been generated in this long journey.

Mr. Temporary Deputy Speaker, Sir, it is crucial to put it on record that among the major restructuring of sports that will come into being by way of this Bill is the establishment of five crucial bodies that will help to take sports in this country to the next level.

These include the Kenya Sports Development Authority which at a later stage during the Third Reading we shall be proposing that it be renamed “Sports Kenya”. The National Sports Fund, the Kenya National Sports Institute, the Registrar of Sports Organization that will be responsible for registration and oversight over sports organizations and quite crucially the Sports Disputes Tribunal which will hear and determine disputes related to sports, sports organizations and appeals from the decisions of the registrar of sports organizations.

Those five institutions will in a very fundamental way remake the entire arena of sports. Let me just say that sports is a universal language. It is a language that everybody can understand and log into. Sports has brought fame and great prosperity to this country. This Bill has been awaited for a long time.

I want to plead with the House to use this opportunity as the sun sets on the life of the Tenth Parliament and as we commend the Tenth Parliament for being the most reformist House in the history of this country, that this Bill be part of the great reforms that have already been witnessed in the life of this House.

Mr. Temporary Deputy Speaker, Sir, allow me to commend the Committee on Labour and Social Welfare chaired by my eminent sister Mrs. Sophia Noor for the excellent work they have done in respect of this Bill. I have had occasion to hold a meeting with this committee and I was very impressed by not only their commitment to this Bill but also their very passion, their understanding of the content of this Bill. I do believe that after this Bill has been enacted, it will indeed be easy for myself and the committee responsible to agree on brushing it up and making improvements which I am pleased to report to the House that we have basically agreed between myself and the committee that oversights the Ministry.

Mr. Temporary Deputy Speaker, Sir, it is indeed my great pleasure to move the Sports Bill, 2012.

I beg to move and my dear sister, Minister for Higher Education, Science and Technology, and Governor-designate for Uasin Gishu County, will most kindly second the Bill.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I rise to second this Bill.

This Bill is long overdue. The establishment of an Authority to be known as the Kenya Sports Development Authority is something that we should have done a long time ago. You realize that the sportsmen of this country are self-made. We have not co-ordinated or managed them, yet they have excelled and given Kenya a name. If only we had this Bill before to organize them a little bit better, I am sure we would have been stars of the international community more than what we are currently.

Two things strike me in the functions of the new Authority. The fact that they are going to promote, co-ordinate and implement grassroots, national and international sports programmes for Kenyans is very important. Again, lack of co-ordination has led sometimes to some of our very good athletes missing out on very special events mainly because there was nobody to coordinate or promote them. So, it is very encouraging that this Bill has touched on all those sectors. The other area that the Bill has touched, which is very encouraging is the management and maintenance of our sports facilities. I come from the region where Kipchoge Keino comes from. In my constituency, we have a stadium called Kipchoge Stadium. I had the privilege of inviting the Minister to see for himself the dilapidated state in which the Kipchoge Keino Stadium is in. I was happy that he moved within the first month of his appointment and looked at the situation in which this stadium is in. I am glad that after this Bill is enacted, there will be proper management and maintenance of the facilities that we have.

The Bill also outlines that it is going to manage and maintain the current facilities as outlined in Schedule 1. If you look at Schedule I, it gives you only two facilities that are known to us, namely, the Moi International Sports Centre in Kasarani and the Nyayo National Stadium. The provision number three is what is even more exciting, that they are going to deal with any other sports facilities. I believe the Kipchoge Keino Stadium will be in this category. We need to spread out and build facilities for our youth. This is not only going to create a facility for those who like sports as a hobby, but since it has been a money maker in this country, it will turn around sports to be one preferred investment area for our youth.

With those remarks, I beg to second.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, let me also join my colleagues in this House on this very important Bill. First, I want to thank the new Minister, hon. Namwamba, for bringing new dynamism in this Ministry. We have seen him being very close to the various sports committees in this country. He has also been very close to the sportsmen.

This is a Ministry that needs to be given a lot of money, so that its activities and programmes are implemented in good time and for the interest of this country.

Mr. Temporary Deputy Speaker, Sir, time and again, this Ministry has been starved of resources, therefore, training of athletes does not get to its peak. The Ministry has also not been able to recruit qualified coaches to handle our athletes and other sporting activities. Enough funds must also be there to make sure that competitions and championships are staged in this country.

Great pugilists or boxers in this country like Philip Waruinge, the first boxer to earn a Silver Medal in Olympics, have been forgotten. It is high time that such athletes or sportsmen are considered, elevated and rewarded because of promoting the image and fame of this country. Mr. Charles Asati, a very famous athlete of 4x400 Meters, demonstrated the stamina and the determination of our athletes during the 1972 Olympics Games. Our facilities in this country need to be upgraded. This cannot be done if the Ministry is not allocated a lot of resources. I recall sometimes last year when His Excellency the President visited Kiambu County and pledged to allocate Kshs30 million for the upgrading of Kirigiti Stadium. Up to now, the stadium has not been improved. I call upon the Minister to investigate this matter because this is the only stadium that the entire Kiambu County can stage their activities. This is where the first public meeting was held by the founding fathers of this nation and, therefore, it is a historic stadium.

With regard to unnecessary stampedes in our stadia, this must be checked because we have lost precious lives. We experience lawlessness during soccer events or when we have other major events. This is an area where the Minister should pay a lot of attention. It is, therefore, important that as this country continues to be a major international hub, to make sure that talents are tapped from primary to secondary schools levels and even in colleges, so that the image of this country is properly protected.

With those few remarks, I beg to support the Bill.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to support this Bill. On the outset, I want to sincerely thank the youthful Minister and, indeed, it shows very clearly that youthful leaders can change this country, for ensuring that this Bill is before this House. We came here as leaders to come and change certain things that are not very clear and that are not moving in the right direction. One of them is sports in this country. This is a sporting nation. More so, internationally, Kenya is known in athletics. If you look at our athletes today, some of them, nobody even knows where they are yet these are people whom we can term as serious ambassadors of our country each time we have Olympics and international championships. I want to thank the Minister.

The object of this Bill is to promote sports. We must, as a country, address the serious challenges that sports are facing in this country. One is that as a country, while we have international athletes, our stadia are in very bad shape. The Minister has mentioned the Kipchoge Keino Stadium in Eldoret. I want to invite him to the Kipchoge Stadium in Kapsabet. He will not know that he is in a stadium until someone tells him so. It is in a very pathetic state that should not be allowed aware that our international athletes come from there.

If you talk about shot put, javelin or even the hurdles, they are rarely found anywhere today other than in Kasarani and maybe in Nyayo Stadium. These are facilities that are very necessary up to the grassroots level. I am glad that we are going to have an authority which will be managing and coordinating sporting activities. I want to indicate here that the functions of this authority which shall be vested in the board as indicated here are very critical. They will be able to establish and maintain a sportsmanship which is very important and critical for this country and which will participate in the promotion of sports tourism. If the Minister for Tourism could actually address issues related to our athletes, we shall have very many tourists visiting Kenya to see what Kenyans are doing.

Mr. Temporary Deputy Speaker, Sir, I want to suggest that the athletes be part of the board because they are the ones who know where the shoe pinches most, as the saying goes. It is important to incorporate the athletes in the Board. What we have witnessed of late is a country that is benefitting a lot from the athletes and yet going back to the same athletes and saying that they want to tax them a bit. This is frustrating to our athletes who should be considered as the first ambassadors of our country. Therefore, taxing them here is not really very necessary.

I want to appeal that this Bill is passed. Therefore, I wish that this comes for the Third Reading almost immediately.

With those few remarks, I support.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I also want to support this very important Bill. I want to join my colleagues in thanking the Minister. I know we have come a long way in trying to look at this Bill together. I know the principles that are within this Bill are those that can transform and change this country in the next level of sports activity in this country. I am so happy that this Bill has gone through the Second Reading and I pray that it will go through the Third Reading tomorrow.

Mr. Temporary Deputy Speaker, Sir, one thing that gives me a lot of interest in this Bill is the establishment of a sports institute, facilities, administration and management of sports in this country. When I say management of sports in this country, you know what has been going on. My committee has tabled a report on mismanagement of sports activity in this country. It is a property of this House now because we have done thorough investigation and we have seen how people have manipulated and misused our children. Some of these organizations and groups that do sporting activities in this country have misused their dockets and offices. They have abused their offices because they have even used their offices to traffic children from this country. This Bill will transform sports activities in a big way. It will also bring out control and also bring transparency in sports. Due to this, we will have institutions that will respect, according to Schedule Two, how sports organizations will be constituted. This is where sports organizations have misused institutions because they did not have a legal framework. The Second Schedule provides how those bodies are going to be registered, how they are going to elect their officials and how to conduct their affairs.

Mr. Temporary Deputy Speaker, Sir, the other thing that is important in this Bill is the establishment of a National Sports Fund. If you look at any other country, when people go out to do sports and win even one medal, their president goes to receive them but in our country, we receive more than ten gold medals and nobody goes to receive our athletes or give them an award. You can see what Uganda is doing with their athletes and we are not doing the same. This is a Bill that is going to look at the issues that will promote the interest of sportsmen and sports women of this country who have taken the name of this country to many levels. The other thing that is very important is the establishment of the Kenya National Sports Institute.

This institution will look at all the other organizations that will be under it. This will be an oversight institution that will look critically at the activities that affect sports and the athletes will be comfortable. The sportsmen and women of this country have been asking and yearning to have a Sports Bill in this country. I know that we are speaking for many Kenyans today. We are speaking for the athletes of this country. I would like to tell the Minister that this is a very good Bill. We have amendments which we agreed with the Minister and we will move them when we move to the next stage.

Mr. Temporary Deputy Speaker, Sir, the other principle which is captured here is recreation. Our children all over this country have missed places for recreation. We have these facilities here in Nairobi but if you go to the rural centres, you will find our children playing in the streets. They think vehicles are toys to play with. We have many accidents because children do not have facilities to play in. They play in the streets while thinking that those are the places meant for recreation.

I want to thank the Minister. This is very important because it will give children an opportunity of growth. When you give them recreation facilities, you are giving them an opportunity for growth. Once you give them an opportunity for growth, it means that they will be focused and be responsible Kenyans who will stand up and lead this country to the next level.

Mr. Temporary Deputy Speaker, Sir, I support this Bill. Thank you very much.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, first of all, I would like to congratulate the new youthful Minister for bringing this very important Bill to the House. We have total confidence in the new Minister and we believe that he will revamp and change the way we manage things in the sports sector.

This country is known throughout the world for sporting activities. We have the best runners, especially in long races. If you move around the world, you will see that Kenyans are always recognized for being the best athletes, especially in long races. Establishing the Sports Authority is extremely crucial because sports in this country have been managed in the most unprofessional way. This Authority will run the affairs of sports in our country in the way that we desire. As you know, this is a sector that Kenyans have a lot of capacity in.

This, as you know, is a very important sector. If you go to the Rift Valley and parts of Central Province, you can get the best runners in the world. You only need to give them the wherewithal; you only need to support and motivate them.

Mr. Temporary Deputy Speaker, Sir, we need to motivate our sportsmen and sportswomen. We need to have one of the best academies in the region. I want to advise our Minister to benchmark with Cuba. She should get sometimes to go to Cuba, Jamaica and some states in America. She will get the best sports academies she has never seen in this part of the globe. When she benchmark and really replicate some of them here, she can be sure that she will give these young men and women, who aspire to be sportsmen and sportswomen, the best that this country can offer.

Mr. Temporary Deputy Speaker, Sir, we need a robust policy that cascades to the counties. We want the counties to be very robust in terms of coming with policies and programmes that will promote sports, because we will not want to rely on the national Government alone.

Mr. Temporary Deputy Speaker, Sir, lastly, I just want to say that we need to motivate our sportsmen, sportswomen, whether they are current or former, by giving them the best medals. Not these medals that we talk about like the Head of State Commendation and Silver Star, but we should give them from Member of the Golden Heart (MGH) to Elder of the Golden Heart (EGH). That is the only way we can motivate our young men and women.

With those few remarks, I beg to support.

Mr. C. Onyancha: Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity.

First, I want to start by congratulating this very new and able Minister for introducing this Bill so early.

Mr. Temporary Deputy Speaker, Sir, the issue about care for athletes has been bothering many of us over the years, especially retired athletes. I hope that the introduction of some of the clauses in this Bill will in some way address the needs and the welfare of retired athletes, especially those who were pioneers in this area before sports became lucrative and profitable.

Mr. Temporary Deputy Speaker, Sir, so as to take care of our athletes for the future, I would offer some other suggestions. I am for taxing athletes' earnings within reasonable limits. In addition to that, we need to create pension scheme for them, so that we do not have old age poverty among our athletes. A case in point is Mr. Nyandika Maiyoro, one of the most renowned athletes of this country in the yester years, who is now living in poverty, whom the Government allocated a House and it was taken away from him by corrupt councillors; the Prime Minister gave directive that he should be reinstated into that property, but this has not yet been done.

Mr. Temporary Deputy Speaker, the idea of a sports institute is most welcome. I hope that in building sports institute, we will also be able to consider decentralization because we have different aptitudes in different regions. I remember when I was young and growing up, we had a very strong boxing tradition in Nairobi and Nakuru. As some of you may remember, I am afraid many of us were very young in those days; but hon. Musial will remember that in 1966 in

Kingston, Jamaica, Mr. Waruinge won a silver medal in the Commonwealth games. He was voted the best boxer in that tournament.

Mr. Temporary Deputy Speaker, Sir, we have had many other good boxers after that, but their potential has not been fully exploited because of lack certain facilities and also lack of care by Government.

Mr. Temporary Deputy Speaker, Sir, you will remember that recently we had the case of our only gold medallist in boxing, Mr. Napunyi. He later passed on under unfortunate circumstances. He actually had the talent, but lacked guidance in terms of management. This is because we lack such an institute, people and a Government interested enough in its sportsmen.

I want to relate this back to those days when every estate in Nairobi and, in Kenya generally, had at its middle a play ground for children. I hope that the Government will repossess those stolen pieces of land which should be put back to the use for which they were meant. They were meant for sports and children development.

Mr. Temporary Deputy Speaker, Sir, I want to encourage the Ministry to liaise with the Ministry in charge of marketing Kenya because we have such great marketers in our athletes. But our marketing arm has not quite fully exploited, especially the tourist industry; the good publicity that we get from our athletes. Due to lack of good management previously, which will be corrected now, we have had very many cases where we have had our athletes burn out in Europe and when important games like the Olympics come, they are exhausted and they are not well managed. We take more managers and officials to the event, like it happened in the last London Olympics. That is something which has to be addressed.

Lastly, I hope that the issue of true competition in sports will be considered very soon, so that we can have boxing started at early ages in schools. That is where sports should really start. Rowing should be started in Kisumu, Mombasa and in other areas like Turkana, where we have a lot of water. In highland regions, like Kisii, Eldoret and other areas, should be given more focus, so that we can exploit our best resources since we have different aptitudes. We have an advantage. I am using the theory of comparative advantage.

With those few remarks, I beg to support.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry): Mr. Temporary Deputy Speaker, Sir, first of all, I want to commend the Minister for bringing this very important Bill to the House.

Most importantly is the issue of the Sport Development Authority (SDA), which will be the umbrella body under which all sporting activities will be put. We have had a problem of every sporting discipline having its federation. This has brought a lot of problems in this country.

Mr. Temporary Deputy Speaker, Sir, I want to commend our sportsmen, especially the ones who have been performing in athletics and in rugby. They have done a remarkable job for this country. They need to be recognised. They need to be given medals such as EGH. A person like David Rudisha has performed an exceptional duty. He has done a good job for this country, more than some of the people who are recipients of medals.

There is another very important and critical thing. I am very happy about the Minister because he is a young man. First of all, I am speaking as a marathoner; a world champion in the parliamentary category. I know how it feels when we have a country with sportsmen. In Uganda, only one man managed to take a gold medal home and the whole nation celebrated. Once we have this Bill enacted into law, each county will be forced to have a stadium. We can have a national academy for sports, but the law should be such that each county should have a stadium, so that all the children can participate in all types of sports.

Mr. Temporary Deputy Speaker, Sir, this is a very important Bill and, therefore, I urge the House to pass it immediately.

Mr. Chanzu: Mr. Temporary Deputy Speaker, I also want to join my colleagues in congratulating the Minister for bringing this Bill, which is long overdue. We have talked about the issue of sports and sportsmen in this country for a long time. There are people who have earned the country a very good name and reputation, but their efforts have not been noted.

This Bill will bring order and professionalism in the sports sector in the country. There are those who have played soccer for this country before the standards of football in the country went down. There are those who did very well in the past. Examples are Elijah Lidonde, Kadenge and others. Today Kadenge operates a taxi from some place in Hurlingham. Sometime back, he was hospitalised. People had to send out messages to collect money for his treatment. I think what he has done for the country would have enabled us to take care of him in old age. I am sure that once we get the Bill in place, it will be possible and easy to put this in some kind of order.

Mr. Temporary Deputy Speaker, Sir, there is also the issue of funding of sports. You have seen what has happened. Sometimes players are not able to go and play because they have not been given their allowances. This is because we have not had an orderly way of funding these activities. I am sure with the Bill in place there will be order and it will be possible for somebody responsible for sports to follow up some of these issues.

The other aspect which I think should be important here is taking cognizant of the fact that a large proportion of the population of Kenya; 70 per cent and above, is composed of the youth. We have youth who sometimes because of being idle end up getting into activities which are not good or are harmful to their lives and their future.

Mr. Temporary Deputy Speaker, Sir, I believe that with this Bill in place there can be some order and we can fund sports activities even at the grassroots LE levels; including some play grounds which the Minister mentioned in the budget a number of years back. He said we were going to create sports facilities in every constituency. This has, however, not been achieved up to now. I am sure with this Bill in place we can follow up this matter and achieve this.

Sports as a recreation are a very important activity, not only for the youths, but also for grown-ups. I think with some law in place it will formalize sports and recreational facilities in the country, so that we can have sports being followed up in an orderly way.

With those few remarks, I beg to support.

Mr. Kathuri: Mr. Temporary Deputy Speaker, Sir, let me also take this opportunity to, first of all, congratulate my young brother for having left the Back bench in style; two leaps forward. I also congratulate him for a job well done. He has brought a Bill which is surely going to address the plight of our youth. In so doing, having come up with such a good Bill, I think it is worth commending him.

I cannot fail to mention that we all know that our youth is a time bomb in waiting. One, jobs are not there. Secondly, if we do not engage them, they will be engaged for wrong purposes. When we address sports issue, we are specifically addressing the youth.

Mr. Temporary Deputy Speaker, Sir, when we address the sports issue we are specifically addressing the youth. I would want to say that this is a move in the right direction. It will reduce the confusion that we have seen in the various---

Mr. Gitari: On a point of order, Mr. Temporary Deputy Speaker, Sir. Listening to the speakers on this Bill of our colleague, Mr. Namwamba, it seems as if we are in concurrence. Is it in order for me to request that the Mover be called upon to reply?

The Temporary Deputy Speaker (Mr. Imanyara): Actually there is only one more request after this hon. Member and that is from Mr. Wamalwa. So, I think I will allow both of them to complete and then the Minister can respond. I do not see any other request, anyway.

Continue, Mr. Kathuri.

Mr. Kathuri: Mr. Temporary Deputy Speaker, Sir, it would also have been very bad for me not to contribute to this very important Bill. Thank you for saving me.

Mr. Temporary Deputy Speaker, Sir, I would also want to say that while the Bill is addressing the various issues that have been bedeviling this sector, it is important for us to also be wary of the problems that may not be captured. The Minister should know that when we read about Conjestina and we see how she is suffering, we would want to see how the Bill will address such calamities which occur to some of our sportsmen and sportswomen. Yes, they may have been earning a living and maybe something went wrong; we should also be seen to really be taking care of their future.

I am imagining that there should be a revolving fund which the Government must create through the Ministry to ensure that when such calamities occur sportsmen and sportswomen are taken care of just the way we parliamentarians, after serving for 10 years, you will be taken care of financially for the rest of our life.

Since sports are physical exercises definitely, you are bound to injure yourself and end up in a big crisis. This crisis may require a lot of financial support which may not be forthcoming if the Government does not take care of you, more so, in old age.

I have just heard one of the speakers talking about a former athlete who is operating a taxi. Surely at old age that is not the business to go into. These are the things we should be concerned about, so that we also ensure that they do not recur in future.

I am also concerned about the rate at which the Ministry is developing sports grounds for our youth. I want to commend the Minister because Embu has received funding to the tune of Kshs5 million and another tranche of Kshs5 million is coming, but it is not enough. But I believe that the Ministry can do better by allocating more funds. They should ensure that these grounds are well done, so that youth can use them for sports activities, generate some income which will partly go towards their upkeep and also ensure that the grounds look good. This will also be suitable for any sports activities that are bound to take place.

Mr. Temporary Deputy Speaker, Sir, I also note with a lot of concern that there are some sports activities which appear to be taken to be in the periphery. We have one gentleman who has been a weightlifter; you have seen him performing on various occasions, and even vehicles have run over his chest. It appears that as much as he is doing something that is really attractive, he is only surviving. This is a sport that can be nurtured. We wonder whether there is a way in which the Government can also look into such areas, so that we see such talent being nurtured even for the benefit of other youth who may be as strong as he is. He cannot be the only one in Kenya; I believe there are others who can perform as well as he is doing; we should also ensure that it is a talent that can be used by others to earn a living.

Last but not least, let us know that these youths when they perform outside this country, they earn a lot of money. Let it be clear how the Government wants to make them have savings for their future. While the Government ensures that it creates a fund that can sustain them, there should also be a way in which the Ministry can ensure that whatever they are earning is also put into good use. We saw what happened to Samuel Wanjiru the other day. It even cost him his life. We would want to see a situation where the Ministry ensures that when such youths earn huge sums of money they are able to remain sober. It should ensure that they lead safe lives.

With those few remarks, I support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Temporary Deputy Speaker, Sir. Judging the mood, I will be very brief. I just want to congratulate my brother, hon. Namwamba, for the very able manner in which he has taken over his new duties at the Ministry of Youth Affairs and Sports. Indeed, sports is a universal language. It is a language that unites and promotes national cohesion. To have a law in place to promote talent in sports, is encouraging. This Bill is overdue and I just want to thank my brother for bringing it.

Yesterday, I was in Mombasa at a conference where we were looking at the issue of the elections and the preparedness of elections. I had been given a topic to address the conference on the Agenda 4 issues. We came to the conclusion that, indeed, we have done very well on the first three items of stopping violence, settling Internally Displaced Persons (IDPs) and restoring the civil liberties. The Judicial and electoral reforms have gone very well. But under Agenda 4, there was an item of youth and employment that was marked as a ticking time-bomb in a nation that has close to 70 per cent of its population being youthful. Unless we do something to ensure that this huge population is not idle, unemployed or hopeless, we might be awaiting another spring that we saw bring down governments. Although we are unable to create the over 500,000 jobs that we promised the young people of this country way back in 2002, we can, through sports, tap this talent. We need to develop facilities.

There are many young people in all the estates who sit idle, join illegal gangs and resort to drug abuse. If we had developed sports facilities like gyms and others in the estates that could engage them and tap this talent, we would avert the problems that we are likely to have. We are not just talking about the stadium that they visit over the weekend.

As I wind up, I want to urge the Minister to look into the welfare of our sporting fraternity, particularly those people who go out and bring back home gold, silver and bronze and who make this nation proud every time our national anthem is played in far away cities in different foreign nations. When they come back home and we want to go for what they have brought, there is an outcry from the athletes. We need to see how issues of taxation can be addressed to ensure that we motivate people to go out and bear our flag proudly, knowing very well that whatever fruits of their labour that they will bring home, they will enjoy them.

With those few remarks, I beg to support this Bill.

The Temporary Deputy Speaker (Mr. Imanyara): When hon. Gitari stood up to request that the Mover be called upon to reply, there was only hon. Wamalwa who had made a request. I am quite satisfied that the contributions that are coming in now are just repetitive. So, I will, indeed, put the Question that the Mover be now called upon to reply.

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

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Speaker, Sir, let me express my very sincere gratitude to the House for the very robust and passionate contributions to this Bill. I want to assure the House that I bring this Bill very aware of the myriad challenges bedeviling our sports in this country. I am also aware that we have an opportunity to turn sports into a major industry, an industry that can sit right at the heart of the drive towards Vision 2030. It is an industry that can help to reduce the unacceptably high levels of unemployment in this country.

I know, therefore, that with some of the measures that have been set out in this Bill, we should address a lot of these challenges. It gladdens me that the Members are very passionate about the welfare of our sportsmen and women who have brought so much honour and who continue to bring so much pride to this country. They continue to fly our national flag with a lot of pride. I want to assure the House that we have put a number of measures in the Bill. We will be looking for further measures that I have had occasion to discuss with the Departmental Committee on Labour and Social Welfare which will address some of these issues. One of those issues is the question of taxation which we have specifically addressed in some of the amendments that will come to the House at the Committee Stage. I have had occasion to engage with our athletes on this question of taxation. I have had occasion to engage with the Kenya Revenue Authority (KRA) and my position has been that we should not kill the goose that lays the golden egg.

I have given the example of David Rudisha setting a new world record in the 800 meters during the August 2012 Olympics; one minute, 40 seconds, 91 milliseconds. That still stands as the World Record in the 800 meters. The one minute, 40 seconds and 91 milliseconds that it took David Rudisha to set that record, for that one minute and 40 seconds, the entire globe riveted to their television sets. The marketing and the branding value that Kenya received in that magical moment is one I asked Mr. Njiraini and his team at the KRA to put into serious consideration. I even challenged them to compute what that means in economic terms; the contribution that that young man and many other young men have made. So, on the question of taxation, we are very clear. Among the provisions here and an additional schedule that will be coming to the Committee Stage is to give our athletes tax breaks and tax exemptions on their earnings, so that we can motivate and encourage them to continue working.

I had occasion to interact with Lorna Kiplagat, an eminent Kenyan athlete. I really want to congratulate this particular lady because despite the fact that she moved to Holland and became Dutch and has run for Holland, she has continued to make heavy investment in her home town of Iten. It is really interesting to hear the story of how Lorna ended up becoming Dutch and running for Holland. It is a story that epitomizes our inability as a country to take good care of our athletes, including those who have retired. I have heard the case of Nyandika Mayoro. It is really sad what has happened to him. Within the Ministry, we are taking measures that can respond to challenges like the one that Nyandika has faced. Mr. Joe Kadenge and I had a fantastic interaction with him this afternoon in my office before I came to the House. All these athletes who have represented this country and all the soccer players who have donned the national colours, deserve to be taken care of. Therefore, this Bill will certainly give us a platform to do more. Even the question of honouring our athletes, we are also proposing that there should be a national scheme where we can honour our athletes and not just in terms of cash rewards. If you go to the UK and today Knighthood is more often than not given to athletes than any other segment of the populace.

We must also walk that path. Let our athletes be assured that when other national heroes are honoured, they should also expect to be honoured. I do hope that this is a scheme that can take off. It is a matter that we will be bringing to the attention of His Excellency the President. I hope that he will have the opportunity to do something about it before he leaves office. I hope that he will also have the opportunity to honour members of the Tenth Parliament because this is a House that has honestly raised the bar in legislation.

Finally, I want to assure the House that on the question of facilities, we have also made efforts to address that challenge. I have taken note of hon. Members mentioning some specific

facilities like Kirigiti which is very historic. We also have Kipkeino Stadium in Eldoret that the hon. Member for Mosop talked about. I have been in Kipkeino Stadium both in Eldoret and Kapsabet. The one in Kapsabet is in a state that is not worth the name of the gentleman after whom it is named. So, we will be addressing those issues and I thank hon. Members for bringing them to the fore.

I do move with sincere thanks.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House)

THE TECHNICAL AND VOCATIONAL EDUCATION
AND TRAINING BILL

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Technical and Vocational Education and Training Bill be now read a Second Time by leave of the House.

The Temporary Deputy Speaker (Mr. Manyara): Sorry, Madam Minister. I did not hear you move the Bill.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

That The Technical and Vocational Education and Training Bill be now read a Second Time by leave of the House.

Mr. Temporary Deputy Speaker, Sir, the foundation of any nation is the education of its young people. The way the youth of any nation are brought up and educated determines the future and prosperity of that nation. Kenya's development plans have over the years consistently stated that one major educational objective is producing a properly trained and disciplined patriotic youth that can in turn make a positive contribution to the development of this nation. Technical and vocational training is, therefore, fundamental to the economy of this nation.

In Kenya, technical, vocation education and training which we refer to as TVET has a history is virtually as long as that of the formal education which began at the dawn of the century. TVET, in fact, could have come a little bit earlier than the formal education because it started even before independence. More significantly, following the recommendations of the Ominde Report of 1964 the Government converted the then TVET schools into technical secondary schools. The objective of the technical secondary schools was to prepare its graduates or products in the technical and vocational subjects as well as in the traditional secondary school subjects.

It was hoped at that time that vocational and technical skills would eventually be produced. Subsequently, the TVET environment witnessed a phenomenon growth with the introduction of colleges and institutes of technology initiated through community efforts in what became the *harambee* institutes of technology or *harambee* technical institutes. Over time, however, things went down but despite the crucial role that TVET plays in national development, this sub sector now faces a multitude of challenges that have curtailed its growth.

These challenges include access and equity, relevance, curriculum development, quality assurance and certification, financing, governance and management as well as branding of the products.

A huge number of Kenya Certificate of Secondary Education (KCSE) graduates miss training opportunities because post-secondary institutions do not have the capacity to absorb them. According to the Kenya National Bureau of Statistics, in 2009 Census, there are over eight million Kenyans aged between 17 and 24 years who are seeking training in various institutions in this country. Out of this group, only 10 per cent access degree training programmes leaving the remaining 90 per cent to seek places in the TVET institutions. This is a relatively huge number of youth in the country. The current TVET institutions, in fact, cannot accommodate them. There is no doubt that this constitutes a huge wastage, therefore, of able Kenyans which becomes a loss to the economy.

Mr. Temporary Deputy Speaker, Sir, access to TVET is further exacerbated by the wide spread poverty. Having 47 per cent of Kenyans live below the poverty line makes TVET institutions a challenge to many people. The quality of training in TVET varies greatly from institution to institution. There is lack of clear standards to be attained at any given level of certification. The reasons for this are many but one fundamental cause is the absence of uniform quality assurance standards which this Bill addresses.

Mr. Temporary Deputy Speaker, Sir, relevance to the industry is also very low because currently, the involvement of industry particularly in the setting of standards as well as the setting of curriculum is very low. The specific areas of consideration in respect of quality assurance in TVET cover admission criteria, curriculum being offered, training methods and certifications. All those are being addressed by this Bill.

Mr. Temporary Deputy Speaker, Sir, considering the fact that TVET is training for the work place, the system is supposed to cater for 90 per cent that I have talked about so that they produce people who are skilled for Kenyan industries. Apart from poor infrastructure that we find in our training institutions, equipment and teaching or preparation of trainers has also become another challenge. The funding of TVET has also been a challenge and this Bill seeks to address and streamline this.

Mr. Temporary Deputy Speaker, Sir, the performance and responsiveness of TIVET institutions in Kenya is also hampered by lack of clear organizational structure within the system. TIVET institutions management is key in the decision making and transformation process in the sector. Co-ordination mechanisms and linkages between TIVET institutions and different Ministries is also still weak and this Bill seek to address that.

Mr. Temporary Deputy Speaker, Sir, to address the many challenges facing TIVET sub sector, the Ministry has, therefore, developed a Technical, Vocational Education and Training Bill, 2012 to provide a legal framework for technical and vocational training, and for co-ordination, harmonization and assessment of quality, as well as standardization of certification in the TIVET sub-sector.

Mr. Temporary Deputy Speaker, Sir, the thrust of this Bill is to realize that Kenyan workforce is trained and certified to international standards; it will stimulate employment through relevance, create investments in self-employment, and contribute to improved productivity by giving youth skills. We also want to enhance competitiveness and prosperity of the individuals and even enterprises, where these skilled personnel will be in, thus improving the prosperity of the nation.

Mr. Temporary Deputy Speaker, Sir, the Bill further seeks to provide quality and inclusive TIVET, especially to disadvantaged groups, including learners with disabilities, the marginalized and rural populations, as well as improve gender equity.

Finally, Mr. Temporary Deputy Speaker, Sir, the Bill seeks to develop and strengthen TIVET teaching standards at all levels to reflect realities in industry.

With those remarks, I beg to move and ask my colleague and brother, the Minister for Youth Affairs and Sports, to second.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Speaker, Sir, let me start by congratulating the Minister for Higher Education, Science and Technology. This is actually the less testing instalment in a long list of very reformist legislation that she brought to this House. Indeed, she has had a tremendously transformative effect on this Ministry and the sector.

Mr. Temporary Deputy Speaker, Sir, this Bill will help to really raise the profile of what I like calling the missing middle. That level of technical expertise that we need to invest in seriously, if we, indeed, we see ourselves as achieving Vision 2030 on schedule and transforming this country into a middle income economy by the year 2030.

Mr. Temporary Deputy Speaker, Sir, a month ago, I had a privilege of accompanying the Rt. Hon. Prime Minister to Korea. Among the places we visited was the Korea Advanced Institute of Science and Technology (KAIST). This is a middle level institution of learning not too different from the kind of polytechnics and technical schools we have here. But I was impressed by the infrastructure, architecture, vision, the whole concept and philosophy behind this institution, and also very deliberate and robust support of Government. The kind of resources that the Korean Government puts in technical training and technical research alone is a budget that dwarfs our own national Budget many times over.

Therefore, having a piece of legislation that will harmonise in a very coherent manner a template for managing our technical training is a major leap in the right direction. I really want to commend the provision that is creating the Technical, Vocational Education and Training Authority because the Authority will have the mandate and the role of sitting above everything else and providing a very firm leadership.

Mr. Temporary Deputy Speaker, Sir, finally, let me draw special attention to Part VI of this Bill, which talks about standards, quality and relevance in training. We can do all the training we want but unless we jealously protect standards and quality and ensure there is relevance to the needs of our economy, we will be doing nothing.

Therefore, I want to draw the attention of hon. Members that this is not a law that is just speaking about regulation and management. It is a law which will also introduce very high standards and ensure quality. It will also provide a template for a guaranteeing relevance in the kind of courses and training that we give to our youth.

Mr. Temporary Deputy Speaker, Sir, therefore, I congratulate the Minister once again and, of course, wish her well in her bid for governorship of Uasin Gishu County.

With those remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Mr. Ethuro): Yes, hon. Koech.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to sincerely thank the Minister and all those who have participated in the preparation of this very important Bill.

I want to indicate that this Bill is addressing a very important resource in this country – the so-called “hands-on Kenyans” or Kenyans with vocational and technical skills. Those are actually the movers of any economy in the world. I want to indicate that, as a Committee, we have worked very closely with the Minister and his staff. We have looked at this Bill. Of course, we will be proposing a few amendments to it but I want to really support it and indicate that it is important that this Parliament passes this Bill before we go on recess.

Mr. Temporary Deputy Speaker, Sir, this Bill is addressing the issue of management and co-ordination of training of that very important category of Kenyans. The Bill is addressing most of the challenges that most of those institutions face today. One of them is the issue of co-ordination. It is very important that we have an Authority which is going to co-ordinate the functions and the work of tertiary institutions in this country.

The other issue is access and placement. This House recently passed The University Bill, which has since become an Act of Parliament. We are concerned about placement of students who leave our secondary schools. Previously, the Joint Admissions Board was only concerned about students joining public universities. But the Universities Act, as it is now, provides for a placement board, which shall also be incorporated into the same, so that all children leaving our secondary schools can find places in institutions of higher learning. This is very fundamental for us.

Mr. Temporary Deputy Speaker, Sir, the issue of quality is very important. We have seen small businessmen opening institutions to train people in computer courses and offering certificates which are not validated.

This Bill is going to address such issues so that before anybody is licensed, registered or accredited, that person must apply to this Authority. Therefore, we are going to protect the issue of quality in our institutions. The functions of the Authority are very critical and very important because it addresses that.

Mr. Temporary Deputy Speaker, Sir, the issue of relevance has already been touched on. However, there is one aspect that we have not addressed very well as a country and I would like the Government of the Republic of Kenya to consider this. After Form Four, the students who join youth polytechnics--- I want to thank the Minister Youth Affairs and Sports that they are able to get some stipend of Kshs15, 000 per child per year. Our students who join universities are able to access funds from the Higher Education Loans Board (HELB). This category of students have, however, been left out. It is, therefore, important as a country that within the fund being proposed here, these students should also get access to money so that those who do not have enough money could still access this very important level of education.

As I said earlier, it is our important request that a lot of work has been put into this Bill. It will be a waste of time and resources if this Parliament does not pass this Bill. I want to appeal to the Leader of Government Business that this Bill comes for Third Reading on Thursday. I want to indicate here that, as a Committee, we are ready and prepared to table the amendments.

With those remarks, I beg to support.

Mr. C. Onyancha: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. I thank the Minister for preparing it.

I have chosen to go backwards and looked at the miscellaneous provisions in Part X, Section 55. I notice that liabilities for damages are covered in that section. In one of the other schedules; Schedule Two, Section 20, the same is covered. I think maybe the drafters forgot to cancel one of them.

Mr. Temporary Deputy Speaker, Sir, I know there are going to be many institutions but when you read Schedule Two, you find that it is referring to a public institution in many of the place, the Board of Governors and so on. Since they are going to be many, I thought it would have referred to any of the institutions but not an amorphous public institution. Otherwise this would be fitting to an omnibus legislation covering all of them.

Let me just comment on the importance of this Bill with respect to the location of any of these institutions and the representation on the Board of Governors. I am happy that the county representation has been taken into account but I think it could be improved so that there could be more than one member in the Board of Governors.

Mr. Temporary Deputy Speaker, Sir, since I am making an important point, the Minister for Justice, National Cohesion and Constitutional Affairs should leave the lady alone.

*(The Minister for Justice, National Cohesion
and Constitutional Affairs Consulted with Prof. Kamar)*

I was commenting with respect to the appointment of the Board of Governors of an institution located in a particular county. I was proposing greater presentation for the county than just one representative because of the greater role we hope to play as counties in this new dispensation that is forthcoming.

The Second Schedule states that within a period of four months from the end of each financial year, a board of governors shall submit to the Auditor-General, or to the auditor - I think it should be to an appointed auditor - to render services to the institution or the board of governors responsible for that.

With those few remarks, I beg to support.

Mr. Nyambati: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Bill.

First of all, I want to thank the hon. Minister, who has been working very hard in her Ministry right from the Bill that she brought in regarding the universities and this one now which is dealing with technical issues.

I want to say that a country cannot progress, or move forward, if it does not have technical people to do its work. For this reason, this Bill comes in handy. I think it is extremely important for this House to pass it and ensure that it works.

Mr. Temporary Deputy Speaker, Sir, I want to say from the outset that this is a good Bill which has covered many areas right from registration, because we need to know what kind of institutions we have in the country, so that we get rid of mushrooming of institutions of little value. So, it is extremely important that we ensure that right from the registration of these institutions, the right work is done and the right institutions are registered.

I want to say here and now that for any county to move forward--- We must ensure that we have institutions in every county which train our young people up to diploma level. We must ensure that we have in every county an institution which develops our young people up to that level. In every constituency, we must have an institution which undertakes vocational training, so that our young people are trained to use their hands and heads to earn a living.

Mr. Temporary Deputy Speaker, Sir, if we train our young people in technical areas, then, as a country, we will reduce unemployment and ensure that our young people are not misused, and that they use their brains and hands to do the work that will help them. We will ensure that they achieve high standards.

I am happy to see that this Bill is addressing the issue of high standards. Standardization of the training given in the whole country is necessary to ensure that our training is in conformity with the international standards.

Mr. Temporary Deputy Speaker, Sir, I can also see that there is an establishment of a Certification Council. This council will do a lot of good work to ensure that whatever qualifications---

Mrs. Noor: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since the Chairman of the Committee which has thoroughly looked at this Bill is asking for amendments, will I be in order to request that the Mover be now called upon to reply?

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think that it is fair to ask us to stay here until 8.30 p.m., because we have important business, even though I opposed that extension. Now that time was extended, we have been sitting here until now, so that we can discuss very serious issues. This Bill is very important. It is a Bill that will take this country forward. It affects the youth and we must look at it very critically. We must give our serious contribution to this Bill. I do not think that we should be denied our opportunity to contribute to this Bill.

The Temporary Deputy Speaker (Mr. Ethuro): Order! The Chair has heard you. From the requests that I have, I am inclined to agree with hon. Odhiambo-Mabona and not hon. Noor. We will proceed.

Proceed, hon. Nyambati. Members, be mindful because there is a lot of interest. Limit your contributions to maybe five minutes.

Mr. Nyambati: Mr. Temporary Deputy Speaker, Sir. Even as we create these institutions, it is extremely important that the issue of certification is addressed, so that what we produce in one part of the country is the same as what is produced in other parts of the country. We must also ensure that what comes out of these technical institutions is in conformity with international standards, so that the young people who are trained in our country can compete in the region or internationally. This will ensure that our young people are marketable all over the world.

This is a Bill that we must support. It is very important for this country. If you look at countries which have progressed, for example, Korea and Japan, they have invested a lot in terms of technical training of its youth. It is, therefore, important that we, as a country and as a Government, ensure that we fund this Ministry adequately, so that it can carry out the work that we are giving it to do. It is not enough to say that we want to train our young people and do not allocate adequate resources to do this kind of work. If we want to develop this country equitably, then we must ensure that technical colleges or institutions do not only mushroom in one area and are not equitably distributed in other areas like Homa Bay, Rusinga Island and other places. We must address the historical injustices. Some areas are endowed with a lot of institutions while other areas do not have any institutions. I do not have even a single technical institution in my area yet I live in this country. It is not fair. It is about time that the Minister takes stock of which areas do not have technical institutions and give priority to them before he goes to other areas. That is only when we can say that we live in the same country and that we can die for this country. We must teach our young people to appreciate their country by ensuring that resources are given equitably in the country and not only in one area.

I want to support this Bill very strongly and ensure that it sails through. I finish by commending the Minister for a job well done.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I also want to support the Bill. It is time that we introduced innovation and changes into our systems, so that we can create more opportunities for our youth.

Youth training is very important. Over 70 per cent of our population is the youth, who sometimes because of lack of opportunities, do not have anything to do. After Standard Eight, many of them do not continue to secondary school. So, this is a very important Bill. We had middle level colleges, but the mushrooming of universities has eaten into them.

This Bill will open up ways for us to have these institutions. We want to strengthen the youth polytechnics that we have. We want them to offer courses which can assist our youth to get employment. The *jua kalis* were started well; the Government had a very good idea, but enough preparation was not done. What we produce in places like Gikomba should even be exported, but because we did not put proper expertise in it; that is why we are calling it *Jua Kali*. It is just something that people do to earn a living locally. However, we can also earn foreign exchange.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Chanzu! You have 18 minutes to proceed next time.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, we have now come to the end of today's sitting. Therefore, the House stands adjourned until tomorrow, 19th December, 2012, at 9.00 a.m.

The House rose at 8.30