

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 8th January, 2013

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

STATUS OF SPECIAL INVESTIGATIONS ON CHARTERHOUSE BANK FOR ECONOMIC CRIMES BY BFI DEPARTMENT

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

(a) In the light of the answer given by the Minister for Finance on Thursday 27th December, 2012 could the Minister clarify whether it is true or not that the Banking Fraud and Investigations Department between the years 2004 and 2007 conducted a special investigation of Charterhouse Bank with the main focus being on economic crimes, money laundering and violations of the Banking Act and if this is true, the Minister to provide copies of the investigations reports and full details of the crimes, offences or violations established as having been committed by Charterhouse Bank?

(b) Whether the Banking Fraud and Investigations Department has ever been directed to undertake similar investigations against other banks and, if so, provide a list of the banks and copies of the reports indicating the violations, including any action taken?

The Assistant Minister for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, this Question was asked on this Floor on 27th December, 2012. The Minister for Finance, hon. Githae, attempted to provide answers. However, because the answers were deemed insufficient, it was brought to our office. We have attempted to put together some answers and I discussed them with hon. Mwau. Unfortunately, there are still areas that have not been properly addressed. I, therefore, seek your indulgence that this Question be deferred to another date.

Mr. Speaker: The Member for Kilome, you have heard the Assistant Minister. Are you in agreement with the status?

Mr. Mwau: Thank you, Mr. Speaker, Sir. The only problem is that the officers in the Banking Fraud and Investigations (BFI) Department have refused to answer the Question. So, after discussing with the Assistant Minister, we found it necessary that the police be now forced to answer the Question the way it is instead of them diverting away from it. If the Question can be answered maybe tomorrow, I will be very appreciative.

Mr. Speaker: Mr. Assistant Minister, have you indicated that you will be prepared to bring this answer tomorrow?

Mr. Khang'ati: Mr. Speaker, Sir, I will have to do so, because this matter has been outstanding for more than six years. Unfortunately, according to the information gathered by my office, some of it has to be received from certain sources. For example, we are unable to identify who the directors of Charterhouse Bank are. That information should have been provided to us by the Registrar of Companies. But for more than four years, an attempt to get such information has been fruitless. So, as much as I undertake to improve on the answer I have, I am not sure whether I will be able to get that information between today and tomorrow. This is because it has been outstanding for more than four years.

Mr. Speaker: Very well, Mr. Assistant Minister! We note that you are aware that this matter has been outstanding for close to four years. So, really, you will be under duty to answer the Question tomorrow. In the event that the House does not sit tomorrow, that notwithstanding, you will have to furnish an answer with the Speaker's Office because that Office will continue to run until you have a new dispensation. So, that compliance is dictated whether or not the House is sitting tomorrow.

(Applause)

Mr. Khang'ati: I oblige, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Yes, hon. Member for Marakwet West!

SHORTAGE OF WATER IN LELAN LOCATION

Mr. Kaino: Mr. Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that the catchment area of the Murung Dam under construction receives most of its water from Lelan Location, Marakwet West Constituency?

(b) Is the Minister further aware that residents of Marakwet West Constituency living near the catchment area of the dam have been left out of the water supply arrangements?

(c) What plans does the Ministry have to supply water to the affected residents and what environmental management measures does the Minister intend to adopt to ensure that the dam is protected?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the catchment area of Murung Dam receives most of its water from Lelan area, which covers part of West Pokot and Marakwet West Constituency. However, Murung Dam is still under design and construction has not started.

(b) I am not aware that the residents of Marakwet West Constituency living near the catchment area of the dam have been left out of the water supply arrangements.

(c) It is because my Ministry is now currently identifying water projects that will supply water to communities living in the wider Lelan Catchment upstream of the proposed Murung Dam. The areas to be covered by the projects will include the residents living within the dam catchment in Marakwet West Constituency. I am setting aside

Kshs50 million in the next Budget, that is 2013/2014 Financial Year, to construct the water projects to ensure that the residents are sufficiently served with water. My Ministry has also registered a water resources users association in Marakwet West Constituency that will be involved in environmental management and catchment protection.

Thank you, Mr. Speaker, Sir.

Mr. Kaino: Mr. Speaker, Sir, let me thank the Minister most sincerely for giving a balanced answer and I am really delighted with her.

Mr. Speaker, Sir, since this dam is very huge, could she consider the environmental impact of the dam because the environment will change by moving away the people who live in that area? This area will extremely change and it will not be useful for human habitation.

Mrs. Ngilu: Mr. Speaker, Sir, it is true that when we start this work, people may have to be moved. In doing so, we will ensure that those communities living within the dam area are resettled elsewhere properly and compensated adequately according to the resources they had put in the place.

Mr. Speaker: Order, Madam Minister! Why do you not take the seat next to the Minister for Justice, National Cohesion and Constitutional Affairs?

Mrs. Ngilu: Yes, Mr. Speaker, Sir.

(Mrs. Ngilu moved to the seat next to Mr. Wamalwa)

Mr. Mwangi: Thank you, Mr. Speaker, Sir. While we appreciate the Government efforts in establishing dams in our constituencies, I want to appreciate the hon. Member who asked this Question because whenever these dams are created we urge the Government to involve the local communities because of environmental management and their understanding of the catchment area. This is because they have been taking care of this catchment area. I have as reference a dam that will be constructed in my constituency along Maragua River. Could the Minister tell this House what arrangements she has made for capacity building within the areas where these dams are being established, especially the one in my constituency, which will affect Maragua/Gikigii River, which is between Kigumo and Kiharu Constituency?

Mrs. Ngilu: Mr. Speaker, Sir, in the case of the hon. Member who has just asked this question, we are designing a large dam in his area. In the designs, we will ensure that the communities are part of the design because they have to own it when it is complete. The designers will do the work, but the communities must own whatever they do. So, we will include them in the design works. We also educate them on the importance of the dam. We want them to be part of the project so that when it is completed, they can own it.

Mr. Pesa: Mr. Speaker, Sir, water is life. The Minister is telling us that the policy is to consider communities where such systems should pass. In case your designers forget to include the communities, what is the Ministry's policy regarding that? For example, we have a case in Migori where we have that system and the communities have been left out.

Mrs. Ngilu: Mr. Speaker, Sir, in the past, I can tell you that communities were not included. They just came out and found Ministry officials, technical people, bulldozers and tractors doing the work. That is what used to happen in the past. But

today, we start with them and finish with them. Therefore, there is no question of communities not being included. That is because if we do that at the end of the project, the communities would not even appreciate and sustain the projects and programmes that we put in place.

Mr. Njuguna: Mr. Speaker, Sir, while I acknowledge the good answer that has been given by the Minister on this issue, could she inform the House when the design work will be completed in order to start that dam?

Mrs. Ngilu: Mr. Speaker, Sir, I am afraid I did not have the date as I came in the House. However, I can always call the hon. Member and tell him where that project is.

Mr. Koech: Mr. Speaker, Sir, in her answer to Part (b) of this Question, the Minister has indicated that she is not aware that the residents of Marakwet West Constituency living near the catchment areas of the dam have been left out of the water supply. It is common knowledge that the Ministry of Water and Irrigation mostly takes care of the people living downstream. For example, the Lake Victoria North Water Service Board takes care of the lower part. But in the Mosop area where all the rivers come from, most people do not have piped water. What is the Ministry doing to ensure that people living in the catchment areas are supplied with piped water, so that they do not mess up with the water channels?

Mrs. Ngilu: Mr. Speaker, Sir, I must admit that, that has been the case. Sometimes, people living upstream have been neglected and forgotten. However, since we changed that policy, we now cater for all of them; upstream and downstream. We realized the importance of ensuring that everybody must access safe and clean drinking water. That is what we are doing at the moment.

Mr. C. Kilonzo: Mr. Speaker, Sir, when the Ndakaini Dam was being constructed in the early 1980s, people downstream in Thika and Yatta were affected. Even a project such Yatta Canal which was constructed by the colonial Government no longer have water throughout. Now, we have another project coming up known as the Yatta Dam, and which the Minister is very conversant with. What measures will she take to ensure that the people in the immediate neighbourhood, especially outside Yatta like Ngoliba and Yatta Mavoluu Location, which feel that project is part of them by ensuring that they get water? That is the not provided for in the current designs.

Mrs. Ngilu: Mr. Speaker, Sir, it is true the Yatta Dam is currently designed. In fact, the communities have been involved in this. It is about to start because the contractor is just about to be on site. Usually, we do those projects in phases. We ensure that we complete the first phase before we embark on the next phase. That is the treatment plant. The Isomeni area in the design is where the dam can be constructed. It cannot be constructed elsewhere like Goliba. They will have to be given water from either the same source or another source. Otherwise, we are well aware of such challenges.

Mr. Speaker: Mr. Kaino, last question!

Mr. Kaino: Mr. Speaker, Sir, I just want to thank the Minister for that very positive response. Marakwets have suffered a lot. This is the only time we are now seeing that we will get water. We have supplied water from Cherengany Hills to Kitale in Trans Nzoia. We have also supplied water to Uasin Gish, Eldoret Municipality. However, after doing all that, our people have been left out.

But today, this answer is good for my people. I wish the Minister all the best in her struggles during these campaigns. I am assuring her that she has prayers from Marakwet people.

Mr. Speaker: Order, Minister! You have no question to answer. You have only been wished a lot of luck. Please, do succeed.

Mrs. Ngilu: Thank you very much!

Mr. Speaker: Next Question by the Member for Maragwa.

SHOOTING OF RESIDENT OF MAKUYU BY POLICE OFFICER

Mr. Mbau: Mr. Speaker, Sir, although I have not received any written reply, 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 a police officer attached to Makuyu Police Station shot dead a 19 year old boy who was coming from church on 24th December, 2012 and, if so, why?

(b) Could the Minister confirm that the involved officer acted on instructions from Mr. Charles Oyoo, a senior watchman from Kakuzi Ltd.?

(c) What legal action has been taken against the involved officer?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I am surprised that the Member for Maragwa has not received a written response because today at 11.00 a.m., I dispatched several responses; one to him and another to Mr. Mwau. Mr. Mwau was here with his and we went through it. This is an indication that, indeed, they were brought to Parliament Buildings.

Nevertheless, if the hon. Member could bear with me, I could---

Mr. Speaker: You may carry on Mr. Assistant Minister. I see that there may be a copy at the Clerk's Table, which will be passed on to the Member for Maragwa.

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 on the night of 24th /25th December, 2012 at about midnight, two police officers - No.207230 AP Sgt. Njue Mutua and No.91998 PC Marcus Mukundi - who were on foot patrol duties within Makuyu Township and its environs, received a report from another police officer No.79192 PC Christopher Saina who was off duty that one Henry Munene Njue an accountant with Kakuzi Kenya Ltd. had been attacked. Mr. Saina alleged that Mr. Munene Njue, through mobile phone number 0722626826, reported through his mobile phone number 0720048072 that he had been attacked by a gang of young men along Mukuyu - Kathungururu Murram Road while driving home in his motor vehicle Reg. No.KBS 264R.

The reportee had further alleged that the gang which was armed with crude weapons had stoned his car after he failed to stop. PC Saina called Mr. Charles Oyoo, a security supervisor/driver with Kakuzi Ltd., to assist with transport to the scene, since the officers were on foot patrol and the station vehicle was not available at the time.

Mr. Speaker, Sir, Mr. Oyoo drove to Makuyu Township in a company vehicle Reg. No. KAM 501X, an Isuzu double-cabin pick up, picked and drove the two officers to the scene. They did not immediately find the gang as alleged and, therefore, decided to

drive along the Makuyu – Kathungururu Murram Road to try and trace the gang. They came across a group of seven men who were armed with crude weapons. The two officers alighted from the motor vehicle and confronted the group to stop after identifying themselves as police officers. However, the group started running away in different directions, but two of them confronted the officers, while armed with pangas.

During the confrontation, one Francis Mwangi Karanja aged 19 years was fatally shot while another Johnson Macharia Njoroge was subdued and arrested. A panga and a rungu were recovered from the deceased and Mr. Johnson Macharia Njoroge, respectively.

(b) The officers did not act on instructions from Mr. Charles Oyoo as he only assisted them to the scene and officers are well versed with justifiable instances when to use a firearm.

(c) Following the fatal shooting, an Inquest File No.14/2012 was opened by the DCIO Murang'a South and will be forwarded to the Director of Public Prosecutions (DPP) for perusal and advice, once investigations are completed. However, after preliminary investigations, it was established that the alleged attack on Mr. Henry Munene Njue was not true and that his vehicle was not stoned as alleged. Subsequently, the police opened investigations against Mr. Munene vide a criminal case file No.CR275/190/2012 for giving false information for a person employed in the public service, contrary to Section 129 (b) of the Penal Code. He was arraigned before the Thika Chief Magistrate's Court on 3rd January, 2013 vide Court File No.41/2013 where he entered a plea of not guilty and was released on cash bail of Kshs5,000 and surety of Kshs20,000. The case was fixed for hearing on 15th March, 2013.

A post mortem was conducted on 2nd January, 2013 and the cause of death was found to be cardio-pulmonary arrest due to severe internal hemorrhage due to a gunshot wound. I wish to table a copy of the post mortem report.

(Mr. Khang'ati laid the document on the Table)

Mr. Mbau: Mr. Speaker, Sir, whereas I appreciate the explanation that has been given by the Assistant Minister which, indeed, explains to a great extent what transpired on that fateful night, let the Assistant Minister note that, that was Christmas Eve. That young man aged 19 years was, indeed, in the company of other young men and were coming from Don Bosco Catholic Church. They were doing what young people usually do on Christmas Eve. As he has explained, the young people were actually not a gang. As he has confirmed the person called Mr. Munene was the one who led to the loss of a very young life.

Mr. Speaker, Sir, my concern is that it did not appear to the authorities to act in a manner that is expected. A firearm was used and the person who used that firearm is free to roam around as a free person up to now because he happens to be a policeman, when the family, village and the public are crying.

Mr. Speaker, Sir, I would like the Assistant Minister to clarify what further action will be taken against that officer who was misguided and took a young man's life? Life will never be recovered. Why did the relevant officers like the Officer Commanding Police Division (OCPD) dismiss that officer with immediate effect?

I believe if it was my---

Mr. Speaker: Order, Member for Ndaragwa! I have given you a lot of latitude. It is Question Time. You have told a very long story. I really hope you come to the question which you just did by asking two questions. Please, allow the Assistant Minister to answer.

Mr. Khang'ati: Mr. Speaker, Sir, I agree with hon. Mbau that, indeed, the loss of the young man is regrettable. It is something that should not have happened and we have started investigations. One of the reasons we have started these investigations is to know in a detailed manner why the police reached the extent of using the firearms. The police could have overreacted, but this is partly due to the fact that, in the recent times, police officers have been attacked and many of them fatally wounded for failure to take early action in their self-defence. The information we have is that the police officer was acting in self-defence. But with further investigations, we will get to know how far that was.

What is even more regrettable is that they were acting on misinformation. It is true that, that date was for celebrations and, indeed, the group of youths that was confronted was not that of the thugs that had been reported. As a matter of fact, we have established that Mr. Munene's vehicle was not at any time stoned as had been reported. So, the matter is regrettable.

Mr. Letimalo: Mr. Speaker, Sir, police officers are trained and know when to use firearms in their self-defence. Why could the police not immobilize without the intention of shooting these people to kill?

Mr. Khang'ati: Mr. Speaker, Sir, the purpose of the police shooting was actually to disable the attackers. As I have said, it is regrettable that the bullet that was shot fatally wounded the young man. But you must also appreciate the fact that this confrontation was in the middle of the night and issues of visibility, where to shoot and so on, could have affected the judgement of the police.

Mr. C. Kilonzo: Mr. Speaker, Sir, I find this Assistant Minister to be very interesting. I thought that when a policeman is given a gun and wants to give a warning shot, he shoots in the air. We do not expect the police really to be very fair in investigating this matter. This is because the same police protected a police officer who shot a demonstrator in Kisumu, in view of everybody and also television cameras. The police made sure that, that policeman walked away scot-free. Given that the police force can promote a gangster by the name Joshua Waiganjo to a very senior position, are we expected to get justice for this young man? It appears that the perception within the police force in Central Province is that when they see a small group of young men walking, they are criminals? Will there be justice in this case?

Mr. Khang'ati: Mr. Speaker, Sir, I do not know where the hon. Member got the information that when the policemen see a group of young men in Central Province walking, they are gangsters. To the best of my knowledge, there are several groups of young people who walk freely in Central Province. This incident was based on misinformation. The action taken on the basis of this information is regretted. Regarding the issue of the fraudster or imposter, Waiganjo, that is a matter that is being dealt with. I would like the hon. Member to appreciate the fact that all of us---

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Once more it is very worrying; a student from the United States International University (USIU) was shot on Kenyatta Avenue on the same argument that it was due to misinformation. The other day, an aspirant in Mwingi was shot on the basis of misinformation. This time the Assistant

Minister says that a young man was shot on the basis of misinformation. Is he saying that every time that the police are given information, they do not have means of confirming whether or not that information is genuine or they just act on any misinformation?

Mr. Speaker: Order! Mr. Assistant Minister, you need not respond to that. That becomes a supplementary question. Have you completed your answer to the question by the Member for Yatta?

Mr. Khang'ati: Mr. Speaker, Sir, I was in the process of completing. I want this House to note that in the recent past, we have had so many police officers who were acting professionally and were killed. The police are also reviewing how they can defend themselves while carrying out their duties.

Mr. Baiya: Mr. Speaker, Sir, the Assistant Minister says that this was a case of misinformation on the part of the police. Could he then still sustain his assertion that the police were confronted by these young men before the shootout? It cannot be two ways. There was misinformation that there was an attack, which he says was not there. Then, he proceeds to say that the young men who were innocent attacked the police. He cannot have it both ways. Could he also confirm whether you think that it is in order---

Mr. Speaker: Order! Order! One supplementary question! It cannot be so many.

Mr. Khang'ati: Mr. Speaker, Sir, I have confirmed to this House beyond reasonable doubt that there was misinformation. I have even given the name of the person who provided the misinformation and what action has been taken against him. It is true that there could have been other forms of misinformation in the past, but we are dealing with this specific case and have given the specific information.

Mr. Mbau: Mr. Speaker, Sir, whereas it is regrettable that when Mr. Munene was taken to court, he was actually released on peanuts; Kshs5,000 and a surety of Kshs20,000. That is in the jurisdiction of the courts. What action has been taken against the police officer who fired the fatal bullet? Will justice be done in the long run or short run, so that at least, in eyes of the public, it will be known that this Assistant Minister or Government did all he could to ameliorate the suffering and pain of this family?

Mr. Khang'ati: Mr. Speaker, Sir, I agree. When I saw the amount of that the court had discharged Mr. Munene on, I thought that it was so small, because it was a bail of Kshs5,000. That means that it was not punitive enough. At the same time, I want to give the hon. Member assurance that once the investigations are completed, the officer who shot the young man fatally will not get away. He will be punished. Finally, as much as we are here defending the police, it is something which is painful and should not happen. We are going to ensure that unless the police are very seriously threatened, they should not commit acts of this nature.

ORAL ANSWERS TO QUESTIONS

Question No.1669

PLANS FOR CONSTRUCTION OF TRAIN SUBWAYS IN NAIROBI

Mr. C. Kilonzo asked the Minister for Transport what plans there are to build train subways in Nairobi and its environs.

The Assistant Minister for Transport (Mr. Joho): Mr. Speaker, Sir, first of all, let me start by apologizing to the House because this Question was on the Order Paper last week on Thursday afternoon.

As I was making my way to the airport, I found very heavy traffic at Kibarani. I am sure you know Mombasa very well, I could not make it on time.

Mr. Speaker: Fair enough! I understand the circumstances. Carry on and answer the Question.

The Assistant Minister for Transport (Mr. Joho): Mr. Speaker, Sir, I beg to reply.

The Kenya Railways Corporation (KRC) has undertaken a feasibility study for improvement and expansion of the railway system within the immediate environs of Nairobi and an extended system that extends to towns bordering Nairobi. The proposed system will cover about 100 kilometres radiating from Nairobi Railways Central Station as the transport hub. The scope of work and research covers improvement and doubling of the existing track in selected sections within Nairobi and the greater Nairobi Metropolitan region from the Nairobi Central Railway Station to Athi River and on the Nairobi-Mombasa mainline to the east, Embakasi Village, Syokimau, Jomo Kenyatta International Airport, Dagoreti on the Nairobi-Nakuru line to the west and Ruiru to the north of Nairobi.

In addition, the study proposed development of an extended system to Limuru on the Nairobi-Nakuru line, Thika Station on the Nanyuki Railway branch line and Lukenya on the Nairobi-Mombasa main line. The proposed railway stations will be modeled on the Syokimau Terminus. The railway system is expected to be operational within the next three years. The Integrated National Transport Policy (INTP) recommended the establishment of a mass rapid transport system study for the Nairobi Metropolitan. The Ministry of Transport has undertaken a study funded by the African Development Bank (ADB) that examines various options of mass rapid transport systems. This study proposed nine transit corridors comprising of light weight transit system and bus rapid systems.

Mr. C. Kilonzo: Mr. Speaker, Sir, the Assistant Minister in responding has started by telling us how the problems of transport are in Mombasa. It is even worse in Nairobi. It takes an average one hour from your residence to your office and so he must understand why this Question is before the House. He has indicated the plans, but when is the Government going to start implementing them?

Mr. Joho: Mr. Speaker, Sir, I have said in my answer that part of the study to open up the other corridors is ongoing, but the railway system is expected to be operational within the next three years.

Eng. Maina: Mr. Speaker, Sir, the Assistant Minister has narrated in his answer big master plans and big ideas. Could he really explain to this House how he is convinced they are going to maintain these small branches of railway lines in Nairobi? This is because we are aware that our railway system which we have has not been operational and for no good reason. Could he confirm to this House and give us reasons how he is convinced that this system will not collapse like the rest of the railway line causing more confusion and problems after using up huge resources in the country?

Mr. Joho: Mr. Speaker, Sir, the purpose of undertaking this process is to really enhance the transport system within and without Nairobi. Therefore, we are, as a

Government investing and ensuring that it be done to serve its rightful purpose. I want to assure this House that, indeed, it shall be maintained like we have started with Syokimau. It is serving the people of Machakos and its environs really well. So, be assured that it shall be maintained to serve its rightful purpose.

Mr. Mung'aro: Bw. Spika, namshukuru Waziri Msaidizi kwa sababu amesema alichelewa kuja Bungeni kwa sababu ya msongamano wa magari pale Kibarani. Nataka kumuuliza, ni mikakati gani anayo ya kuhakikisha kwamba gari la moshi linafanya kazi kuanzia Mariakani, Mombasa, Uwanja wa Ndege wa Moi na kutoka Mombasa hadi Malindi?

Mr. Joho: Bw. Spika, ningependa kumwambia Bw. Mung'aro kwamba Wizara ina mipango kambambe ya kuweza kuboresha hali ya uchukuzi hapa jijini na Mombasa ambako msongamo wa magari umenifanya nichelewe kufika hapa Bungeni leo. Kuna mipango ya kaunti tofauti na Mombasa ni moja ambayo tunaiangalia kuona kwamba tunaweza kuhamisha hata shughuli nyingi za kibandari katika maeneo ya Mariakani na kwingineko. Kwa hivyo, hali italazimisha kwamba tuwe na uwezo wa kuwezesha usafiri wa reli kutoka Mombasa na vitongoji vyake. Kwa hivyo, kuna mipango maalum ya kuona doto hii imetimilika kwa kipindi cha miaka mitatu ijayo au ifikiapo 2015.

Mr. C. Kilonzo: Mr. Speaker, Sir, I would like to thank the Assistant Minister. This country has been known to carry out feasibility studies and major plans. So my prayer to him is that three years is a long time. He does not need three years to do a feasibility study. Is it possible to start introducing this programme piecemeal having in mind the crisis we have today in terms of traffic jams, especially within the City of Nairobi?

Mr. Joho: Mr. Speaker, Sir, my Ministry is committed in ensuring that we enhance mass transport and deal with congestion of our roads. That is why two months ago, His Excellency the President commissioned the Syokimau Station which is working really well. I want to assure the hon. Member that, that was just the beginning of better things to come.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to assert on the Floor of this House that in three years we will have the subway and all those plans implemented when, in fact, he has not tabled any evidence of funding or public partnership, public private partnership or any evidence of governmental discussions that will ensure that we have foreign direct funding for the project?

Mr. Joho: Mr. Speaker, Sir, yes, I am in order because, in my answer, I said clearly that a study has been undertaken and completed. We now are headed towards implementation. That is why I clearly said within the next three years. We should be having these systems up and running. We have a case in hand that has been an example that has been completed. Syokimau terminal is successfully running. I want to inform this House that as we speak, the Juja corridor in Thika and even Ngong Corridor One, the metro-corridors have been elevated in preparation for implementation. So, yes we are certain that it shall be implemented.

Question No.1782

CONSTRUCTION OF FOUR 5-STAR HOTELS BY
KENYA RED CROSS SOCIETY

Mr. Sirat asked the Minister of State for Special Programmes:-

(a) how much money the Kenya Red Cross Society has spent to construct four 5-star hotels in Nairobi, Nyeri and Eldoret, and what the source of the funds used was and how much money each of those facilities generate annually;

(b) if he could confirm that the Society acquired more than 3,000 acres of land in Bura in Tana River County in 2010 and indicate how the Society intends to use the land; and

(c) whether the organization's mandate has changed from non-profit humanitarian body to profit making organization and to whom the Society and its Board of Trustees is accountable.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Speaker, Sir, I beg to reply.

(a) Kenya Red Cross Society is one of 186 national red cross societies all over the world. It does not receive any funding from the Government and it has not received any funding in the last 30 years. However, it receives funding from well-wishers, Red Cross, the Red Crescent Movement partners, donors, UN agencies, Kenyans of goodwill as well as local Kenyan corporate companies who have been a significant supporter of the Red Cross Society over the years. However, that strategy is not sufficient for Kenya Red Cross Society sustainability given the trend of declining international donor aid and the increasing frequency of disasters in Kenya. It is in this context that Kenya Red Cross has started income-generating ventures such as its hotels in Nairobi, Eldoret and Nyeri. Those investment activities are well within its statutory mandate under Section 4 of Cap.256 of Laws of Kenya and Articles 4, 18, 42 and 48 of the Constitution. More specifically, the profits from those businesses are used purely for humanitarian purposes within the objective of alleviating human suffering.

Whereas the total costs of investments are not available since some of the projects are still ongoing, it is worth noting that those investments are loans financed from banks and financial institutions and are not derived from any relief funds or public money. Moreover, due to legal and operational independence of the Kenya Red Cross, the Ministry does not have sufficient standing to inquire on the level of funds generated from those businesses.

(b) It is true that Kenya Red Cross Society has been allocated 3,000 acres of land in Tana River by the local Madogo Community through the District Steering Group. The project in Tana is a consequence of an earlier project in the same area of 70 acres, which has now expanded into 3,000 acres of highly productive irrigation land. The earlier project dramatically changed lives for the better, as a community of charcoal sellers was converted into a productive farming community who now sell various fruits, for example, bananas, pawpaws, and vegetables. They have actually become food secure. The project has also taught the local community agricultural practices and raised farming resources such as seeds. It has converted the community from a food-insecure to food-secure community. From the success of the project in Madogo in Tana River, Red Cross has designed and is currently implementing about 22 similar projects in different parts of the country which are benefitting food-insecure communities in both arid and semi-arid

lands. The current project of 3,000 acres is, therefore, part of Kenya Red Cross Society's focus on changing lives.

(c) Mr. Speaker, Sir, regarding the society and the board of trustees' accountability, Kenya Red Cross Society is a membership based organization. As such, accountability is, first and foremost, to its members and, in addition, the organization is accountable to its governing board, the national executive committee and to its stakeholders as well.

The Kenya Red Cross is also part of the international network of Red Cross Societies all over the world, whose international secretariat is in Geneva. A reputable international auditing firm audits Kenya Red Cross Society and its annual report is always published and is readily available for public scrutiny. It can also be sought through www.kenyaredcross.org. The reason major donors continue to support Kenya Red Cross Society is because of the level of accountability and transparency it has established over the last ten years.

Thank you, Mr. Speaker, Sir.

Mr. Sirat: Mr. Speaker, Sir, the Minister has refused to answer part (a) of my Question. I am aware that the two hotels in Nairobi South C are operational. I do have my meetings there quite often. The Minister has said that the Kenya Red Cross is a member-based organization and is accountable to its members. In addition, the organization is accountable to the Government and stakeholders. On the other hand, she has said that the Ministry does not have sufficient standing to inquire on the level of funding generated from those two hotels.

My questions were: What was the source of the money? Which bank gave the loan for the construction of the two hotels and how much does each of the two hotels earn the society every month or are those hotels a cash cow for individuals?

Ms. Mathenge: Mr. Speaker, Sir, as I said, Kenya Red Cross is an NGO as per Cap.256 Laws of Kenya. As such, the Government has no way of insisting or knowing where they get their funding or what they do with their funding. We normally call upon them almost on a daily basis whenever we have a crisis in Kenya. I do not think it is a cash cow as the hon. Member wishes to intimate. If there is anybody who really comes to the aid of Kenyans when they are in need, then it is truly the Kenya Red Cross.

Mr. Sirat: On a point of order, Mr. Speaker, Sir. I hope the Minister is not going back on her words. She said, "In addition, the organization is accountable to its governing board, the national executive and its stakeholders." The stakeholders include the Government of Kenya which includes the Ministry that she heads. Why would Kenya Red Cross refuse to give the Ministry what it earns from its hotels?

Ms. Mathenge: Mr. Speaker, Sir, as I said, in the last ten years, we have not given Kenya Red Cross any funding.

Mr. Speaker: Order, Madam Minister! That question to me appears simple and straightforward. It actually emanates from your own answer which is, in fact, a written answer that the Kenya Red Cross Society is accountable to among others stakeholders, who included the Government. If it is accountable to stakeholders, who include the Government, why would you not explain how much money it has spent or how much money accrues from its investment ventures?

Ms. Mathenge: Mr. Speaker, Sir, it is simply because we have not funded them for ten years. So, we cannot ask them to account for money that we have not given them for ten years.

Mr. Speaker: Order, Madam Minister! That argument is not going to help you. You have asserted in writing that among the stakeholders, include the Government. It does not matter that you have not funded them. If you are a stakeholder, you are entitled to information. You are a stakeholder and so, I must account to you. Just like you, as a Minister, you are accountable to Kenyans through Parliament. If Parliament asks you: What is your salary? You would not decline because we are stakeholders. Simple, Madam Minister! If you do not have the information, just say so. But to say that you have not funded them and so you ceased to be responsible to be accounted to, I think, it would be a fallacy and that is because of your own answer.

Ms. Mathenge: Mr. Speaker, Sir, there will not be a fallacy because we have not given them.

Mr. Chanzu: Mr. Speaker, Sir, based on her line of argument, the NGOs have received money on behalf of Kenyans; for example, in the sector of education when the British Government was not able to fund certain programmes because of corruption. So, it was for Kenyans. However, I just want to appreciate the work that is being done by the Kenya Red Cross because we have channeled money to fight the jigger menace in Vihiga through the organization. What measures has the Minister put in place so that the activities of the Kenya Red Cross are made known to Kenyans since they play a very important role.

Ms. Mathenge: Mr. Speaker, Sir, I think every Kenyan is aware of the existence of the Kenya Red Cross. As I said earlier, any time there is a disaster, the first people on site are from the Kenya Red Cross. So, we do not have to do much to sensitize people about the presence of the Kenya Red Cross.

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. I think the Minister is not getting what I am saying. I am talking about the place where they worked which lacked facilities. It was just *ad hoc* environment. Can we create an enabling environment so that it is known all over the country that the Kenya Red Cross exists so that we do not just wait when there is a crisis?

Ms. Mathenge: Mr. Speaker, Sir, that means that we have to change the Act that created the Kenya Red Cross to make it more effective if it is not effective in the areas that the hon. Member think it should be.

Mr. Ochieng: Thank you, Mr. Speaker, Sir. The Kenya Red Cross does well when disasters beckon. However, what is not coming out very clearly is the issue of transparency. I remember last year, when we had floods in my place, they came in handy. They provided blankets and other materials. However, when I wrote back to them to ask them to quantify the kind of assistance they had given, up to now, they have not responded. Do you not think that at times they should tell us that this is what we have done for your people? They have supplied in terms of this and that so that, at least, the people of this country can appreciate what they do?

Ms. Mathenge: Mr. Speaker, Sir, that can be done.

Mr. Speaker: It ought to be done. So, go ahead and do it.

Ms. Mathenge: Mr. Speaker, Sir, it ought to be done and it will be done.

Mr. Speaker: Very well.

Mr. Sirat: Mr. Speaker, Sir, I thought that the Minister had forwarded my Question to the Kenya Red Cross. However, they failed to answer with regard to the source of funding. Which bank did they use and how much money was it? Did they use a billion or Kshs2 billion to construct the hotels?

How many times was the term of the Secretary-General extended and why was the Kenya Red Cross Constitution reviewed to allow for his extension?

Ms. Mathenge: Mr. Speaker, Sir, I think that is a new question. I will have to go and consult further before I can answer the hon. Member adequately.

Mr. Speaker: Fair enough! You are entitled to that, Madam Minister.

Question No.1875

DELAYED PAYMENT OF DUES
TO MR. JEREMIAH OBWOMA

Dr. Monda asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Mr. Jeremiah Obwoma (P/No.82108957), a chief from Kiogoro Location in Kisii Central District was retired in public interest and, subsequently, reinstated after he successfully appealed the decision;

(b) whether he is also aware that the said officer has not been paid his dues for the period the appeal was being considered; and,

(c) when he will be paid his dues and if he could confirm that the dues will include interest for the period they remained unpaid.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, you will recall that last week on Thursday, the same Question was on the Floor of the House. It had even been on the Floor two other times before then. The information and assurance that the hon. Member of Parliament wanted is one which I was unable to supply as I had to seek legal opinion from the Office of the Attorney-General. We did not receive any information today morning. Therefore, I am still not in a position to state anything different from what I said before.

However, I have had a chat with the hon. Member of Parliament and I have assured him of my personal involvement. In any case, before I came to this House, I was the Secretary-General of the Kenya Union of Civil Servants. This means that I was the one who defended civil servants who were being treated unfairly. I have given him an assurance that I will do my best even outside this Parliament to make sure that Mr. Obwoma does not suffer more than he has. I want the hon. Member of Parliament to be comfortable that this matter will not die once we leave this place.

Mr. Speaker: Dr. Monda, are you comfortable with that position?

Dr. Monda: Mr. Speaker, Sir, while I appreciate the comments of the Assistant Minister, last Thursday when you gave direction that we have this Question on the Order Paper today, the Attorney-General was in the House and the Assistant Minister had undertaken to come with the advice of the Attorney-General on the position of the Chief, Mr. Jeremiah Obwoma. This was, as I heard the Assistant Minister, a legal position on

what would be done so that Mr. Obwoma is paid his unpaid salaries. He is now seated next to the Attorney-General in the House right now.

Mr. Speaker: I will allow them three minutes or so. It is possible that the Assistant Minister can procure that opinion even as the House sits now.

Dr. Monda: I thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well! Yes, the Member for Migori.

Question No.1833

INCREASING PENSION BENEFITS TO 60 YEARS

Mr. Pesa asked the Minister for Finance:-

(a) whether he is aware that next-of-kin of deceased pensioners are still paid pension for five (5) years after the death of the pensioner and yet the Government has raised the retirement age to 60 years; and,

(b) what measures he will take to ensure that the next-of-kin to the deceased pensioners continue receiving pension for ten (10) years instead of five (5) years.

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

(a) I am aware that the dependant's pension is still paid for a period of five years after the death of the pensioner. The processing of a dependant's pension is made under the provisions of CAP.189 of the Pensions Act which was not affected by the revision of the mandatory retirement age.

(b) It will not be possible to increase the period for payment of dependants' pension to ten years instead of five years owing to current pressures on budgetary resources. It should be noted by honourable Members that the design of a pension scheme is dependant of various factors key among them being its future sustainability.

Mr. Pesa: Mr. Speaker, Sir, I thank the Assistant Minister for that good answer. However, considering the fact that some of the dependants are left when they are at a very early age and they require this money to grow and get some livelihood, when will he cause the Pension Act to be amended so that we can talk about increasing the number of years the pensioners' dependants scheme will be increased?

Dr. Oburu: Mr. Speaker, Sir, as I said, because of the current budgetary pressures on our budget, it will not be possible for us to effect this immediately. Instead of amending the Act, we are in the process of preparing a contributory scheme which under the Public Service Superannuation Act 2012 to ensure that public servants have a sustainable pension. So, this one is in the process so that they have a comfortable retirement scheme instead of sustaining this scheme which appears to be unsustainable because as it is, the current budgetary provisions for pensions is about 2.8 per cent of our Gross Domestic Product (GDP) and it is likely to rise much higher by 2030. In fact, by 2030, it is projected that it might go up to Kshs100 billion. This is a bit unsustainable. So, we are instead replacing the scheme with a contributory scheme which will be much better.

Mr. Oyugi: Mr. Speaker, Sir, there are several retirees out there – teachers and civil servants who are living in pillory and squalor because the pensions have not been

promised. Could the Assistant Minister inform the House why it takes so long to process some of these pensions that are supposed to help retirees in their old age?

Dr. Oburu: Mr. Speaker, Sir, according to the law, actually pensions are supposed to be paid at the time the officer is leaving the office. Sometimes it takes long in the parent Ministry. When officers retire they are required to submit all the documents to the human resource departments one year before they retire, but sometimes the delay is caused by lack of certain documents from the officers and it takes a bit long to get all the things put up together.

Mr. Chanzu: Mr. Speaker, Sir, the answer the Assistant Minister gave in the previous question I think is because of proactiveness on behalf of the Government because when you make changes--- Kenyans have been yearning for improvement in their lives. This is expected from the Government. So, the answers you have given earlier are rather statistic. Are there mechanisms being put in place where all of these can be harmonized? Like now when we removed the retirement age to 60 years, we did not expect the consequences of this since other things also changed. Is there any plan the Government has in place to improve so that everything goes in harmony?

Dr. Oburu: Mr. Speaker, Sir, in fact, I have stated here that we are preparing under the Superannuation Act a contributory pension scheme which will be ready by the time the current officers who are benefiting from this increment of the retirement age from 55 to 60 years. The Act will be ready by 2015 and there will be an improvement in the pension scheme.

Mr. Olago: Mr. Speaker, Sir, the House should applaud the proposal by the Ministry to have the superannuation scheme for civil servants in place. It is long overdue, but the problem that pensioners have been having consistently in this country is lack of respect and response from the office of Director of Pensions. Every time credits are made they do not respond. Even when matters are raised on the Floor of this House they do not respond. Could the Assistant Minister inform the House what steps his Ministry is taking to ensure that the Director of Pensions responds appropriately every time queries are made?

Dr. Oburu: Mr. Speaker, Sir, that is a general allegation, but if there are any specific cases where there is no response, I will make sure that there is a response. But one other thing which we are doing to improve this response is to computerize the pensions department so that information which is sought by the public is available at a go when it is requested.

Dr. Monda: Mr. Speaker, Sir, you heard the Assistant Minister tell the House that delays in releasing pensions is due to lack of presentation of documents that are required by the Government. The Government holds the files of all these officers through their working period and he is protecting or defending the pension office that it is due to delay. Could he inform the House what his Ministry is doing to ensure that the Government pays pensioners in good time because the Government has information about every officer in the Government? Are they working without any records at all?

Dr. Oburu: Mr. Speaker, Sir, some of the officers were employed a long time ago when there were no strict requirements of birth certificates and so on. So, there are several documents which are required. Some of which require confirmation from the chiefs and so on. In trying to get some of this information, there is a delay. However, I

have said all in all, we are trying to improve the system by computerizing so that we can get the information at a go.

Mr. Pesa: Mr. Speaker, Sir, I wanted to stand on a point of order, but I did not catch your eye because the Assistant Minister said that hon. Olago was making an allegation about the delay in payment of pensions. We are almost adjourning and yet the teachers have not been paid their pensions. However, that notwithstanding, he has talked about a scheme they are trying to introduce and you know Parliament is almost going home. Could he assure this House that this will involve the increment in the number of years the pensioners will get this money?

Dr. Oburu: Mr. Speaker, Sir, once we get a contributory superannuation fund, this will be incorporated.

Mr. Speaker: Very well. Next Question by hon. Chanzu!

Question No.1874

DELAYED ISSUANCE OF TITLE DEED
TO HAMUYUNDI PRIMARY SCHOOL

Mr. Chanzu asked the Minister for Lands:-

(a) whether he is aware that Hamuyundi Primary School in Vihiga County is yet to acquire a title deed/lease for the parcel of land it stands on;

(b) when the school will be issued with a title deed/lease; and,

(c) whether he is also aware that many schools in the county are in the same predicament.

The Assistant Minister for Lands (Mr. Rai): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Hamuyundi Primary School in Vihiga County has not acquired a title deed/lease for the parcel of land it occupies.

(b) Copies of the application forms were received on 4th January 2013 and a letter of allotment has been issued. The title will be issued upon fulfillment of conditions contained in the letter of allotment.

(c) I am aware that many schools in the county do not have titles because they have not applied for the same. In the circumstances, the school management should liaise with the respective local authorities, the county director of education and the district land officers for advice on how to process titles.

Mr. Chanzu: Mr. Speaker, Sir, it has taken a long time for this process to be accomplished. In fact, I think it is because of the Question going round and round. On part (b) of the Question, could the Assistant Minister furnish the truth that this letter of allotment was received to enable a follow up action?

Mr. Rai: Mr. Speaker, Sir, a letter of offer dated 7th January 2013 addressed to the Permanent Secretary, Treasury for Hamuyundi Primary School was issued and the amount of money to be paid is actually Kshs6,872. Once that money is paid, then we will actually proceed with the exercise of actually processing the title.

Mr. Mwangi: Mr. Speaker, Sir, while we agree with the Assistant Minister about the title deeds, the Ministry of Education has been giving instructions to schools to acquire title deeds for the last 10 years. Could he confirm that they work in collaboration

with the Ministry of Education to avoid the possibility of communities losing school land?

Mr. Rai: Mr. Speaker, Sir, the tradition is that all schools are required to apply to their local counties for the process to commence from there. Once the application is approved, then the County Education Officers write to the Minister for Local Government, who then writes to the Commissioner of Lands to process the relevant documents for title deeds to be issued.

Mr. Njuguna: Mr. Speaker, Sir, time and again, land grabbers, or racketeers, who are in possession of fake title deeds, have been confronting school management committees. What is the Ministry doing to contain production of fake title deeds?

Mr. Rai: Mr. Speaker, Sir, normally, all the schools land is trust land. So, it is actually the duty of the county council, in conjunction with the local leaders, to ensure that once they have actually set aside land meant for a school, documentation is done, so that the land cannot be grabbed. But if the land is left idle and has no documentation, then anybody can just tamper with it and our Ministry cannot do anything. If we are alerted then some fraud is going on we can intervene.

Mr. Onyancha: Mr. Speaker, Sir, I would like the Assistant Minister to clarify the previous statements he has been making; he said that the Government owns this land and, indeed, due to its ownership of the title, it is the school which owns the land. Does he know that the Government of Kenya (GOK) schools having got those title deeds are required to deposit them with the churches because churches own the schools? The Government pays teachers in such schools and also for buildings through the CDF and other sources of funds.

Mr. Rai: Mr. Speaker, Sir, I do not know whether the questioner listened to me, because I said most of the school land belongs to the county council; schools normally do not have land. They always get land from the local county councils. Once a decision has been arrived at that people want to put up a school at some place, the land ought to be set aside, so that a process of documentation can follow to ensure that a title deed is issued.

In certain areas, some of these schools have sponsors, who are actually religious organizations. In that case, we have actually no say over such schools until the county council intervenes, and a particular church actually applies for registration and then we process a title deed.

Mr. Chanzu: Mr. Speaker, Sir, I would like to ask the Assistant Minister: When the payment is made, how long is this process likely to take?

Mr. Rai: Mr. Speaker, Sir, we actually need to request the headteacher of that particular Primary School or Secondary School to make payments to the Commissioner of Lands. That is Kshs6,872. If my colleague can just give me a cheque tomorrow, we can embark on the process of issuing this particular school with a title deed.

Mr. Speaker: Fair enough, hon. Chanzu! That is a good cue for you. You appreciate hon. Chanzu, do you?

Mr. Chanzu: Yes.

Mr. Speaker: Very well.

Member for Chepalungu? Madam Minister, the Member for Chepalungu once again is not the House, notwithstanding what transpired last week, when he apologized both to the House and to you. He is not in again.

You want me to hear you or shall I just take action?

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Speaker, Sir, I think you should take action because this is the third time. If you remember, he insinuated that I was somewhere enjoying myself and I wonder if that is what he is actually doing. I think you should drop this Question.

Mr. Speaker: Very well, Madam Minister. The Question is dropped. It is further directed that this Question will not be reinstated on the Order Paper during this Session.

(Hon. Odhiambo-Mabona murmured something)

Hon. Odhiambo-Mabona it is not helpful for you to try to talk to Mr. Speaker, from where you are. The Question is dropped finally.

Question No.1847

DELAYED RESETTLEMENT
OF MAU FOREST EVICTEES

(Question dropped)

Mr. Speaker: We want to go back to the Question by Dr. Monda; let us see if the Minister of State for Provincial Administration and Internal Security is now able to deal with finally.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I had a conversation with the Attorney General a few moments ago and he was not in a position to give me a definitive answer. We have agreed that we seek deferment of this Question until tomorrow afternoon.

Mr. Speaker: Tomorrow afternoon, then it will be. Dr. Monda, please, note this and just be here tomorrow afternoon. Mr. Assistant Minister, really, you must come with the final answer.

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

Question No.1875

DELAYED PAYMENT OF DUES
TO MR. JEREMIAH OBWOMA

(Question deferred)

Mr. Speaker: Very well. Hon. Members, that brings us to the end of Order No.6 and we will take the next Order.

MINISTERIAL STATEMENTS

Mr. Speaker: Is there a Statement which is due this afternoon? Minister for Finance, Minister of State for Provincial Administration and Internal Security, I thought both of you had pending issues. None, from Finance. Maybe, from the Ministry of State for Provincial Administration and Internal Security.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I have three Statements. There is a Statement which was sought by hon. John Mwau regarding a police statement on the seizure of cocaine haul in 2004. It is here.

Mr. Speaker, Sir, I also have a statement on measures to curb sexual violations/murders of minors by hon. Adan Duale. It is also ready. I also have a Statement sought by hon. Sophia Noor regarding attacks/harassment of Ms. Anne Anyanga. I have three Statements. I need your guidance.

Mr. Speaker: Yes, Assistant Minister, this is my guidance, that you deliver the two Statements sought by the Member for Kilome first and then secondly the one sought by the hon. Sophia Noor. For the Statement sought by the Member for Dujis you can do it tomorrow morning.

So, proceed and deliver the first two.

SEIZURE OF COCAINE HALL IN 2004

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, I would like to start by issuing a Statement, or clarification on the police seizure of cocaine haul in 2004.

Mr. Speaker, Sir, on 2nd January, 2013, hon. John Harun Mwau, while standing on a point of order, sought a Ministerial Statement from my Ministry on the fact that the Kenya Police Service had released a documentary clarifying all the allegations and matters, including investigation report, pertaining to the 1,141.5 kilogrammes of cocaine that was seized in 2004.

In the Statement, the hon. Member sought a confirmation that no Member of Parliament was involved in that particular seizure of cocaine, or in any other cocaine seizure. He further requested that a copy of the documentary be availed to the House. He also be provided with a copy of the same.

I wish to state the following. The Kenya Police Service, through the electronic media, recently released a documentary clarifying all manner of allegations on the seizure of 1141.5 kilogrammes of cocaine that was seized in Mombasa in 2004.

Mr. Speaker, Sir, I hereby table the documentary.

(Mr. Khang'ati laid the document on the Table)

Mr. Speaker, Sir, regarding whether a copy of the same documentary can be availed to hon. Mwau, I was informed that he is free to procure one from the Office of the Inspector-General of Police. The documentary is, however, the property of the National Police Service and if hon. Mwau is interested in it, he may apply in writing to the Inspector-General of Police for an authenticated copy after paying the requisite fee.

Further, during the investigations carried out on the seizure of the 1,141.5 kilograms of cocaine, no sitting Member of Parliament was directly implicated in the cocaine haul.

Thank you very much, Mr. Speaker, Sir.

Mr. Speaker: Are there any hon. Members who want clarifications on this Ministerial Statement? I want to restrict the number to three, beginning with the Member for Kilome. Assistant Minister, will you keep notes, so that you can respond to all the three clarifications after they are done?

Mr. Mwau: Mr. Speaker, Sir, you recall that in the report we have been talking about in this House by Michael Ranneberger and or the Government of the United States of America (USA), it has been stating, regarding the seizure of the 1,141.5 kilograms of cocaine; that Members of Parliament were involved and that the haul was seized at Pepe Inland Container Depot. However, the police have now clarified that it is not true. The police documentary that the Assistant Minister has tabled has cleared all Members of Parliament, including me. When I asked for a copy of that report, he told me to apply for one and pay for it. This is a report which relates to an investigation in which I was falsely accused. Therefore, all I am asking is that he be ordered to provide me with an authenticated copy of the report because the allegations were made in this House and I can only be cleared through this House.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Yes, Member for Yatta.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, mine is more or less on advice from the Chair because when documents are tabled here, they become available to Members of Parliament since they are considered a property of the House. When the Assistant Minister says that he has tabled the DVD, and that whoever wants to access it has to go and buy it from the police, he would be setting up his own “standing orders” for the House. So, I pray that the Chair finds him totally out of order because when documents are tabled here, they become a property of the House. We would have expected him to know that we are living in an IT era and, therefore, he should have availed enough copies to the House, so that anybody who wants to access the information, he can readily do so.

Mr. Speaker, Sir, I beg your ruling.

Mr. Speaker: Yes, Member for Naivasha.

Mr. Mututho: Mr. Speaker, Sir, now that the Assistant Minister has confirmed that there was never a Member of Parliament who was involved in this scam; could the Government consider giving a public apology and publishing it in the newspapers for having entertained such malicious information on Members of Parliament, particularly now that we are going for elections?

Mr. Speaker: Assistant Minister, you may now make your responses.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang’ati): Mr. Speaker, Sir, with your permission, I will deal with the issue raised by hon. Mwau and hon. Charles Kilonzo because both of them are with regard to the tabled document.

In his request, hon. Mwau sought for two things. First and foremost, he sought that the documentary be tabled in this House, which I have done. He went ahead and said that we should procure for him a copy. I want to state here that I have done what he

requested. Regarding the other matter, the documentary is there. Anybody wishing to access it can do so. I also want to believe that since the document has been tabled here, he can have access to it. I have not, in any way, said that he cannot have access to it, as stated.

Mr. Speaker, Sir, regarding the matter raised by the Member for Naivasha, hon. Mututho---

Mr. Speaker: What is it, Member for Yatta?

Mr. C. Kilonzo: Mr. Speaker, Sir, I am only concerned with the Standing Orders. For the benefit of the Assistant Minister, I would like to refer him to Standing Order No.31, which partly says:-

“31(1) The custody of journals and records, whether audio, electronic or any other form, including all papers and accounts howsoever presented to or belonging to the House, shall be vested in the Clerk---“

Mr. Speaker, Sir, my argument is very simple. The DVD that the Assistant Minister has tabled has been vetted. Therefore, it is only for it to be availed to hon. Members. So, if he tells us to go and look for another document which has not been vetted by the Clerk, he is asking us to do something which is not official for this House. So, is he in order?

Mr. Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang’ati): Mr. Temporary Deputy Speaker, Sir, I do not know where hon. Charles Kilonzo is finding a problem. I have dealt with the request put to me by hon. Mwau. First, he said he wanted the documentary tabled in the House, which I have done. Secondly, he sought to have a personal copy of the same. Regarding that matter, I have advised him and everybody else who wants a personal copy that this is now an open document. It is not a confidential document. Anybody who wants the documentary can access it from the police offices. I do not see any difficult in that one.

Mr. Speaker: Neither do I, Assistant Minister. It is a simple matter, really. It is straightforward. Member for Yatta, you have a point and I need not belabour it. As far as the House is concerned, the documentary has been tabled and any hon. Member who wants a copy of it, as tabled in the House, can actually access it from the House. So, really, there is no issue there as far as I am concerned. That is why I have refrained from giving any considered directions because they are not necessary. On our part, as the House, we will authenticate the documentary as tabled. So, I do not see that there is an issue there really.

We want to take the next Ministerial Statement, Mr. Khangati.

ATTACKS ON MS. ANNE ANYANGA

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang’ati): Mr. Speaker, Sir, the next Ministerial Statement is with regard to an attack on Mrs. Anne Anyanga.

On 2nd January, 2013, hon. Sofia Abdi Noor, Nominated Member of Parliament, while rising on a point of order, sought for a Ministerial Statement on an attack on an aspirant for the position of governor in Migori County, Mrs. Anne Anyanga; by some youth in Rongo Township, on 30th December, 2012.

The hon. Member sought to know the circumstances under which Mrs. Anne Anyanga was attacked by some youths in Rongo Township on 30th December 2012. She further wanted to know where the youths came from and who had sent them. Finally, she sought to know the measures that the Government has put in place to protect women aspirants.

Mr. Speaker, Sir, I wish to state as follows: On 30th December, 2012, at about 12.00 noon, Mrs. Anne Anyanga, an aspirant for the position of governor in Migori County, arrived unannounced in an helicopter and landed at Rongo Primary School. When she disembarked from the helicopter, she started addressing a crowd that had been attracted to the school ground by the arrival of the chopper.

Despite the fact that the police had not been notified of the rally, the aspirant continued to address the impromptu gathering until some youths, who were part of the crowd, became unruly and attacked her demanding some money. The aspirant was whisked away by her agents. She did not report the incident to the police until 1st January, 2013, when one Roy Obonga Elijah, who claimed to be one of her agents reported the incident at 10.50 a.m. vide OB No.14 of 11th January, 2013 at Kamagambo Police Station. Investigations commenced immediately and are still ongoing to establish the identity of the youths who attacked Mrs. Anyanga and who had sent them, if any.

Mr. Speaker, Sir, it is the mandate of the National Police Service to provide security during political rallies, if and when notified in time as per the requirements of the Public Order Act. Further, it is the responsibility of organizers or aspirants to inform the police on time to provide security during such rallies.

Appropriate measures have been put in place to provide security, not only to women aspirants, but also to every other aspirant. Aspirants are, therefore, requested to duly co-operate with the police when organizing such rallies. It is worth noting that this has not been the case by the majority of the aspirants; the trend is worrying and presents serious security challenges to the law-enforcers in light of current terrorist threats and other emergency issues that the country is dealing with.

Mr. Speaker: We will allow once again three clarifications on this Statement, beginning with Mrs. Noor. Mr. Assistant Minister, take notes.

Mrs. Noor: Mr. Speaker, Sir, I want to ask the Assistant Minister, now that it is clear that there was an incident, and that the lady was attacked in Rongo--- If you look back in the history of elections in this country, and particularly when it comes to women, they have suffered, have been harrassed and attacked left, right and centre. It is unfortunate that we are starting this way even after we have refused to implement the two-thirds principle of the gender rule here in this House.

It is important that women who are contesting this time round are protected, because this is a matter of life and death. We know that Mrs. Anne Anyanga is a very strong candidate where she is now. We know every Kenyan is protected all over, and that security is guaranteed. Now that the women of this country are going into serious business of participating in this race--- You know we will capture all the seats in this country, but we are asking you to protect us. How will you protect us? That is what we are asking you. We want clear measures put in place of ensuring security for all women candidates in this country.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I want to thank the Assistant Minister for his response. One of the measures that the Government has said in the past

that they have put in place in relation to elections is a special unit that deals with gender-based violence. As Mrs. Noor said, women are more vulnerable to violence at this point, especially when a woman is a front-runner. I want to know if the Assistant Minister can confirm whether there is a special unit that has been put in place against gender-based violence.

Mr. Chachu: Mr. Speaker, Sir, the violence that is likely to happen during this election will not be only limited to gender-related violence; all forms of violence are likely to take place in this country. Are there any measures that have been put in place by this Government to ensure that we have a smooth and peaceful election?

Mr. Speaker: Hon. Members, I had directed that we would take just three requests on each Statement. We want to make an exception because I have a belated request from the Member for Nyatike, and there is a coincidence in the names; so, perhaps, we should hear him.

Mr. Anyanga: Mr. Speaker, Sir, I want to confirm to this House that Anne Omolo Anyanga is my wife. I want to confirm to this House again that she was really attacked. I have had a chat with the Minister in charge of security and he has confirmed that he is ready to provide her with two security officers. I just want the Assistant Minister to also confirm that to this House.

Mr. Speaker: Mr. Assistant Minister, you may now give your responses.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, it is true that in the history of previous elections, women have been harrassed and that contributes to why women have been reluctant to seek elective positions. I believe men have also been harrassed. I was harassed when I started my campaign in 2002. But I want to say two things here. First of all, that it is the duty of every aspirant, including women aspirants, to seek police protection. The police cannot guess where every aspirant will be. Therefore, it is just a simple duty that if you want to go to a certain location, you should notify the police and seek their protection. If you do not do so, and some form of tragedy befalls you, then you bear part of the responsibility.

Secondly, I want to assure this House that protection is not only going to be given to women aspirants. Men are as vulnerable as women; every aspirant is vulnerable. So, the security agencies are taking every possible step to ensure that these elections are held peacefully, and the type of hooliganism that has been experienced in the recent past is not there. In any case, in the past, people used to commit acts of violence because they knew that they were going to get away with them. We had a faulty Judiciary, but now we have an effective Judiciary. So, our women as well as male aspirants should receive that assurance. Regarding the issue which hon. Odhiambo-Mabona stated, whether there is a special unit which has been established to take care of women, I would like to confirm and bring that information here. I believe that I have also spoken about measures for smooth elections. We have all been talking about that and I want to give the assurance that more police officers are now being put in places which are considered to be likely trouble spots.

Hon. Anyanga, my apologies. It is unfortunate that your wife, Madam Anne Anyanga, was attacked,. I am sure that it is a very traumatizing experience. I gave you the assurance that protection is going to be given to her, so that she is not harassed in future. That protection is going to be put in place.

Mr. Olago: On a point of order, Mr. Speaker, Sir. It is good to have the reassurance of the Assistant Minister that protection will be provided to Mrs. Anyanga. But would it not be in order for him to go further and explain to the House whether similar protection will be given to other candidates; both men and women?

Mr. Speaker: Order! Order! Member for Kisumu Town West, you know that, that does not pass the test for a point of order. You have just asked a question. So, I am afraid that I will not take that.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister, in responding to my question, said that he will give the details, but did not say when. Could he kindly give an indication as to when he will give details?

Mr. Speaker: That will be valid. Assistant Minister, your answer is apparently incomplete.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Khang'ati): Mr. Speaker, Sir, it is true that my answer to hon. Millie Odhiambo's question is not complete. This is very simple information that I could give as early as tomorrow.

Mr. Speaker: Very well! We will take that during Statements tomorrow, so that you give those details.

Are there any other Statements, away from the Minister in charge of Internal Security, which are due and ready for delivery? It will appear none. I do not recollect that I have any requests for a Statement. So, we will also pass that.

COMMUNICATION FROM THE CHAIR

RE-ORGANIZATION OF BUSINESS ON ORDER PAPER

Mr. Speaker: Hon. Members, before we go to the next Order, I have had persistent requests to revisit business that has already been passed on the Order Paper. We have tended to extend indulgence, particularly over the past two weeks. I want to observe and, indeed, direct that this is bad practice. We will not encourage this. We are not going to revisit business that has already been transacted. We will not go back to an Order that we have passed in future. We will make the last exception now and hear the Committee on Administration and National Security.

Hon. Kapondi and any other hon. Member, please, be guided and note that henceforth, hereafter, we will not revisit an Order after it is done, because it is bad practice.

Clerks-at-the-Table, you may want to call Order No.4

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Administration and National Security on the consideration of nomination of Chairperson, Vice-Chairperson and Members of the Public Service Commission.

(By Mr. Kapondi)

Mr. Speaker: Proceed and call Order No.5!

NOTICE OF MOTION

ADOPTION OF REPORT ON NOMINATION OF CHAIRPERSON/MEMBERS OF THE PUBLIC SERVICE COMMISSION

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

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the consideration of nomination of Chairperson, Vice-Chairperson and Members of the Public Service Commission laid on the Table of the House today, Tuesday, 8th January, 2013.

Mr. Speaker: Very well. Hon. Members, from now on, you will be guided by the Supplementary Order Paper.

We will want to take the next Order!

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

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

THAT, notwithstanding the provisions of Standing Order 20(2), this House orders that today's sitting be extended until 10.00 p.m.

Mr. Speaker, Sir, I want to start by thanking the hon. Members for their dedication towards the completion of business before us, including those who turned up this morning for the business that was scheduled for today. I believe that there has been a lot of progress that has been made in that direction, including the meetings that have taken place since then.

Mr. Speaker, Sir, the hon. Members will notice from the Order Paper that we still have a lot of business. It would have been our desire to actually go home today, but because of the developments this morning, it may not be possible. But if we are able to transact most of the business today, then tomorrow can be a very light day and we can have enough time to address our constituents during the Motion for Adjournment. We can also say goodbyes to one another tomorrow. So, the essence of today's Motion is to facilitate completion of as much business as possible today. We have reduced from what we intended initially, that is, to conclusion of business to, at least, do it up to 10.00 p.m. and then carry forward anything else that we will not have finished to tomorrow. I believe that in the usual magnanimity of the hon. Members and dedication to duty, we will be able to pass this Motion, so that we can, at least, clear most of the work and go back to campaigns from Thursday onwards.

Mr. Speaker, Sir, with those words, I want to thank the hon. Members once again for the extension that they have been giving and extra time that they have been given to

the service of the Kenyan people through this Parliament. I ask that we pass this Motion as part of that dedication and commitment.

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

The Minister for Finance (Mr. Githae): Mr. Speaker, Sir, I think that what the Deputy Leader of Government Business said is self-explanatory. The intention was to complete business today, but due to other exigencies, it was not possible.

Mr. Speaker, Sir, I would just like to go on record as really thanking the hon. Members of this august House. I know that you should be campaigning, but because of national and call of duty and the fact that you want to do the extra mile, you want to complete all the parliamentary business. For that, I would like to ask all the voters to really take that consideration when they are making their choice; that you are doing this on behalf of national duty. You have stopped your campaign for the sake of this country. Voters, please, note what we are doing here.

Mr. Speaker, Sir, I beg to second.

(Question proposed)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee Read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE CONSTITUENCIES DEVELOPMENT FUND BILL

The Temporary Deputy Chair (Dr. Laboso): Hon. Members, we are now in the Committee of the whole House to consider several Bills. We will start with the Constituencies Development Fund Bill, 2012.

Clause 2

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

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the word "Board" by deleting the word "section" and substituting therefor the words "section 4";

(b) by deleting the word "Ministerial" appearing in the definition of the word "Cabinet Secretary";

(c) by deleting the definition of the "Senate Committee" and substituting therefor the following new definition-

“Joint Committee” means a Joint Committee of the Senate and the National Assembly established in accordance with section 28; Mainly, it is just to say Cabinet Secretary instead of Ministerial and from Senate Committee to the Joint Parliamentary Committee.

(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 Chair (Dr. Laboso): Eng. Gumbo is next!

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

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the word “community” by inserting the word “village” immediately after the word “sub-location”;

(b) by deleting the definition of the term “Senate Committee” and substituting thereof the following new definition-

“Parliamentary Committee” means a Parliamentary Committee established in accordance with section 28;

Perhaps, what I need to explain is that in part (b), even though Mr. Ethuro has proposed that we delete “Senate Committee” and put it as “Joint Committee” if you look at the wordiest part of the Bill, I think “parliamentary committee” is more appropriate than “Joint Committee.”

(Question of the amendment proposed)

The Temporary Deputy Chair (Dr. Laboso): I want to see the concurrence of the Minister or the Chairman of the Committee on this amendment.

Mr. Ethuro: Madam Temporary Deputy Chair, there is no difference between the parliamentary committee; Parliament consists of both Houses. So I have no problem with Eng. Gumbo’s amendment.

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

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

The Temporary Deputy Chair (Dr. Laboso): We will now have Mrs. Odhiambo-Mabona with a further amendment.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 2 be amended by-

(a) deleting the definition of the word “Clerk”;

- (b) deleting the definition of “Senate Committee”;
- (c) inserting the following new definition in its proper alphabetical sequence-

“Joint Parliamentary Committee” means a committee of Parliament established in accordance with section 28;

This amendment has been circulated; it is not on the Order Paper. You note that the (b) and (c) of my amendment have been taken care of by the two previous amendments. So what I am doing is deleting the word “clerk” because it has no content in the main body of the Bill.

The Temporary Deputy Chair (Dr. Laboso): So you are dropping part (c) of your amendment?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chair, I am dropping part (c) of my amendment.

(Question of the amendment proposed)

Mr. Ethuro: Madam Temporary Deputy Chair, I do not have the benefit of the circulated amendments but coming from Mrs. Odhiambo-Mabona, I would imagine it is for our own good. I, therefore, support.

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

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

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

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

THAT, Clause 4 of the Bill be amended in sub-clause (2) by inserting the words “to be administered according to Section 5” at the end of the sub-clause.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chair (Dr. Laboso): We have several amendments and we will start with Mr. Ethuro, then the Minister's and lastly by Mrs. Odhiambo-Mabona.

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

THAT, Clause 5 of the Bill be amended-

(a) in sub-clause (2) by;

(i) by inserting the following new paragraphs immediately after paragraph

(b)-

(bb) the Attorney-General or his designated alternate not below the level of Senior State Counsel;

(ii) in paragraph (c) by deleting the word "five" and substituting therefor the word "four";

(iii) by deleting the words "sub-section 5" appearing in paragraph (c) and substituting therefor the words "paragraph (ee) and sub-section 5";

(iv) by inserting the following new paragraph immediately after paragraph (c)-

(cc) two persons qualified in accordance with paragraph (c) appointed by the Cabinet Secretary to remedy any regional imbalance that may have occurred during nomination under sub-section (5);

(v) by inserting the following new paragraph immediately after paragraph (e) (ee) The organizations listed in the First Schedule shall each submit the names and curriculum vitae of four nominees, two of whom shall be men and two women and out of the sixteen names submitted, the Cabinet Secretary shall, taking into account regional and gender balance, appoint four persons, one from each of the organizations.

(b) in sub-clause (4) by deleting the word "five" and substituting thereof the word "four".

(c) by deleting sub-clause (5) and substituting thereof the following new sub-clause-

(5) The names and curriculum vitae of the persons nominated to be appointed as members of the Board pursuant to paragraph (c) of sub-section (2) shall be submitted to Parliament for approval before appointments are made.

The purpose of this is to establish the persons who will be nominated to the CDF Board.

(Question of the amendment proposed)

(Mrs. Odhiambo-Mabona stood up in her place)

The Temporary Deputy Chair (Dr. Laboso): Mrs. Odhiambo-Mabona, you will help us by not talking until we get to your amendment unless you want to contribute.

Mr. Ethuro: Madam Temporary Deputy Chairlady, she has an amendment.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chair, in relation to this because the amendment by Mr. Ethuro is pretty long, he should tell us the import of this amendment.

The Temporary Deputy Chair (Dr. Laboso): Mr. Ethuro, your amendment is quite lengthy; just give the hon. Members a brief on what the import is.

Mr. Ethuro: Madam Temporary Deputy Chairlady, the proposed amendment is that as it stands now, we have about 18 members appointed to the Board and so what this particular clause is doing is to establish the composition. We have deleted some of those organizations and we have added a few other people and so the numbers have changed. Then the procedure in which they can also be nominated which was not in the main Bill has been added.

Now I have understood; there have been petitions about NGOs and religious organizations. First, we want to allow the composition of the Board to what is now acceptable within the Constitution of up to a maximum of nine members. We also looked at it from the ten years of administering the fund. We were looking at, with due respect, what they are really bringing to the Board? So we felt that in order to reduce the numbers, some of these organizations are very good but they are not necessary for the Board but for the religious ones, we have gone further to factor them at the constituency level where we think the real action takes place.

The Temporary Deputy Chairlady (Dr. Laboso): Minister, do you want to make your own contribution or do you want to contribute to the amendment by the hon. Member?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady I have no problem with hon. Ethuro's amendment, but I have proposed another amendment.

The Temporary Deputy Chairlady (Dr. Laboso): I will give you time. We want to dispose of hon. Ethuro's amendment first.

*(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)*

We have a further amendment by the Minister.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady, while I agree with the amendment proposed by hon. Ethuro, the organizations that were selecting members of the Board were really a problem. In fact, at the moment, there is a religious organization which has forwarded names but, unfortunately, they belong to people who are not qualified. I agree that we do away with the organization, but increase the membership to six members if we have to ensure regional balance. That is because a provision of four members is a small number. We need six persons qualified in matters relating to all those disciplines.

The Temporary Deputy Chairlady (Dr. Laboso): So, you are seeking to amend sub-clause 2. Is that so?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5 of the Bill be amended:-

- (a) In sub-clause 2 paragraph (c) by deleting the word “five” and substituting therefor the word “six”.
- (b) In sub-clause 4 by deleting the word “five” and substituting the word “six”.

The Temporary Deputy Chairlady (Dr. Laboso): Have you also moved Part (b) of your own amendment?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady, I am moving an amendment to Part (a), that is, deleting “five” and substituting therefor the word “six”, and in sub-clause 4 by deleting the word “five” and substituting therefor the word “six”. So, I am adding one more person.

The Temporary Deputy Chairlady (Dr. Laboso): Now, there is going to be confusion because hon. Ethuro’s amendment was changing it from “five” to “four” and that amendment has already passed. You are now moving an amendment to change it from “five” to “six” and yet we cannot have both amendments.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady, if the first one passed, then I am moving a further amendment to change it from “four” to “six”. This is if we have to get the regional balance.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, you are now not changing it from “five”; rather you are changing it from “four” to “six”.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady, that is what I clarified. I said from “four” to “five” because the first one had passed.

(Question of the further amendment proposed)

Mr. Ethuro: Madam Temporary Deputy Chairlady I appreciate that the Minister wants more capacity to do some ethnic arithmetic. We considered this and felt like--- If you look at my amendment on Page 4785, it states thus:-

“by inserting the following new paragraphs immediately after paragraph (c)-
(cc) two persons qualified in accordance with paragraph (c) appointed by the Cabinet Secretary to remedy any regional imbalance that may have occurred during nomination under subsection (5);”

The point is that there will be bodies nominating persons. So, the Cabinet Secretary will take into account regional balance, gender issues and so on. The Cabinet Secretary is still given an opportunity to appoint those two because we have said, in Paragraph (ee), that even the nominating bodies shall take into account regional and gender balance. It is already taken by the nominating bodies. The Minister still has a small window just in case--- The Cabinet Secretary as the appointing authority can actually send back to the nominating bodies if they do not consider regional balance. So, in our view, the provision for two is already too generous.

The Temporary Deputy Chairlady (Dr. Laboso): So, you do not support the amendment.

Mr. Ethuro: I do not.

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, it has really been properly put. I would like to appeal to the Minister because we looked into this matter. We provided for two for the Cabinet Secretary just to consider regional balance and we thought that would take care of all those interests.

Eng. Gumbo: Madam Temporary Deputy Chairlady, the Minister knows he is a good friend of mine and I want to persuade him to drop his amendment. We have sat in the Committee and the Minister knows that one of the problems that we have with the Board is that it has too many busybodies who really have no proper assignment. All they do, sometimes, is chasing each other around like hens and cocks and this does not help anybody.

I would like to persuade the Minister to drop this amendment. The leaner the Board the better it is for us. That body is too unruly and to me the proposal by hon. Ethuro--- He knows that I rarely agree with hon. Ethuro but on this one, I want to kindly persuade the Minister to leave it at "four".

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Godhana, we really cannot go on with this for too long. We have so many long amendments and yet, we have to make progress. Could we, please, reduce what we have to say?

Maj. Godhana: Madam Temporary Deputy Chairlady, I want to persuade hon. Members who have spoken. The reason that the Minister has given is very important. I want to plead with them that they also be a bit flexible in supporting the Minister's proposed amendment so that the Minister is given more latitude to be in a position to balance the Board.

The Temporary Deputy Chairlady (Dr. Laboso): Minister, are you persuaded to drop this amendment? You have an opportunity to balance.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanaya): Madam Temporary Deputy Chairlady, hon. Ethuro is forgetting that we have now proposed that the nominating bodies be dropped so that the Cabinet Secretary has the chance of selecting the six people from every region. He is assuming that they will be nominating institutions. What I am suggesting, because of the problems that I have encountered, is that we drop entirely the nominating bodies. So, the six people will be selected as people with various disciplines and with regional balance in mind. That is my proposal. I am not yet persuaded, Madam Temporary Deputy Chairlady.

Mr. Ethuro: Madam Temporary Deputy Chairlady, in fact, I was about to say that, but I did not want to anticipate it. What the Minister is looking at is his own amendment, which will come when we are dealing with the First Schedule. So, he is anticipating debate. For now, the amendment we are carrying is about the fact that there are still bodies which are nominating members to the Board. So, for the purposes of this amendment, my argument should prevail. He has an opportunity when we shall be discussing the First Schedule to see if his argument of dropping the nominating bodies will be carried.

The Temporary Deputy Chairlady (Dr. Laboso): What is your position, Mr. Minister? Should we subject it to a vote and see how it goes?

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

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 5(2)(c) be amended by inserting the word “ethnic” before the words “and gender.”

This is to constitutionally provide for the word “ethnic” because the Constitution provides for ethnic, regional and gender.

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 6

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 6 of the Bill be amended by deleting the words “Constituencies Fund Committee” in sub-clause 2 and substituting therefor the words “Cabinet Secretary”.

Madam Temporary Deputy Chairlady, this has been the case in the previous Bill. Policy issues are Executive function. That is why I proposed that instead of referring policy issues to the Constituencies Funds Committee, we refer them to the Cabinet Secretary.

(Question of the amendment proposed)

Eng. Gumbo: Madam Temporary Deputy Chairlady, I have not quite understood what the Minister intends to achieve here because in the way we do things, the Cabinet Secretary will anyway, be answerable to the Parliamentary Committee. So, what if he makes a policy pronouncement? I think that is what informed the arrangement that we have had here, where we have a horizontal relation between the two because both do the same thing. I do not understand what is wrong with the Parliamentary Committee being the one in charge and dealing with policy issues. We have done it before and it has not constituted a clash to me and it does not make the Cabinet Secretary inferior or anything. However, the way we are putting it, we are trying to delay something which will happen anyway when it needs to happen.

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, I think we have grown close to eight years. The reason we had made it to be referred to the Constituencies Fund Committee was because the CDF was still at its infancy stages. It was still very young and we had issues. Even to start a new school was an issue. But I think where we have reached, if we have issues even with the Cabinet Secretary, the relevant Committee can summon the Cabinet Secretary. So, in that sense, we are supporting. Policy issues are Executive and this is a good amendment.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I support because as a policy issue, it should go to the Cabinet Secretary.
I support.

Mr. Ethuro: Madam Temporary Deputy Chairlady, I reluctantly support this on condition that the Cabinet Secretary will still be subject to the Parliamentary Committee. It is on that basis but the relevant section, *Waziri*, was Clause 6(2).

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

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

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

The Temporary Deputy Chairlady (Dr. Laboso): We will start with hon. Ethuro's amendment and if it is carried, the rest will fall because he is deleting.

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

THAT, Clause 8 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) There shall be a chief executive officer of the Board who shall be recruited by the Board on a competitive basis and recommendations made to the Cabinet Secretary for appointment.

(b) in sub-clause (2) by deleting the word "ten" appearing in paragraph (b) and substituting therefor the word "five"

(c) in sub-clause (4) by deleting the word "three" and substituting therefor the word "five".

This is to set the process in terms of the appointment of the Chief Executive Officer.

The Temporary Deputy Chairlady (Dr. Laboso): Since there are several interests, if your amendment passes, then the others will fall. If it is deleted, we cannot amend what has already been deleted. This is on sub-clause 1. Just give a little explanation so that the other Members are persuaded or otherwise.

Mr. Ethuro: Madam Temporary Deputy Chairlady, I urge hon. Members to look at both the Bill and the amendment on the Order Paper so that when we are making the proposals, they reflect on those sections of the Bill. If you look at Clause 8(i), you will see that we are talking about the appointment of the Chief Executive Officer. He can still be returned by the Board through the instrument of appointment. However, we are clarifying that by saying that there shall be a Chief Executive Officer who shall be recruited by the Board on a competitive basis and recommended to the Cabinet Secretary for appointment. The bit on recommendation to the Cabinet Secretary was not there.

In sub-clause 2, we are deleting the business of ten years experience to make it five years experience for purposes of allowing our younger professionals to assume positions. We should not just be against young age. Those are the two critical things.

On sub-clause 4, the Chief Executive Officer shall serve for a renewable term of three years. The Fund deals with development and three years is too short a term. So, we propose that this be increased from three years to five years which is renewable.

(Question of the amendment proposed)

Eng. Gumbo: Madam Temporary Deputy Chairlady, I have no problem with that amendment because I had proposed an amendment. What the hon. Member has done is okay. The only thing that his amendment does not take care of is the approval by Parliament of the Chief Executive Officer. It is a standard practice that we vet these people as Parliament. So, that is the only time I will propose a further amendment so that a Parliamentary Committee can get a chance to vet the Chief Executive Officer. So, I am proposing a further amendment so that his clause shall be seen as crucial particularly by the Board on competitive basis and recommendations made to the Cabinet for appointment after vetting by the relevant departmental parliamentary committee.

The Temporary Deputy Chairlady (Dr. Laboso): Hold on, Eng. Gumbo, because we have not yet put the Question to know whether his amendment is passing and if it does, then it will have been deleted unless the Chairman wants himself to further amend his amendment.

Mr. Ethuro: Thank you, Madam Temporary Deputy Chairlady. My good friend here who is busy trying to disown his segment actually agrees with me always. If you look at the process of the initial recruitment by the Board, it is not final until it goes to the Cabinet Secretary. So, the Cabinet Secretary in the normal manner will still have to bring that name to the Parliamentary Committee for vetting. So, I do not see any problem with Eng. Gumbo's amendment since it comes at the very end of the process. Here, we are looking at this side of the process of how to get those names from the Board to the Cabinet Secretary and then hon. Gumbo is talking from the Cabinet Secretary to the committee before we finally appoint. That is the difference.

The Temporary Deputy Chairlady (Dr. Laboso): Let us give the Minister a chance before we proceed. Minister!

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I have no problem with the amendment (a) (1) but for (b), I still suggest that we retain ten years because of my experience. You need someone who is very experienced to handle that portfolio. So, I will suggest kindly that we retain the ten years other than the five years. Otherwise, with the other amendments, I have no problem.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Ethuro, we need to make a decision on your amendment.

Mr. Ethuro: Madam Temporary Deputy Chairlady, if you allow me, the Minister is making serious objections to these ten years experience business but I am very passionate on this one. The Constitution refers to a youth as any person not exceeding 35 years of age. By the time you graduate from school and then you go and gain experience, and I am speaking from my personal experience, if I was subjected to these ten years

experience, I would not be in this House. So, let us allow five years. In any case, it is a minimum. If you go to an interviewing panel and they ask somebody for 15 years experience which he or she has, then you will take the fellow but all we are saying is that do not deny a youthful person who may be limited in experience but who may be very sharp and knows the issues properly to have an equal share of being considered. We owe it to the youth of this country.

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, I want to plead with the good hon. Minister because this young man who is sitting in front of me is an honourable Member and he joined politics at 28 years and now he is a Minister. If somebody told him to bring ten years experience, he could not even be a Minister for Internal Security – a much senior position in the Government. So, we really need to be very fair.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, my concern was a little different because the hon. Member has brought in an amendment but my amendment is a further amendment to his amendment because he is talking about competitive but I am adding “open and competitive” because you can have a process that is competitive but is not open. But in terms of the process, I just wanted you to help me because I am in agreement with the proposed amendments.

The Temporary Deputy Chairlady (Dr. Laboso): The only thing is that we have not dispensed of hon. Ethuro’s amendment. None of these will come in until we have made a decision on hon. Ethuro’s amendment. I want to see if there is a way you can harmonise your amendments through hon. Ethuro.

Mrs. Odhiambo-Mabona: Yes, Madam Temporary Deputy Chairlady. There is a way we can harmonise but even as he is moving, you are the one who can pool my amendments. So, I want to suggest that hon. Ethuro adopts my amendments by making a further amendment to his amendment. Where he says “competitive”, he adds the words “open and competitive” so that he can now move a further amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Ethuro, could you therefore move your further amendment so that we dispense of yours.

Mr. Ethuro: Thank you, Madam Chairlady. Let me attempt to move an amended version of my amendment taking into account both hon. Odhiambo-Mabona’s and hon. Eng Gumbo by inserting the words “open and” before the words “competitive basis”. That should take care of her amendment and then for hon. Gumbo, that will need to come on its own. At the end, the wording should read “this appointment will be subject to the vetting by the Parliamentary Committee”.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Ethuro, so can you now finally read your amendment on Clause 8(1)?

Mr. Ethuro: Madam Temporary Deputy Chairlady, my further amendment is as follows: “There shall be a Chief Executive Officer of the Board who shall be recruited by the Board in an open and competitive basis and recommendations made to the Cabinet Secretary for appointment upon parliamentary approval.”

The Temporary Deputy Chairlady (Dr. Laboso): I think all the drafting issues can be taken care of by the drafters. I, therefore, put the question by hon. Ethuro and supported by hon. Odhiambo-Mabona and hon. Gumbo.

*(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): Just for the record, Eng. Gumbo and Mrs. Odhiambo-Mabona, could you just withdraw your amendments, which have been incorporated in hon. Ethuro's amendments?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I withdraw my amendment.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

Eng. Gumbo: Madam Temporary Deputy Chairlady, I withdraw, of course, subject to the amendments being incorporated.

(Proposed amendment by Eng. Gumbo withdrawn)

(Clause 8 as amended agreed to)

Clause 9

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

THAT Clause 9 of the Bill be amended by deleting sub-clause (7) and substituting therefor the following new sub-section-

(7) The Board may impose reasonable requirements, including restrictions, on a particular constituency and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Cabinet Secretary in accordance with this Act.

If you look at what had been stated before, it is just to make it more inclusive on specific particulars.

The Temporary Deputy Chairlady (Dr. Laboso): Again, this is a deletion and if it is carried, hon. Odhiambo-Mabona's will fall. Hon. Ethuro's amendment is deleting subclause (7) and introducing a new subclause; on the Order Paper it is on page 4785.

(Question of the amendment proposed)

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I have no problem with this amendment.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, actually hon. Ethuro's amendment does not do away with my amendment, because what I am proposing is to remove the word "restrictions". His amendment still has the word "restrictions". So, if he is not comfortable, then I would urge that he deletes the word "restrictions;" if you said the Board may impose reasonable requirements, those requirements may include sanctions but when you say "restrictions", it is punitive.

Mr. Ethuro: Madam Temporary Deputy Chairlady, I would like to persuade my good friend, Mrs. Odhiambo-Mabona, that if there is one Member I truly agree with on all grounds it is her. But if you look at the original arrangement, it was about misuse of funds and the rest and we thought it was deliberately creating an impression that the Fund is misused as if it is an NGO. So, that is why we want to deal with such. In terms of restrictions, we really want the committees on the ground to realize that you cannot just do things without due process as outlined in the Act. The Board should be at liberty to impose all requirements initially. If need be, restrictions can be imposed. This is what we have been practising even as we speak now. I think it is important for prudent management of the Fund; we should maintain it.

Eng. Gumbo: Madam Temporary Deputy Chairlady, on this one, I want to agree with the Chair of the Committee. Those of us who sit in the CDF Committees know that sometimes, not all, some Constituencies Fund Committees are very lax. I think it is important for them to know that if you do not do things properly, some sanctions will come your way. They have to include holding disbursement of funds for a certain period. I think this is a very neat amendment. I plead with hon. Odhiambo-Mabona that we let it go through as proposed by hon. Ethuro.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I am persuaded.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Odhiambo-Mabona, could you, please, then drop your amendment for the record?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I drop my amendment. It is taken care of.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 9 as amended agreed to)

Clause 10

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

THAT, Clause 10 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-section (2).

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

The reason here is just to bring clarity. We had actually a big debate within the Committee on whether we do not mean the same thing. We are trying to say, as the

practice now is, that if you are no longer interested in a project, you have to wait until the end of the financial year, and that wastes a lot of time. We are saying, you can actually re-allocate money to a project as long as you make your application to the Board and it is approved within whatever timeframe. I think that is important. It frees the resources from the account instead of just tying them to the account.

(Question of the amendment proposed)

The Minister of for State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I support this amendment.

We have found out that in most cases, where land issues were involved, funds remained idle while land issues were being sorted out, and some constituencies missed their balances, even when their balances were over Kshs10 million. So, I strongly support this amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Before I put the Question, there is an amendment by hon. Odhiambo-Mabona. It is a different clause.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): I think before your amendment, there is a further amendment by the Minister.

The Minister of State Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 10 of the Bill be amended in subclause (1) by deleting the words “with concurrence of Parliamentary Committee” and inserting the words “and table in Parliament” at the end of the subclause.

It says that the Cabinet Secretary will concur with the Parliamentary Committee. Since the allocation percentage is known; the fact is that this allocation will be tabled in Parliament. If you look at other areas, they say that this allocation will finally be tabled in Parliament. So, if they are tabled in Parliament, then what is the use of again agreeing with the Parliamentary Committee? A Parliamentary Committee is part of Parliament. So, as soon as the allocation is done, the Cabinet Secretary should table it in Parliament so that Parliament is able to debate and approve it.

(Question of the amendment proposed)

Eng. Gumbo: Madam Temporary Deputy Chairlady, with all due respect, I think the Minister is looking for a leeway to make the Cabinet Secretary load it on Parliament. I think that is not correct. This is a practice that we have adopted. It has worked very well; what the Minister is trying to say is that really Parliament ought to do the work of committees. The purpose of Committees is to work as sieve and guide Parliament.

Honestly, I see nothing wrong. With all due respect, I think today our friendship is at cross-purposes. I stand to oppose this one very strongly.

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, we all know that the Minister is a very intelligent man, but he understands the dynamics of allocation of funds. We do even remember that in his own Ministry, they could not even agree on a single thing like a census. Allocation of funds is very a sensitive issue. By bringing in the Committee of Parliament, we are basically trying to bring in harmony, and trying to reduce controversies, so that by the time the figures come to Parliament, they are not an issue. So, we really plead with you because we know where you are coming from.

Mr. Koech: Madam Temporary Deputy Chairlady, having listened to the Minister, I think there is no conflict really. I thought this amendment by Eng. Gumbo is to bring clarity and there will be no confusion.

I stand to oppose.

Mr. Chachu: Madam Temporary Chairlady, I do support hon. Gumbo's amendment. I think Parliament has a role to play through the Committee system. It works everywhere in the world. It should also work here in Kenya.

I oppose the Minister's amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Yes, hon. Ekwee Ethuro.

Mr. Ethuro: Madam Temporary Deputy Chairlady, you will have to bear with me. I want to persuade my good friend. We have worked very well with him. The speed of a Cabinet Secretary and the speed of the chair of a parliamentary committee are too different. This is money allocation. You remember the issues we were going through with hon. Githae. If we do not get the parliamentary committees involved, we will see things which we cannot believe. So, I really want to persuade hon. Members, as strongly put by Eng. Gumbo; that we should have these things clarified, in terms of the allocation formulae and disbursements. Until they are subjected to Parliament's scrutiny, through the Committees we will be wasting valuable time of the plenary sessions of the House.

I can see that the Minister is already persuaded to withdraw his amendment.

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

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, in most cases, once figures are tabled here, they are usually referred to the relevant Departmental Committee. Nevertheless, I am persuaded to withdraw the amendment.

(Proposed amendment by Mr. Oparanya withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, the amendment by the Minister having been withdrawn, we move to the amendment by hon. Millie Odhiambo on the same clause.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 10(1) be amended by inserting the word "relevant" before the words "Parliamentary Committee".

This is really a tidying up amendment by providing that it would be to the relevant parliamentary Committee.

(Question of the amendment proposed)

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

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

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

THAT, Clause 12 of the Bill be amended in sub-clause (3) by deleting the words “there is no legislative authority and”

Madam Temporary Deputy Chairlady, these words serve no purpose in the Bill.

(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): Yes, hon. Gumbo.

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

THAT, Clause 12 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (3)-

(4) For each project, the Project Management Committee shall set aside a sum of five per centum of the total allocation for the project to cater for the administration expenses of the project.

(5) The sum set aside under sub-section (5) shall be properly accounted for and proper books of accounts kept and returns made to the Constituencies Development Fund Committee for that constituency on how the sum has been used.

The import of this amendment is very obvious. If you look at The Constituencies Development Fund Act as it is now, you will see that we are asking the Project Management Committees to take responsibility but we are not giving them the tools. So, the purpose of this amendment is just to allocate 5 per cent of the project funds to ensure that the Project Management Committees can be facilitated to be able to do their work. I have improved on this by saying that when they make returns of the amount of the 5 per cent that they will have used, they will have accounted for it, which I think seals any loopholes that may be there for those who have a tendency to want to misuse those funds. I think it makes the Bill neater.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Dr. Laboso): Is there some concurrence from the Mover or the Minister?

Mr. Ethuro: Madam Temporary Deputy Chairlady, I concur completely.

The Temporary Deputy Chairlady (Dr. Laboso): Minister, what is your position?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I also concur with the hon. Member.

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

(Clause 12 as amended agreed to)

Clause 13

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

THAT, Clause 13 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) The list of proposed constituency based projects to be covered under this Act shall be submitted by the chairman of the constituency development fund committee to the Board after approval by the constituency development fund committee for that constituency.

(b) in sub-clause (2) by deleting the words “designate a particular officer to” and inserting the words “and submit it to the Joint Committee for approval” at the end of the sub-clause.

Madam Temporary Deputy Chairlady, initially we thought that there was confusion between the Secretary who is supposed to be an officer of the Board and the Secretary of the Committee. We have, therefore, made it very clear that the Chair of the Constituencies Development Fund Committee (CDFC) takes responsibility.

(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): Yes, hon. Millie.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 13 be amended by inserting the following new sub-clauses immediately after sub-clause (2)-

“(3) A copy of the list of constituency based projects submitted under subsection (1) shall be submitted to the Board”.

“(4) Where the County Projects Committee fails to submit the list of constituency based projects to the Board pursuant to subsection (3) within the stipulated time, the list shall be deemed to have been submitted to the Board upon the lapse of the stipulated time”.

“(5) The County Projects Committee shall ensure the harmonization of projects within the county”.

Madam Temporary Deputy Chairlady, this amendment, however, depends on the import of hon. Ekwee’s amendment. I do not know whether according to hon. Ekwee’s amendment, the County Project Committee still has a role to play. The Bill provides that the proposals shall be to the County Projects Committee but it does not say what happens if the County Projects Committee fails to submit the proposal. So, what I am saying is that if the County Projects Committee fails to submit the proposal within the stipulated time, it will be deemed to have been submitted to the Board at the lapse of the stipulated time.

I also seek to clarify that the County Projects Committee’s role shall be to ensure harmonisation of projects within the county because later on, I am going to propose an amendment to delete the many roles that we have given to the County Projects Committee because I think it will be a recipe for clashes between County Representatives and Members of Parliament.

(Question of the amendment proposed)

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

Mr. Ethuro: Madam Temporary Deputy Chairlady, my amendment, the way it was carried was deleting sub-clause (1) and giving specific proposals in terms of the CDFC’s approval and the Chair submitting to the board. At the end of it all, it will come to the Parliamentary Committee for approval. In my amendment, we have removed the notion of “through the County Projects Committee”. So, the issue of passage through the County Projects Committee does not arise. We are getting it straight. They can only get a copy. So, we can sustain hon. Millie’s proposed sub-clause (5), in terms of harmonisation. It is a copy. The County Projects Committee has no responsibility of determining priorities of projects. It is just supposed to know what is coming from what constituency, what is coming from the National Government and what is coming from the county governments so as to harmonise all these developments. So, the committee has no business, unless we entice them.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Millie, do you want to withdraw your proposed sub-clauses (3) and (4)?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, that is why I was actually seeking clarification as to his amendment. The Bill, as was originally submitted, gave them a very big role. So, I was actually reducing that role through my amendment. Now that hon. Ethuro’s amendment has been carried, I want to drop my proposed sub-clauses (3) and (4) and retain proposed sub-clause (5), which is basically ensuring harmonisation of projects within the county.

(Proposed sub-clauses (3) and (4) withdrawn)

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

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Clause 15

Mr. Ethuro: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 15 of the Bill be amended in sub-clause (1) by deleting the word
“Standard”

Madam Temporary Deputy Chairlady this is just a simple amendment. I realize
the Bill is talking of “Standard”. I think those were things at the conception level of the
board. Now after a decade, we are mature enough. We do not need to be standardized.
Standardized with who? So, we are deleting the word “Standard”.

(Question of the amendment proposed)

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

(Clause 15 as amended agreed to)

Clause 16

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I can see that
the chairman of the committee is pleading with me to drop this amendment, but I want to
explain myself so that he understands me.

I beg to move:-

THAT, Clause 16(2) be deleted.

Madam Temporary Deputy Chairlady, Clause 16(2) that I am seeking to delete
provides that the Board may, with the concurrence of the Cabinet Secretary, amend any of
the schedules to this Act. A schedule to an Act is part of an Act of Parliament. So, you
cannot sit in your office and amend an Act of Parliament. It has to be amended in the
same manner as you amend a law. So, that is why either we amend it to say the
amendment goes through Parliament or we do away with it all together.

Question of the amendment proposed)

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

(Clause 16 as amended agreed to)

Clause 17

The Minister of State for Planning, National Development and Vision 2030
(Mr. Oparanya): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 17 of the bill be amended:-

By deleting the words “Constituencies Fund Committee” in sub-clause (3) and substituting therefor the words “Cabinet Secretary”.

Madam Temporary Deputy Chairlady, I am just amending in concurrence with the parliamentary committee and substituting the words “Cabinet Secretary”. This is an Executive function. If there is rejection then let it be referred to the Cabinet Secretary.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, perhaps, what I want the Minister to clarify is--- I do not know why he thinks it is better for it to go to the Minister as opposed to it going to the Constituencies Development Fund Committee.

The Minister of State for Planning, National Development and Vision 2030
(Mr. Oparanya): Madam Temporary Deputy Chairlady, when the proposals come from the constituency, they go to the board. So, they cannot go back to the constituency. I think that is a mistake. They have to come to a higher level, which is the Cabinet Secretary, who will have to make a decision as to whether it is admissable or not.

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, somewhere else in this particular Bill you will see that Parliament has the final role and responsibility of approving projects. So, if the board really rejects a project, it has to explain that to Parliament because the responsibility of approving projects belongs solely to Parliament. So, I would really plead with the Minister to reconsider his position and withdraw the amendment.

Mr. Oyugi: Madam Temporary Deputy Chairlady, I think what is intended in the Bill is that the board needs to seek clarification from the Constituencies Development Committee; it needs reasons as to why they object to particular proposals; it will, therefore, not need the Cabinet Secretary’s approval.

Mr. Ochieng: Madam Temporary Deputy Chairlady, I think the standard has been the way it is put in the Act, and I do not see why we should further amend it unless the Minister can explain to us whether there has been any difficulty since the Fund was created.

Mr. Ethuro: Madam Temporary Deputy Chairlady, Mr. Ochieng has captured the point I wanted to make. Our experience, hon. Minister, and you know it; we have worked together very hard on this one. It is that sometimes the kind of board you appoint does not seem to read the law properly or understand the peculiarities of constituencies; it may want to impose some bureaucracy and red tape. That opportunity for the board to refer the projects that it cannot determine according to the understanding of the committee has resolved a lot of problems. I think that is why this Fund is very successful. I plead with you that you do not do away with the CFC.

The Minister of State for Planning, National Development and Vision 2030
(Mr. Oparanya): Madam Temporary Deputy Chairlady, I am persuaded to drop the proposal.

(Proposed amendment by Mr. Oparanya withdrawn)

(Clause 17 agreed to)

(Clause 18 agreed to)

Clause 19

The Minister of State for Planning, National Development and Vision 2030

(Mr. Oparanya): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 19 of the bill be amended:-

By inserting the word “and” between the words “Electoral” and “Boundaries”.

Madam Temporary Deputy Chairlady, this is a very minor amendment; it is just to put “and” between the words “Electoral” and “Boundaries”.

(Question of the amendment proposed)

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

(Clause 19 as amended agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): We have three amendments to Clause 20 by Mr. Ethuro, then Eng. Gumbo and then Mrs. Odhiambo-Mabona.

Clause 20

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

THAT, Clause 20 of the Bill be amended-

(a) by deleting sub-section (1) and substituting therefor the following new sub-sections-

(1) The budget ceiling for each constituency shall be determined in accordance with the basis for allocating resources among counties approved by Parliament pursuant to Article 217 of the Constitution;

(1A) Further to sub-section (1), the budget ceiling for each constituency shall be determined by the Cabinet Secretary in consultation with the Joint Committee and shall be submitted to Parliament for approval.

(b) in sub-section (2) by deleting the words “the Senate Committee” and substituting therefor the words “the Joint Committee”

Madam Temporary Deputy Chairlady, this is just to use the formula that we had been given by the CRA for approving the allocations.

(Question of the amendment proposed)

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

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

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

THAT, Clause 20 of the Bill be amended in sub-clause (2) by deleting the words “the Senate Committee” and substituting therefor the words “the Parliamentary Committee”

Madam Temporary Deputy Chairlady, going by the earlier amendment this is really automatic. It is just changing the Senate Committee to a Parliamentary Committee.

The Temporary Deputy Chairlady (Dr. Laboso): So, you have withdrawn your amendment?

Eng. Gumbo: No. It was taken care of. It is just a consequential amendment.

(Question of the amendment proposed)

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

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

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, the amendments I proposed are very similar to the amendments by Mr. Ethuro. So, they have been taken care of. I withdraw them.

Temporary Deputy Chairlady (Dr. Laboso): What about Sub-clause (5)?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I do not know where it came from. I am looking for it, and I cannot see it. In my hurry, I think I must have---

The Temporary Deputy Chairlady (Dr. Laboso): So, you are just withdrawing your amendment?

Mrs. Odhiambo-Mabona: So that I do not lose the amendment, I think when the Legal Committee was looking at it, they must have put it at the wrong place. That (c) is in relation to Clause 22; it is not in relation to Clause 20. So, for me the ones in relation to Clause 20 are (a) and (b). So, I have dropped (a) and (b) and (c) moves to Clause 22.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, did you have a comment?

Eng. Gumbo: Madam Temporary Deputy Chairlady, I was just trying to draw her attention to her own amendment.

The Temporary Deputy Chairlady (Dr. Laboso): What about your own amendment? Have you dropped your own amendment?

Eng. Gumbo: No, Madam Temporary Deputy Chairlady. I said that it is consequential to what we had already done, which was to change “Senate Committee” to “Parliamentary Committee.” We have already done it.

The Temporary Deputy Chairlady (Dr. Laboso): That is what we are saying. Hon. Ethuro has done the same thing. Therefore, yours is covered by hon. Ethuro’s.

Eng. Gumbo: Madam Temporary Deputy Chairlady, actually, it is me who did it and not hon. Ethuro. Give credit where it is due.

(Laughter)

The Temporary Deputy Chairlady (Dr. Laboso): You will get your credit, Eng. Gumbo. So, whose amendment is withdrawn; is it the Chair’s or Eng. Gumbo’s?

Eng. Gumbo: Madam Temporary Deputy Chairlady, the Chair’s is withdrawn and mine is carried.

The Temporary Deputy Chairlady (Dr. Laboso): You are from the same Committee. Can you agree?

Mr. Ethuro: Madam Temporary Deputy Chairlady, you called me first and I moved my amendments. They have been carried. Once my amendments were carried, they took into account hon. Gumbo’s amendment.

The Temporary Deputy Chairlady (Dr. Laboso): That is what I thought was the sequence of events. They shall be carried as such.

Eng. Gumbo and the Chair who are both Members of the same Committee in the interest of moving---

Eng. Gumbo: Madam Temporary Deputy Chairlady, it cannot go like that, because already in an earlier amendment, we had amended “Senate Committee” to “Parliamentary Committee.” If we now take it to the Joint Committee again, we will be going back. So, I am asking him to withdraw his, so that we carry mine, as we did earlier.

Mr. M’Mithiaru: Madam Temporary Deputy Chairlady, in fact, Eng. Gumbo has partially touched what I was raising. This is because the amendment that carried the day was “Parliamentary Committee” and not “Joint Committee.” So, let us be clear on how we are moving on.

The Temporary Deputy Chairlady (Dr. Laboso): Even a Joint Committee is still a Parliamentary Committee.

Eng. Gumbo: Madam Temporary Deputy Chairlady, it is still both. What I am trying to say is that we had carried it in an earlier amendment to Clause 5. So, unless we reopen Clause 5 it will be a contradiction.

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Chairlady. The only risk of saying “Parliamentary Committee” is: Supposing the Senate comes and insists that the Constituencies Development Fund is part of devolved funds and should be under them, we will have a scenario where you will find Senators supervising Members of Parliament. That is why we were very specific; a Joint Committee. “Parliamentary Committee” does not necessary mean “Joint.” It can be either. So, I would really plead with the hon. Members. We can always recommit that particular clause, because we will

have a situation where the Senate will say that it is in charge and will supervise Members of Parliament.

The Temporary Deputy Chairlady (Dr. Laboso): Chairman of the Committee!

Mr. Ethuro: Madam Temporary Deputy Chairlady, my understanding of a Parliamentary Committee is that it can be a Joint Committee. That is our proposal.

The Temporary Deputy Chairlady (Dr. Laboso): Now, the Committee Members are contradicting each other.

Hon. Namwamba, let us hear some words of wisdom.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I really do not see any reason this Committee is being made joint, because this is a Constituencies Development Fund (CDF) for constituencies which are represented by Members of the National Assembly. Why would you want to disperse the responsibility of Members of Parliament to oversight this particular Fund, when the Fund is so specific; “Constituencies Development Fund?” Why not make this a Committee of the National Assembly because that is where the rubber meets the road with regard to this Fund? Really, even if you are merely restricting the role of Members of Parliament to oversight, who is better placed to oversight this fund than the Member of Parliament that represents the constituency where the Fund is really directed at?

Mr. Onyancha: Madam Temporary Deputy Chairlady, I want to agree with hon. Namwamba and also remind the House that the Senator represents a county and there are county funds which he will, obviously, be supervising. So, why should he have two roles, when actually we, as Parliamentarians, shall be looking from outside?

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Chairlady, I just want to agree with hon. Namwamba, because responsibility has to rest somewhere. In this particular case, the Member of Parliament has to be held responsible. If you disburse the whole thing to, in some cases, seven constituencies that will be incorrect.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, this is Constituencies Development Fund and I do not see why the Senate is coming in actually. So, it should be the National Assembly.

The Temporary Deputy Chairlady (Dr. Laboso): Now, hon. Members, already hon. Ethuro’s amendment had been carried. So, we can only recommit it so that we return it to be “a Parliamentary Committee.” We are not doing the recommitting now. You can rearrange the wordings the way you want it.

Yes, hon. Namwamba!

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, just for avoidance of doubt, “Parliament” refers to both Houses. Therefore, for the avoidance of doubt, let it be succinct, clear and unequivocal that it is a Committee of the National Assembly.

The Temporary Deputy Chairlady (Dr. Laboso): We will recommit and then Eng. Gumbo can further amend his amendment.

Hon. Members, I will, therefore, put the Question that Clause 20 be further amended as proposed by Eng. Gumbo, subject to the recommittal---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Chairlady. Since the general feeling in the House is that it be a National Assembly

function and we have not already passed Clause 20, there is no reason why we would recommit Clause 20 when we are still at it. So, my suggestion is that we just amend on the spot any subsequent amendment that has to do with “Joint.” Since Clause 20 is still not yet passed, Eng. Gumbo can move a further amendment to his own amendment, so that where he talks of “Joint” he just puts “National Assembly.” What we will recommit are the ones that are already passed.

The Temporary Deputy Chairlady (Dr. Laboso): Okay. I think we will take your wisdom.

Eng. Gumbo, we want the further amendment to your amendment.

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

THAT, Clause 20 of the Bill be further amended in sub-clause (2) by deleting the words “the Senate Committee” and substituting therefor the words “a Committee of the National Assembly.”

(Question of the amendment proposed)

*(Question, that 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): Hon. Members, I think the staff will go and do any drafting issues that may arise from the two further amendments. Mrs. Odhiambo-Mabona also has an amendment for Clause 20.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, for Clause 20, I withdrew (a) and (b) and for (c) I said it was misplaced; it should be in Clause 22.

(Clause 20 as amended agreed to)

(Clause 21 agreed to)

Clause 22

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

THAT, Clause 22 of the Bill be amended in sub-clause (2) by inserting the following words at the end of the sub-clause-

“Provided always that at least thirty per centum of all development projects funded under this Act shall be reserved for enterprises registered and owned by the youth within the constituency.”

We discussed this clause in the Committee. What I am proposing and I need to clarify here is that some Committee Members have questioned whether we are not creating another youth fund but that is not the case; it is far from it. What we are trying to do is that we want to give a percentage of all projects in the constituency not more than 30 per cent to the youth.

(Loud consultations)

Can I be heard, please? What we are saying is that, for example, if the constituency is doing, say ten water projects we reserve three for organizations and enterprises managed and registered by the youth. This is something that I am talking about from experience from Rarieda where we have done it very successfully. We are just saying that the contractor, for the 30 per cent of the projects, lets the owners be the youth.

Hon. Members: No!

(Question of the amendment proposed)

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, already, there is a circular from the Ministry of Finance as directed by the President that any procurement for projects, the youth should be given at least 10 percent. There is that circular and it is being implemented. When you bring this, what about where we do not have youth with organizations? What will happen? Then we will cause a lot of confusion unless we have reached a situation where we have matured enough, then let the circular we have of 10 per cent from the Ministry of Finance hold.

Mr. Koech: Madam Temporary Deputy Chairlady, looking at this proposed amendment, I like the import by Eng. Gumbo but implementing this will be the most difficult thing to do. I do not know whether putting up a school would be a youth project or it is putting up a hospital. I want to plead with my colleague to withdraw this amendment.

Mr. Oyugi: Madam Temporary Deputy Chairlady, I would like to support the amendment by Eng. Gumbo. I really think that in the process of affirmative action and to make sure that the youth have a chance to form various CBOs and projects, we must encourage them and give them ability.

I support the amendment.

The Assistant Minister for Education (Prof. Olweny): Madam Temporary Deputy Chairlady, this will be the most difficult aspect of CDF to implement. I have had some experience with projects given to the youth in my constituency. Some of them after misappropriating the money ran away from the constituency and some of them ended up in Mombasa. We have a lot of problems trying to follow them up. So I think for this one, I would suggest that Eng. Gumbo withdraws it.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Chairlady, I think the Minister was proposing an amendment and I wanted to propose that we should take that amendment and amend it from 30 per cent to 10 per cent. This is already in existence. I proposed an amendment to the Procurement Act. This House passed that Bill but it has not yet been assented by the President. However, the President issued a directive that we should start with 10 per cent. That is already in force and under Article 55 of our Constitution the State is required to take affirmative action programmes to ensure the youth have opportunities and are able to participate, not just politically and socially, but also economically and other spheres of life. If we were to approve that to be done nationally, then this must be done in the counties. So it is a very reasonable proposal by Eng. Gumbo but I would suggest that we

take the Minister's amendment and we see whether we can start with 10 per cent. We have the youth in all constituencies and it is part of the affirmative action required under the new Constitution for the youth of Kenya.

Mr. Pesa: Madam Temporary Deputy Chairlady, I think it is time that we recognize that the youth of this country need to be supported and whereas that is true, 30 per cent is what we should amend so that we lower it to 10 per cent.

The Temporary Deputy Chairlady (Dr. Laboso): Can we then allow the Minister to give us his amendment?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, already the 10 per cent is there in the Procurement Act. So if we want to re-emphasize it here, we just lower it from 30 per cent to 10 per cent but the other words remain the same.

(Loud consultations)

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Chairlady. The intention is very good but I think the wording is very dangerous.

It reads:-

“Provided always that that at least thirty per centum of all development projects funded under this Act shall be reserved for enterprises registered and owned by the youth within the constituency.”

That will open it to abuse. So as you think about amendments, we need to clarify because the minute you introduce the word “enterprises” you are going to get youth owning enterprises. You can actually own a board privately. This is what we are basically encouraging and that will easily open a loophole to abuse this Fund.

Mr. Ethuro: Madam Temporary Deputy Chairlady, I also want to plead with the House. This proposal was brought to the Committee and we rejected it because of the difficulties that the House has already inculcated. The Article by the Minister for Justice, National Cohesion and Constitutional Affairs cannot purport to be one used for the CDF. The State has *Kazi kwa Vijana* and I am told that there is Programme II. The State has idlers in procurement but our issue is the practicality of this business. In addition to the wording Mr. C. Kilonzo has noted, the amendment is making it mandatory “provided always that at least thirty per centum ---” which means you can give 70 per cent or 100 per cent. Those of us who were in the Ninth Parliament when we started the CDF, the beautiful wisdom of the CDF was that we rejected youth groups and women groups because they are amoebic in nature; they seem to grow a multifaceted head any one particular time.

If *Kazi kwa Vijana* has literally failed and also the Youth Enterprise Development Fund (YEDF) has failed, do you expect a small CDF board to manage those kind of things? That is the clarification I wanted to make. If in the unlikely event they decide to make an amendment, I will amend that amendment further.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we really must move on. I will allow the Mover a last chance and then we will put it to the vote.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I think there is a confusion which we need to clarify. This is not a grant! What we are saying is that enterprises owned by the youth--- I explained that if you put up ten schools, what is wrong in

reserving say one of them and you say that it has to be undertaken--- This business of lacking confidence in our youth is not good. Some of us sit proudly in this House and it is because we started running engineering consultancies at the age of 28 years. Why did we not fail? Let us build the confidence in our youth. Let us give them opportunities so that they do not say: "You never gave us the opportunity." This has nothing to do with KKV. This is about enterprises and contracting firms owned by the youth. They will be paid after they have done the work. Where does mismanagement come in?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, what I would like to encourage--- I was actually trying to look for another article in the Constitution other than Article 55 that actually talks about giving affirmative action to the youth. However, my only challenge is that the percentage that has been quoted is too high. This is especially because already there are other certain percentages that have been allocated to different sections.

The only thing I am worried about is that we give a lot of lip-service to the youth. When it comes to issues of gender and persons with disability, we mainstream them. But when it comes to issues of the youth, even though the Constitution is very clear, we do not always mainstream.

So, I would want to encourage what the Minister is suggesting that he reduces the percentage, but not to remove it all together.

The Temporary Deputy Chairlady (Dr. Laboso): Does the Mover now make a further amendment to his own amendment? Hon. Members, hon. Eng. Gumbo wants to amend his amendment.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I beg to move a further amendment by lowering the percentage from 30 per cent to 10 per cent.

Madam Temporary Deputy Chairlady, the amendment will provide that, at least, 10 per cent of all development projects provided under this Act shall be reserved for enterprises registered and owned by the youth within the constituency.

(Question of the amendment proposed)

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I think we are confusing this issue of procurement and projects. The CDF is about community projects. I am sure that what Eng. Gumbo is talking about here is that the projects undertaken in terms of contracting should be given to the youth. So, let us differentiate between contracting and the actual development project. That is the issue which is at hand here, Madam Chairlady.

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

The Temporary Deputy Chairlady (Dr. Laboso): There is an amendment by hon. Odhiambo-Mabona!

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, I know that my brother hon. Augustino is not happy, but we will have another day to push the youth agenda.

I beg to move:-

THAT, Clause 22 of the Bill be amended-

(a) In subclause (4) by deleting the words “religious bodies or religious activities” after the words “or for supporting” and replacing with the words “criminal or illegal activities”;

(b) In subclause (10) by adding the word “Planning” before the word “Monitoring”.

The import of my amendment is that we are criminalizing religious bodies. So, I am very boldly saying that the only thing that we should criminalize is criminal or illegal activities, but everybody in this country--- There are only very few of us who are not religious. I do not see what is wrong with supporting religious activities. I would want to very boldly take my money and support my church. So, for CDF, yes, I want to take my money to support my church. That is what I am doing in (a).

In (b) I am suggesting that we also add the word “planning”. It should not just be “monitoring”. We should also add the word “planning.”

(Question of the amendment proposed)

Mr Onyancha: Madam Temporary Deputy Chairlady, I want to contribute on the issue---

(Loud consultations)

It is okay. You can put the Question.

Eng. Gumbo: Madam Temporary Deputy Chairlady, I plead with hon. Members to think about this proposed amendment. In most of our constituencies, we have over 1,000 different churches. Honestly, I have heard this issue. It is not criminalization; it is just elimination. I have a file of letters. I consider myself very religious, but let CDF be for development projects. Let us leave matters of religion out of it. It is just not possible. We will spend all the money on this!

Mr. Ethuro: I want to plead with my good friend hon. Millie. We come from very rich religious backgrounds, but we must know that every fund we vote in this House is for a particular purpose. If it is for a Ministry, it is for a specific purpose. If we go this route, we will be undermining the very purpose of having CDF. The object of CDF is poverty alleviation and not evangelization. Anybody who is interested in evangelization can carry the Bible and preach to the unreached people of the world. I beg and plead to my sister to withdraw this. We always agree with her and I am sure she has seen the wisdom.

Mr. Njuguna: Madam Temporary Deputy Chairlady, I think that this amendment by hon. Millie will allow more churches to come up in the country, including those that are not known in the African continent. So, I am humbly asking the Mover to immediately withdraw this amendment. That is because even churches do not pay taxes.

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

(Clause 22 agreed to)

(Clause 23 agreed to)

Clause 24

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

THAT, Clause 24 the Bill be amended in sub-clause (2)-

(a) by deleting the words “as may be designated by the Cabinet Secretary or an alternate”;

(b) by inserting the following new paragraph immediately after paragraph (d)

(dd) two persons representing religious organisations in the constituency.

(c) by deleting paragraph (e);

(d) in paragraph (f) by deleting the words “and shall serve as the secretary to the Constituency Development Fund Committee”

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

(3A) An officer of the Board in consultation with the Member of Parliament for the constituency and the sub-county administrator for each ward shall convene the first meeting in every ward within the first sixty days to nominate members to the Constituency Fund Committee.

(f) by deleting sub-clause (4) and substituting therefor the following new sub-clause-

(4) The first meeting of the Constituency Development Fund Committee shall be convened within the first sixty days of a new Parliament or a by-election by an officer of the Board seconded to the constituency.

(g) in sub-clause (5) by deleting the words “ward administrator” and substituting therefor the words “ward representative”

(h) by deleting sub-clause (6)

(i) by deleting sub-clause (8) and substituting therefor the following new sub-clause-

(8) The Committee shall elect its chairperson, treasurer and secretary from among its members

(j) in sub-clause (9) by inserting the words “and the decisions of the committee shall be made by simple majority” at the end of the sub-clause

The Temporary Deputy Chairlady (Dr. Laboso): Just explain because there are very many amendments to this Clause.

Mr. Ethuro: That is correct, Madam Temporary Deputy Chairlady. This is about the composition of the Committee; two persons representing religious organizations in the constituency. I am glad that this is coming after Clause 22 so that we make it very clear that we appreciate the role of religious bodies.

In 3A, we are saying that let the Officer of the Board, but in consultation with the Member of Parliament, convene these meetings. I do not need to explain this. If this House appreciates what the CDF can do, then we must make it conform to the constitutional order. By the time we go to the next Order, all the savings we have made in the current Legislature will not be applicable. So, for you to make the role of an MP be that express----

These are the issues that have made us to be taken to court. There have been many cases of this nature. I really want to plead with hon. Members that you may want to see yourself in front but sometimes you can provide leadership from behind.

(Question of the amendment proposed)

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, hon. Members need to know that we had one challenge in the CDF. One of the contentious issues has been who appoints members of the Committee? The other has been the Member of Parliament sitting in the Committee.

During the last Parliament, the wise man on the other side, Ababu, took the CDF to court. What saved us was that he came to Parliament. However, we have a precedent in court. This concerns the District Roads Committees where hon. Members were the chairpersons. This issue went to court and it was found to be unconstitutional to sit in these committees. So, our plea to hon. Members is that we should not appoint but Parliament should approve the names of the committee members.

Secondly, we should not sit in the committee but Parliament should approve the projects. In that case, your interests are covered. That will help us with the many cases that have come up with regard to the CDF.

Eng. Gumbo: Madam Temporary Deputy Chairlady, what I find contentious with the proposal by the Chair of the Committee is the role given to the Officer of the Board. The Officer of the Board is a Government employee from outside the constituency. I see nothing wrong because I have proposed very extensive amendments and I will persuade Members. We have discussed this with hon. Ethuro. What hon. C. Kilonzo has said is correct. What has been contentious is the Member of Parliament appointing the committee on his own. However, now, we have a consultative process where the Member of Parliament sits with the Officer of the Board and the sub county coordinator. To suggest that the Officer of the Board is the one who shall initiate the process; I find it fundamentally wrong and it undermines the will of the people in that constituency. I will persuade my good friend, hon. Ethuro, to drop this amendment so that I can take the House through my proposed amendment which I think takes everything into account.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, I have had a very bad experience. I can tell you that I have had many cases going to court because of involvement of Members of Parliament. We have discussed these things at length. If we want the CDF to survive, let us keep Members of Parliament out of it. This is in terms of appointment and participation in the committee. However, they should provide an oversight role as provided for in the Constitution. Otherwise, we will end up in the courts again.

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

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Yes, Madam Temporary Deputy Chairlady.

Mr. M'Mithiaru: Madam Temporary Deputy Chairlady, I support the amendment. However, there is an issue that will be left hanging. This is Clause 24(a) where we are deleting "as may be designated by the Cabinet Secretary or alternate." This

means that it leaves the sub-clause to read; “the National Government official at the constituency.”

If we move on in the same clause, where there is a mention of a county administrator, if we are to have a very clear clause here, it is good to mention if the Government official will be the sub county administrator or if it will be another person. It is good to be clear so that we ensure that there is clarify on part “a.”

Mr. Ethuro: Madam Temporary Deputy Chairlady, let me speak because I will not speak again after this. I will invoke what Pilate did. I will put my case and then wash my hands. If they want to crucify Jesus they will but if they want to crucify the thief, that will also be their choice and they will live with the consequences.

This is one amendment that will either make this law or break the CDF. I want to make that special appeal as the Minister has done. What the Committee has been grappling with is how to remove what might be considered unconstitutional or contentious in terms of the role of the Member of Parliament in this fund, but still maintain sufficient latitude and influence by the Member of Parliament without losing all the trappings of enjoyment. We also appreciate that without the Member of Parliament having some influence on this fund, it will die the way the Poverty Eradication Commission did. This one has survived because of this other consideration. So, we navigated very turbulent waters and we discussed for almost half an hour these proposals. This was the only way we could have looked at all the possibilities so that this fund is not challenged.

I rest my case and it is up to the House to decide. I submit myself to your will.

Mr. Namwamba: Thank you, Madam Temporary Deputy Chairlady. Fortunately, this is not a crucifixion arena. So, we do not have to worry about Jesus or Barabbas. However, we have to worry about the fundamentals of this law. It is, indeed, true that one of the greatest challenges that has faced this fund has always been the role of the Member of Parliament. This is because there were some fundamental hiccups in the original architecture of the CDF Act. There was a time when the Member of Parliament was everything. The Member of Parliament was expected to chair the Committee. In fact, in many places, you found Members of Parliament chairing the CDF Committee. I do believe that even this House has several Members of Parliament who have chaired their CDF Committees.

So, there were structural effects that obviously raised constitutional issues within the framework of the principle of separation of power, but I want to persuade hon. Ethuro without bending Standing Orders by anticipating debate on the proposal that the hon. Member for Rarieda will be placing before us. It is already on the Order Paper and hon. Gumbo has already mentioned it but I am sure I do believe that you can still retain a role for Members of Parliament to facilitate the constitution of this committee; constituting it not in terms of being the appointing authority but facilitating a process where the community itself actually plays a role to put in place this committee.

However, whichever standard you want to apply, in any democracy, in any constituency whether in Kenya, the UK or the US, the only person that carries the popular mandate of the populace in that constituency is a person who has gone out there and sought that mandate and through a democratic process expressed the will of the people. That person is better placed to facilitate a process where the community will put

in place a management structure for a fund than a Member of Parliament. Let us not reinvent bureaucracies that the fund intended to remove in the first place.

Madam Temporary Deputy Chairlady, let me conclude by reminding my very distinguished senior from Turkana Central that even today the Member of Parliament sits, for instance in the committee that is responsible for the road funds – the committee constituted under the Kenya Rural Roads Authority (KuRRA) and it is called the Constituency Roads Committee (CRC). That CRC expends public resources but a Member of Parliament is in fact not even an *ex officio*. He is a substantive member of that committee. He does not render that committee unconstitutional merely by his presence. The Member of Parliament sits on the District Development Committee (DDC) as a member of the DDC. The DDC is responsible for planning and even giving a formulation of policy and advice on how to expend resources. It does not render the DDC unconstitutional. So, the presence of a Member of Parliament on this committee and in the manner that is proposed by the Member for Rarieda as an *ex officio* member certainly would not render this committee unconstitutional. This is a matter on which as an attorney, I would offer my *pro bono* services to defend the 11th Parliament, to protect the rights of Members of Parliament to sit on this committee as *ex officio* members. I want to plead with the hon. Member for Turkana Central to drop this amendment with due respect and allow the Member for Rarieda to move his amendment. I rest my case.

Mrs. Noor: Madam Temporary Deputy Chairlady, I also want to persuade my senior brother, hon. Ethuro that sitting in the Constituencies Development Fund (CDF) committee just to see what is happening is something that one has a responsibility over because when you are going out there asking for the people's support, you tell them that: "I want to change and bring development here." How else would you bring development to your people if you will not preside over it and see what is going to be planned? That is what we are saying. We are not saying that you are going to perform the activities like protecting thieves and so on. No! That is not what it means. It means that you are going to see what is happening. That is why you have an oversight role in all the resources. When you approve the Government resources, the Member of Parliament has a responsibility to oversight what is happening. So, what we are saying is not that the Member of Parliament wants to go and implement projects. The Member of Parliament wants to see what is happening, how those resources are distributed, how projects are implemented and it is an oversight role by your sitting there. So, I am persuading my senior brother who has taught me to debate in this chamber to withdraw that amendment.

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

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

THAT, Clause 24 be amended-

(a) by inserting the following new sub-clause immediately after sub-clause (2)-

(2A) The eight persons referred to in sub-clause 2 (b) (c) (d) and (e) shall be nominated through the following procedure-

(a) within forty-five days of being sworn in, each Member of Parliament for a particular constituency shall convene open public

meetings of registered voters in each of the elective wards in the constituency;

(b) each ward shall then elect five persons whose names shall be forwarded to the officer of the Board in the constituency;

(c) upon receiving the names from all the wards in the constituency, the Member of Parliament in consultation with the officer of the Board and the sub-county administrator for the constituency, shall appoint eight persons to the Board, taking into account the geographical diversity within the constituency, communal, religious, social and cultural interests in the constituency and the requirements of gender, youth and representation of persons with disabilities;

(d) the eight persons appointed under sub-paragraph (c) shall elect from among themselves one person to be the chairperson of the Constituencies Development Fund Committee for the constituency;

(e) upon conclusion of the election of the chairperson in the manner stipulated in paragraph (d), the officer of the Board shall forward the names of the ten members of the Constituencies Development Fund Committee to the chief executive officer of the Board for onward transmission to the Cabinet Secretary for Gazettement;

(f) The Member of Parliament for the constituency shall be an *ex-officio* member of the Committee.

(b) by deleting sub-clause (8);

(c) by inserting the following new sub-clauses immediately after sub-clause (14)-

(15) A member of the committee may be removed on any one or more of following grounds-

(i) lack of integrity;

(ii) gross misconduct;

(iii) embezzlement of public funds;

(iv) bringing the image of the committee into disrepute through unbecoming personal public conduct;

(v) promoting unethical practices;

(vi) causing disharmony within the committee;

(vii) physical or mental infirmity.

(16) A decision to remove a member under sub-clause (15) shall be made through a resolution of at least five members of the committee and the member sought to removed shall be given a fair hearing before the resolution is made.

(17) A vacancy arising as a result of the removal of a member under sub-clause (15) shall be filled in the manner set out in sub-clause (12) and minutes of the meeting shall indicate the fact of the removal or appointment of a member.

(18) The Committee may employ staff, not exceeding five in number, and such staff shall have knowledge in information and communications technology, construction and basic accounting.

(19) Staff employed under sub-clause (18) shall help in project monitoring, evaluation, co-ordination and proper keeping of records and such

staff shall be remunerated from the funds allocated for administration and recurrent expenses.

(Question of the amendment proposed)

Mr. C. Kilonzo: Madam Temporary Deputy Chairlady, I am assuming the import is that the Member of Parliament is an *ex officio* member. I might be convinced but hon. Members, if we are in a *kamukunji* as committee members and the Minister asks some of you what you have done with this money--- That is why this committee and the Minister felt that really for the interest of this money, let us give you the authority to approve the project as a Member of Parliament and we do this in Parliament here but what hon. Members have done to sit in the CDF over a period of time, I think it stinks as we said here. Members even do churches. That is why we are saying that it is very difficult when an hon. Member sits in that committee to intimidate the DDO and the District Accountant. I am pleading with hon. Members that in as much as they want to have that influence, please think twice.

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

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Minister, do you have a further amendment?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Yes, Madam Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 24 of the Bill be amended-

(a) by inserting a new sub clause (2a) immediately before sub clause (3):

“(2a) The Cabinet Secretary shall issue a circular regulating the nomination of the members of the committee in sub section (2)”

b) In sub-clause 3 by inserting the words “who shall have a minimum qualifications of form four” immediately after the words “Kenya Gazette

c) In sub clause (11) by deleting the words “Fund Account Manager” and substituting therefor the words “Officer of the Board”.

(Question of the amendment proposed)

Eng. Gumbo: Madam Temporary Deputy Chairlady, I think the proposed amendments by the Minister should be opposed. The procedure of applying is so detailed that it talks about how you get the committee members and even take their names for appointment and even gazette. So, his proposal that the procedure is not there is covered by my amendment.

Secondly, these are local level committees and if Members of Parliament are not required to be form fours, why should this committee be required to be of form fours? So, I strongly oppose all the proposed amendments by the Minister because his first amendment is governed by my amendment which is very comprehensive, very thoroughly researched and well engineered.

The Minister for Medical Services (Prof. Anyang-Nyong'o): Madam Temporary Deputy Chairlady, I can well understand the intention of my colleague, hon. Oparanya, in specifying the educational qualification of the members of the Committee. It is because serious committees to all intents and purposes are technical committees, as well as being a representative committee. It is good for the committee to help the Member of Parliament to think through the projects that are proposed by wananchi. The principle when we founded the CDF was that wananchi should propose what they want money to be used for. Indeed, hon. Gumbo has done very well in proposing how Members can be recruited from wananchi. But once the things come to the committee--- You know that they come from the sub-location to location, and so on, and then to the committee; you really need a very competent committee to discuss these projects, look at the budget and so on. So, it is really useful to the Member of Parliament, if the committee is competent to do this. I think the intention of the Minister is noble.

So, I would like to support the amendment as being of value to hon. Gumbo's very good proposal, so that we do not oppose it for the sake of it.

The Assistant Minister for East African Community (Mr. Munya): Madam Temporary Deputy Speaker, I also support the amendment. I think the amendment is basically setting some standards and giving criteria so that not everybody competes for that position. We want to reduce the competition for people wanting to be in the committee. So, putting some minimum educational qualifications for people who will add value to the Committee is fair. Even now when they are not there, my committee in my constituency---- Most of them are Form Four level and above. I used that criteria because I wanted people who can also give some technical input in running the projects because the Member of Parliament is busy. He cannot be there all the time. So, really putting some educational requirement adds value rather than reducing value from what we intend to do.

The Temporary Deputy Chairlady (Dr. Laboso): The Chair of the Committee, we really have to move. I know you have a lot of interest but just allow the Chair to put the question.

Mr. Ethuro: Madam Temporary Deputy Chairlady, the proposals by the hon. Minister appear very nice on the face, but the practicality of this business--- This is the Constituency Development Fund Committee (CDFC). We are not talking about the Board. We are talking about a CDFC at the constituency level. We are not talking about a technical committee to evaluate projects. That is the job of the line Ministries. We are talking about persons, who have a commitment to ensure that that constituency is developed. In some of our constituencies, literate people are numbered. You can count them.

I have my own experience in this business. If you go to a place where you have lawyers, then pick lawyers. If you go to where you have fishermen, then pick the fishmongers. But this House in particular has no moral authority to put any educational requirement on anybody, when it has just allowed "*ngumbarus*" to qualify for elections.

Mr. C. Kilonzo: On a point of information, Madam Temporary Chairlady. Indeed, the party which proposed that this Parliament should have no qualifications is the Minister's own party. A Member of the public can come to this House even if he is a "*ngumbaru*" So, I personally find it contradictory that you have no mercy for that Turkana who has no access to education because your Ministry planned wrongly for so

many years, and denied the Turkana access to education. So, why are you using double standards?

Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Madam Temporary Deputy Chairlady, from my experience a CDFC, the Committee is a technical committee. It has nothing to do with the role of Parliament. You can come here when you are semi-illiterate but you are able to participate in the debate but this is a technical committee. From my experience, the committee members must be literate enough to guide you as a Member of Parliament. That is the truth.

Eng. Gumbo: Madam Temporary Deputy Chairlady, you know the Minister's amendment is in two parts. The first one is on procedure, and mine has been carried through. So, I think it is good to clarify that what we are talking about is the educational qualification.

Madam Temporary Deputy Chairlady, with all due respect to my friend here, we all have experiences. The worst performing members of my committee are people who believe they have very high educational standards. The best performing is a lady, who is the treasurer but never went beyond Class Seven. She has worked with the community and we are doing very well. It is wrong for this House to allow members, who do not even have Form Four certificates to come here and deny a committee at the local level a chance to serve.

The Minister of State for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I am actually shocked that the Minister imagines that legislation does not require any technical skill. I would imagine that nothing requires more technical skill than sitting and even grappling with the very framework under which the Committee will work. Could anything be more technical than that? I think if you can allow a fisherman, a fishmonger, carpenter, cart-pusher to come to this House---

An hon. Member: And a night runner!

(Laughter)

The Minister of State for Youth Affairs and Sports (Mr. Namwamba): And night runners too to come here really and grapple with very technical tasks in legislating, honestly, you can trust others.

Madam Temporary Chairlady, on a more fundamental point, I do believe that the first portion of the Minister's amendment was crafted unaware of the amendment that was moved by the hon. Gumbo, and which we have just passed. In light of that amendment, which is so explicit, we do not need the first part of the Minister's amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Namwamba, I think the Minister seems to be in agreement that---

The Minister of State for Youth Affairs and Sports (Mr. Namwamba): Even the question of qualification really is unnecessary here.

The Temporary Deputy Chairlady (Dr. Laboso): Members, please, let us not debate. This is Committee Stage.

The Minister of State for Youth Affairs and Sports (Mr. Namwamba): Okay, Madam Temporary Deputy Chairlady, I rest my case.

The Temporary Deputy Chairlady (Dr. Laboso): I want to really plead with Members to allow us to continue. We really have a lot on our hands.

*(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 negatived)*

(Clause 24 as amended agreed to)

Clause 25

Mr. Ethuro: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 25 of the Bill be amended in sub-clause (1) by deleting the words “shall ensure that” and substituting therefor the words “may make”.

It is in consultation with the technical committees. The technical people have abused the requirement for the local committees to consult them and made it a requirement that sometimes makes pricing so high that it loses the meaning in this business.

(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 25 as amended agreed to)

Clause 26

Mr. Ethuro: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 26 of the Bill be amended by deleting sub-clause (2) and substituting therefor with the following new sub-clause-

(2) Notwithstanding the provisions of subsection (1), an education bursary scheme, mocks and continuous assessment tests shall be considered as a development project for purposes of the Act provided that such a project shall not be allocated more than twenty five per centum (25%) of the total funds allocated for the constituency in any financial year”.

Madam Temporary Deputy Chairlady, the Bill did not really capture the wording we had intended. The purpose of this amendment is to factor in bursary for those developments and enhance the percentage up to a maximum of 25 per cent from the

current 15 per cent. The idea here is not obligatory in the way Eng. Gumbo had proposed on the youth enterprises. In this case, we are saying that if you find, in your situation, that you need to allocate more bursaries, you have the opportunity to do so. Definitely, some areas, like where we come from, require such a window. Other areas can even allocate a zero per cent to bursary.

Eng. Gumbo:---(off-record)

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, we will, first of all, dispose of hon. Ethuro's amendment.

(Question of the amendment proposed)

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

Eng. Gumbo: Madam Temporary Deputy Chairlady, in principle, I have no problem with my brother's position because I know where he comes from. However, my concern is that 25 per cent is too much. The letter "D" in "CDF" stands for "development". So, I see nothing wrong with 15 per cent. If you look at the mandatory allocations, you have the allocation for administration set at 5 per cent; monitoring and evaluation, 3 per cent and Recurrent Expenditure, 3 per cent. We are going to leave just about 50 per cent for development, which is too low.

Therefore, I will plead with my brother here; we did it within our deliberations in the Committee. Let us, please, leave it at 15 per cent. I am well aware that the education needs in Turkana are much more than they are in Rarieda but, please, this is a development fund. Of course, I know that providing education is fundamental as it helps you to accelerate your part towards achieving the development obligation but, honestly, 25 per cent is just too high. So, I plead with my brother to let it be 15 per cent.

The Temporary Deputy Chairlady (Dr. Laboso): Yes, Prof. Anyang'-Nyong'o.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Madam Temporary Deputy Chairlady, personally, I want to plead with hon. Members. The words of the amendment are very clear. It says "to be allocated not more than---", which means that you have the latitude to allocate between zero per cent and 25 per cent. A situation arises in a particular case where a poor parent has a son or daughter who has been offered a place in university but that student has not yet accessed bursary funds. In that critical term, the Member of Parliament and the CDFC should have the leverage to use that window of opportunity to support that student. So, let us leave it to the discretion of the CDFC and Member of Parliament.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Lesrima, say one word.

An hon. Member: Put the Question!

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

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

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

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, my amendment is similar to hon. Ethuro's. So, I withdraw it.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

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

Eng. Gumbo: Madam Temporary Deputy Chairlady, we have "fought" with my Committee Chairman on a number of issues. Usually, we do not agree on anything but on this one, because he has also ceded a lot of ground for me today, I withdraw my amendment.

(Proposed amendment by Eng. Gumbo withdrawn)

(Clause 26 as amended agreed to)

Heading to Part V

Mr. Ethuro: Madam Temporary Deputy Chairlady, I wish to withdraw this particular amendment because it has been overtaken by events.

(Proposed amendment by Mr. Ethuro withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): Eng. Gumbo, move your amendment to the Heading to Part V.

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

THAT, the Bill be amended by deleting the heading to Part V and substituting therefor the following new heading-

NATIONAL ASSEMBLY COMMITTEE ON
CONSTITUENCY DEVELOPMENT FUND

Madam Temporary Deputy Chairlady, that is what we had agreed.

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

Eng. Gumbo: Yes, Madam Temporary Deputy Chairlady. We agreed to remove the word "Parliamentary" on my proposed amendment and replace it with the words "National Assembly" so that the amendment can read "NATIONAL ASSEMBLY COMMITTEE ON CONSTITUENCY DEVELOPMENT FUND".

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, the consensus is that "Parliament" is both Senate and National Assembly and they want to be very specific that the Committee shall be a National Assembly Committee.

Eng. Gumbo: Madam Temporary Deputy Chairlady, indeed, you are right. A Parliamentary Committee is not necessarily a National Assembly Committee.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Millie, have you already withdrawn your amendment on this one?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, if Eng. Gumbo moves his amendment, mine will stand withdrawn.

(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)

(Heading to Part V as amended agreed to)

(Clause 27 agreed to)

Clause 28

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

THAT, Clause 28 of the Bill be amended by-

(a) deleting the words "Select Committee" wherever they appear and substituting therefor the words "Joint Committee".

(b) in sub clause 5 by inserting the following new paragraph immediately after paragraph (d)-

(dd) to consider and report to Parliament with recommendations, names of persons required to be approved by Parliament under this Act.)

Madam Temporary Deputy Chairlady, I withdraw (a) but still retain (b) as shown on the Order Paper.

(Question of the amendment proposed)

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

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

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

THAT, Clause 28 of the Bill be amended-

(a) in sub-clause (5) by inserting the following new paragraph immediately after paragraph (d)-

(dd) to approve persons recommended for appointment under this Act, where the Act so provides;

(b) in sub-clause (6) by deleting the word "Senate" and substituting therefor the word "Parliament"

(Question of the amendment proposed)

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

The Minister of State for Planning, National Development and Vision 203

(Mr. Oparanya): I am okay, Madam Temporary Deputy Chairlady.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): There is a further amendment by Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, if you are talking of Clause 28, I had indicated that it was Eng. Gumbo who should move his amendments. If his amendments are carried, then I am okay.

So, I withdraw mine.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 28 as amended agreed to)

Clause 29

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

THAT, Clause 29 of the Bill be amended-

(a) by deleting the word “quarterly” and substituting the word “monthly”;

(b) by inserting the following new paragraph-

(d) any restriction imposed on a constituency account in accordance with the Act;

Madam Temporary Deputy Chairlady, there are two issues here. One is that instead of quarterly reports we get monthly reports. Our experience is that we have really had to do a lot of work. If we leave it to a quarterly basis, you will find that the year has ended without any input.

(Question of the amendment proposed)

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Chairlady, I think I am lost a bit. Can we continue?

The Minister for Medical Services (Prof. Anyang-Nyong’o): Madam Temporary Deputy Chairlady, in as much as I share Mr. Ethuro’s wish that this report be more frequent, my problem is that practically, if you require reports to be done monthly, it is very difficult. You will get reports written for the sake of reports being written to meet the deadline. Quarterly period gives people more time to prepare and give you a substantive report. I would plead with the Chairman of the Committee, my dear friend, Ekwee Ethuro, to leave it as quarterly for practical purposes in the Civil Service.

Mr. Ethuro: Madam Temporary Deputy Chairlady, I know he is coming from a rich background of being a planner. What he is forgetting is that these hon. Members in particular know the frustration we go through in terms of getting these projects coming through. We are also acting from some experience in administering this Fund. The longer

the period, the more confusion you will create. We have been able to arrest quite a number of issues because of these monthly returns. I have no problem if the House wants the period to be quarterly, but I want to inform the process from my own experience. I just want to submit to the House that it is completely necessary for proper administration of the Fund.

*(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)*

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

THAT, Clause 29 of the Bill be amended by deleting the word “Senate” appearing in the opening paragraph and substituting therefor the word “Parliament”

I think my amendment really is consequential. I had proposed that we replace “Senate” with “Parliament” but from what we have discussed, I just propose that we do a further amendment and replace “Parliament” with “National Assembly.”

(Question of the amendment proposed)

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

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

(Clause 29 as amended agreed to)

(Clause 30 agreed to)

Clause 31

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

THAT, Clause 31 of the bill be amended-

(a) by deleting sub-section (2);

(b) in sub-clause (5) by inserting the words “for use by the Constituency Development Fund Committee” immediately after the word “Act;”

(c) in sub-clause (6) by inserting the word “public” immediately after the word “for” appearing in paragraph (b);

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

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

(Clause 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

Mr. Ethuro: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, the Bill be amended by deleting Clause 33
This is because it negates the spirit of CDF.

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

(Clause 33 deleted)

Clause 34

Mr. Ethuro: Madam Temporary Deputy Speaker, I beg to move:-
THAT, Clause 34 of the Bill be amended in paragraph (b) by deleting the word
“sixty” and substituting therefor the word “thirty”

(Question of the amendment proposed)

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

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

(Clause 34 as amended agreed to)

(Clause 35 agreed to)

Clause 36

Mr. Ethuro: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 36 of the Bill be amended in sub-clause (2) by
deleting the words “established Government regulations in the discharge
of its functions” and substituting therefor the words “and such committee
shall conform with the requirements of this Act”

This is just to conform with normal Government regulations.

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

*[The Temporary Deputy Chairman
(Prof. Kaloki) took the Chair]*

(Question of the amendment proposed)

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

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

(Clause 36 as amended agreed to)

Clause 37

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 37.

Mr. Temporary Deputy Chairman, Sir, the import of this is just as in Clause 33.
We want to reduce Government bureaucracy in the administration of the fund.

(Question of the amendment proposed)

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

(Clause 37 deleted)

Clause 38

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 38.

Mr. Temporary Deputy Chairman, Sir, this is for the same reasons that I stated
earlier.

(Question of the amendment proposed)

The Minister of State for Planning, National Development and Vision 2030
(Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, I had proposed an amendment
which was to simplify it. This is because I thought that it was going to be so technical to

get a status report by the heads of various departments. So, I agree and withdraw my proposal.

(Proposed amendment by Mr. Oparanya withdrawn)

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

(Clause 38 deleted)

Clause 39

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 39.

Mr. Temporary Deputy Chairman, Sir, this is a deletion for the same reasons.

(Question of the amendment proposed)

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

(Clause 39 deleted)

Clause 40

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

THAT, Clause 40 of the Bill be amended by deleting sub-clauses (1) and (2) and substituting with the following new sub clause.

(1) There shall be established, for every county a committee to be known as County Projects Committee whose main function shall be to coordinate the implementation of projects financed through the Fund.

Mr. Temporary Deputy Chairman, Sir, this is to create a forum in which all the stakeholders within the county can come and look at the funds. It is not only the Constituencies Development Fund (CDF), but even the line Ministries.

(Question of the amendment proposed)

The Minister of State for Planning, National Development and Vision 2030

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

THAT, the Bill be amended in Clause 40-

(a) By inserting a new paragraph (d) in sub-clause (1)

“(d) The County Projects Committee shall submit its reports to the Board with a copy to the County Oversight Committee”

(b) By inserting a new sub-clause (4) immediately after sub-clause (3)

“(4) There shall be established for every County, a committee to be known as County Oversight Committee whose main function shall be to:-

- (i) Provide policy directions on matters related to CDF projects in the County.
- (ii) Consider any other matters arising from the County Projects Committee

(c) by inserting a new sub-clause (5)

“(5) The members of the County Oversight Committee shall be:-

- (a) the Governor of the County
- (b) the Senator of the County
- (c) all Members of Parliament in the County
- (d) Women Representative in the County
- (e) The officer of the Board at the County
- (f) The officer in charge of the county planning

By inserting a new Sub clause (6):-

“(6) The Governor at the county shall chair the County Oversight Committee”

By inserting a new sub-clause(7)

“(7) The Office of the Board at the county shall serve as the Secretary of the committee and in his/her absence shall be the officer in charge of planning at the county”.

Mr. Temporary Deputy Chairman, Sir, I am proposing a further amendment by creating a County Oversight Committee which will comprise of all elected people in the county. Its function will be to provide policy direction on matters relating to CDF and discuss other issues that arise from county project committees, so that the county project committees remain technical.

(Question of the amendment proposed)

The Assistant Minister for Education (Mr. Mwatela): Mr. Temporary Deputy Chairman, Sir, I have a very strong reservation about that. This is a Constituency Development Fund and we are now subjecting it to some proliferated supervision. At what point will it be really a Constituency Development Fund? If we create this forum the effect will be stagnating competition among the different constituencies.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I want to agree with hon. Mwatela, that the two amendments as proposed by my good friend, hon. Ethuro, and the Minister are really unnecessary.

Mr. Temporary Deputy Chairman, Sir, if you look at the composition of the county committees, you will again find the Governor, Senator, all Members of Parliament

and women representatives. The reason we made it very clear that the oversight body is the National Assembly is because it is very clear that it is a constituency fund under the National Government. So, I do not think that clustering it again under the county is necessary. That is more bureaucracy. Even one of the functions that the Minister was proposing is that the whole county will give policy direction on matters related to the CDF. I do not think that is necessary.

The Temporary Deputy Chairman (Prof. Kaloki): Let the Minister clarify first and then we will come to the other hon. Members.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, from my experience, we have had so many projects that are implemented at the constituency, but not manned. We have over 400 health centres that are not manned. So, we were creating this forum where you will agree with the Governor, that as you do this, already it is put in the plan. It is not interfering in any way with the project implementation at the constituency level. It is harmonization. After you undertake a project, after you finish, you are sure that there will be manpower to take over that particular project. Unless there is that harmonization at the county level--- The county level is also a planning unit and some of the services like health have been taken to the county. So, if there is no harmonization, then there will be a problem.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I appreciate the concerns of the hon. Members, but I want to clarify. One, the amendment that we are dealing with is Clause 40. If you look at the Bill, it had proposed many other things. After consultations with the hon. Members, we actually put a more consultative forum which is the equivalent of the current District Projects Committee, so that if there are projects that cut across constituencies--- Also you need to know about the money that comes from the line Ministries. You will need a forum where all the actors within the county can actually come together. Decisions on the CDF are not made in that particular committee. In fact, the Chairperson of the CDFC will come there as the chair of that committee, already after doing the business at the committee level. So, this is just harmonization. We deleted subsections (1) and (2) so that we just left it with a blanket. What the Minister is doing is to create another Committee called "Oversight" which even we, as a Committee, are not supporting. So, at least, support ours and then we can agree to fight the Minister together.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, let us be very careful by being alive to the distinction between disbursement and concentration. One of the reasons the CDF model has been very popular is that it has disbursed responsibilities and resources. Now when we make an attempt to re-concentrate these resources at another unit above the constituency, it raises very serious concerns. Remember that the Governor is not a supervisor of Members of Parliament or constituencies. So, if you create a committee to supposedly or ostensibly oversight the work of this Fund that is targeted at constituencies and you are even proposing that the Governor at the county shall chair the county oversight committee, you are actually now turning this Governor into a prefect of Members of Parliament and development activities going on in the constituencies. That is unconstitutional and there is no constitutional provision that will support that. That position is absolutely untenable. To even suppose that we are going to have another committee to provide policy directions, what is the role of the Board? What is the role of the Board that is responsible for the Constituencies

Development Fund (CDF)? The role of policy direction; the role of overall management is vested with the Board.

Mr. Temporary Deputy Chairman, Sir, I strongly plead with both the Minister and the Chairman of the Committee to withdraw this proposal for amendment, otherwise I urge hon. Members to reject this one.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I need us to be very clear about what we are doing. If Mr. Ethuro withdraws his amendment, then you have what obtains in the Bill which is this county projects committee with a lot of powers. When we were discussing Clause 13, I asked very specifically if we are going to delete them and Mr. Ethuro said, yes, but I am seeing that is what is done to cause an amendment. But if you look at his amendment, it says “the county projects committee whose main function shall be to coordinate the implementation of the project”. So what does that mean? The moment these monies are released, then this projects committee will tell you: “We are the ones who will be coordinating how it is implemented.” They are the ones who will be telling you when they are released and where it goes because that wording tells them that. So he should not withdraw. He should amend by suggesting that the entire section be deleted because that is what we had agreed when we were discussing Clause 13 and for saving the clause that I know my dear brother, Mr. Ethuro is very keen about, when I moved my amendment to clause 13, I dropped my amendments in part (iii) and (iv) but retained (v) which says the county projects committee shall ensure the harmonization of projects within the county. So in case you want to retain the county projects committee, then their role should be harmonization but not coordination and implementation. That is a recipe for a clash.

The Temporary Deputy Chairman (Prof. Kaloki): Very well. Let us deal with Mr. Ethuro’s amendment first as it has been brought up here. Mr. Ethuro, can you now move your amendment so that it is clear and then I will propose and put the Question?

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, it is good to ventilate on some of these issues and then we decide. I am inclined to borrow from my sister because of the confusion that has come in and I thought I tried to clarify by saying that there were two amendments on the Floor; mine and the one by the Minister. They are different. The Minister is the one making governors to chair this thing but that is not mine. Mine is, to borrow the language, instead of “coordination”, we “harmonize”. It is even in the current law; the district projects committee and some hon. Members actually petitioned us as a Committee saying they want a forum in which all these resources, both the county, CDF and even the national government will come together and see what is happening where. However, in terms of implementation, approval, that is a specific function of the CDFC. So can I then amend?

Hon. Members: Delete!

Mr. Ethuro: You delete! My proposal is: “There shall be established, for every county a committee to be known as County Projects Committee whose main function shall be to harmonize the implementation of projects financed through the Fund.” That is my further amendment.

(Question of the further amendment proposed)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Chairman, Sir. I want to plead with hon. Members to be more attentive. We may be saying nay to something that is not helpful. If you actually see what Mr. Ethuro has said, in clause 40, he is deleting Clause 40(1) and (2). If he has deleted it, he is saying that then the role of that county committee shall be harmonization. This will defeat his amendment and so what we will have is what is in the Bill and what is in the Bill is that we are giving power to county projects committee which we do not---

Hon. Members: Move!

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, you cannot move procedurally; let us be guided. We do not have an amendment on the Order Paper and so you cannot move. So the only person who can move that amendment is either the Minister or Mr. Ethuro. So what I was actually asking for is for Mr. Ethuro to move a further amendment and delete also Clause 40(3) because he has left it.

(Mr. Ethuro consulted Mr. Namwamba)

If Mr. Ethuro would please listen!

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ethuro, please listen to the lady.

Mr. Ethuro: I only have two ears and Mr. Namwamba is consulting me.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I am urging Mr. Ethuro whether he could move to also delete Clause 40(3) because then sub clause 3 still gives that oversight role that we think that they will be giving impromptu visits to your constituency. So I would like to encourage Mr. Ethuro to move his amendment but seek to delete Clause 40 (1), (2) and (3) and then move the amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ethuro, we will begin with your first amendment, we deal with it; then we move to sub-clause (2) which will be your further amendment and then we move to sub-clause (3) as your further amendment. Let us begin with your first one and deal with it and then move to the second one so that we can be procedural here.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I stand guided but I thought Mrs. Odhiambo-Mabona was more persuasive in the sense that if my amendment was to delete clause 40(1) and (2), I am just going to extend to (3) and now bring this one which I had already proposed.

Mr. Temporary Deputy Chairman, Sir, I would like to proceed in that manner.

The Temporary Deputy Chairman (Prof. Kaloki): Now move it to make sure it is clear to hon. Members.

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

THAT, Clause 40 of the Bill be further amended by deleting sub-clauses (1), (2) and (3) and substituting with the following new sub clause -

(1) There shall be established, for every county a committee to be known as County Projects Committee whose main function shall be to harmonize the implementation of projects financed through the Fund.

Mr. Temporary Deputy Chairman, there is collective wisdom in the room. We are saying that the main function shall be to harmonize the projects financed through the

Fund. So, I am proposing that we remove the words “co-ordination” and “implementation”.

(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 40

The Minister of State for Planning, National Development and Vision 2030
(Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, I wish to withdraw my amendment in view of the amendment brought by hon. Ethuro.

(Proposed amendment by hon. Oparanya withdrawn)

(Clause 40 as amended agreed to)

Clause 41

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

THAT, Clause 41 of the Bill be amended-

(a) in sub-clause (1)-

(i) by inserting the following new paragraph immediately before paragraph (a)-

(aa) the Senator, the Members of Parliament from the County, the County women representative and the Governor.

(ii) by inserting the following new paragraph immediately after (c)

(cc) the officer in charge of county planning;

(b) in sub-clause (5) by deleting the word “six” and substituting therefor the word “two” and deleting the word “twenty” and substituting therefor the word “four”.

Mr. Temporary Deputy Chairman, Sir, since we have watered down the function of the projects committee, Members of Parliament have no problem with that kind of composition. So, I plead that they support it.

(Question of the amendment proposed)

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

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

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I beg to move:
THAT, Clause 41 of the Bill be amended-

(a) in sub-clause (5) by inserting the words “at the county headquarters” immediately after the word “held”;

(b) in sub-clause (8) by deleting the word “may” and substituting therefor the word “shall”

Mr. Temporary Deputy Chairman, Sir, my amendment is meant to put matters in clarity. That is because I am clarifying in (a) that the meeting shall be held in the county headquarters.

I am also making it stronger in (b) by removing the word “may” and substituting it with the word “shall”.

Mr. Temporary Deputy Chairman, Sir, I do not know why the Deputy Leader of Government Business is putting pressure on me. This is just to clean the Bill really. I am just trying to say that let the meetings be orderly and be held at the county headquarters. That is okay. Why is the Minister---

(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 Minister of State for Planning, National Development and Vision 2030
(Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, I wish to withdraw my amendment in view of the amendments brought in by Mr. Ethuro.

(Proposed amendment by Mr. Oparanya withdrawn)

The Temporary Deputy Chairman (Prof. Kaloki): Very well.

(Clause 41 as amended agreed to)

Heading To Part VIII

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT the Bill be amended by deleting the heading to Part VIII.

Mr. Temporary Deputy Chairman, Sir, I propose that it be deleted because it serves no purpose.

(Question of the amendment proposed)

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

(Heading to Part VIII deleted)

Clause 42

The Minister of State for Planning, National Development and Vision 2030

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

THAT, Clause 42 of the bill be amended-

a.) By deleting the word "Assembly" and substituting therefor the word "Executive".

It is stated in the clause that the reports shall be taken to the county assembly. However, if the reports are not being debated there, why should they be submitted to the county assembly? I am, therefore, substituting "county assembly" with "Executive Committee". This is because this is where harmonization can be done and not at the county assembly. The county assembly has nothing to do with constituency projects.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I want to plead with hon. Members that we look at this keenly, given the amendments that we have passed. If you look at Clause 42, it states thus: "The Chairperson of the Constituency Development Fund Committee for each constituency shall table a list of the projects for that constituency at a meeting of the county projects committee convened for the purpose and the said list shall also be submitted to the county assembly in order to align the said projects with the county's development plans and policies.

The Minister is, however, suggesting that it goes to the Executive Committee. If you look at the amendment that we have already passed, the County Projects Committee already has some representation of the Executive Committee. That is because it has the Governor and some of the Executive Committee members. So, when you put it at a different level, then what you are actually doing is creating a different level of bureaucracy.

My suggestion would be this: Going by what we have just passed, we do not need Clause 42. So, I would want to encourage the Minister to propose deletion of Clause 42 because it is already covered. If you look at the composition of the Committee, it already has the Executive Committee plus the entire leadership of the county.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Minister, if you are willing to withdraw, then you can do so.

The Minister of State for Planning, National Development and Vision 2030

(Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, I agree with her proposal and I, therefore, withdraw my proposal.

The Temporary Deputy Chairman (Prof. Kaloki): Minister are you saying that we delete, which is withdrawing?

Hon. Members: No! It is not withdrawing!

The Minister of State for Planning, National Development and Vision 2030

(Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, we delete because this is a repetition.

The Temporary Deputy Chairman (Prof. Kaloki): All right. The Minister is very clear that he is deleting as that would be a repetition.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, I just want clarity. You know we have two issues that we are dealing with here; that is, the amendment and the very important clarification that hon. Millie has made; that in view of the earlier amendment in Clause 41 we actually do not need the entire Clause 42. So, besides the Minister withdrawing his amendment to Clause 42, he should actually move that we delete Clause 42 in its entirety.

The Temporary Deputy Chairman (Prof. Kaloki): That is what the Minister is doing.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, could he do it unequivocally---

The Temporary Deputy Chairman (Prof. Kaloki): He has done that!

Hon. Minister, because there is a request from hon. Namwamba, it will not hurt if you make what you are doing very clear.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, hon. Millie keeps reminding us to be alert. The hon. Minister has nothing to withdraw or delete. He can only withdraw his proposed amendment but he cannot delete a clause. He cannot!

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Minister, I am guided. You can withdraw the amendment and that will take care of everything.

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, I had already withdrawn my amendment, but again I moved that we delete---

The Temporary Deputy Chairman (Prof. Kaloki): Do not worry. For the sake of procedure, you are just withdrawing.

(Proposed amendment by Mr. Oparanya withdrawn)

(Clause 42 agreed to)

(Clause 43 agreed to)

Clause 44

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

THAT, Clause 44 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) The County Projects Committee shall, at the beginning of every financial year, prepare and circulate to the various Constituency Development Fund Committees in that county a list of other government allocations for various projects in the county.

(1A) Despite sub-section (1), the existence of another allocation by government to a project in the constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

You will realize that the Government Printer did a shoddy job there.

(Question of the amendment proposed)

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

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

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 44 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) The County Projects Committee shall, at the beginning of every financial year, prepare and circulate to the various Constituency Development Fund Committees in that county a list of other government allocations for various projects in the county.

(b) in sub-clause (2) by deleting the word “constituency” and substituting therefor the word “county”

This is just procedural. What we have found, I think Members will agree with me, is a lot of duplication in the constituencies. In fact, in my constituency, there was a case where a toilet was constructed using funds from the county council, the Ministry of Education and even the CDF because it was an emergency. The import of this is to make sure that at the beginning of every year, they make everyone know what other projects are going on in the country and who is funding them.

The Temporary Deputy Chairman (Prof. Kaloki): Order! Is this the same as the one by hon. Ethuro? Then it is carried.

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, there is a typo where constituencies and counties are being interchanged. I want to move an amendment to that.

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

THAT, Clause 44 be amended-

(b) in sub-clause (2) by deleting the word “constituency” and substituting therefor the word “county”

*(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 (Prof. Kaloki): We have another amendment by hon. Millie.

Mrs. Odhiambo Mabona: Mr. Temporary Deputy Chairman, Sir, I withdraw it because it is already taken care of by hon. Ekwee Ethuro’s amendment.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 44 as amended agreed to)

Clause 45

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

THAT, Clause 45 of the Bill be amended in sub-clause (2) by deleting the word “concurrence” and substituting therefor the word “approval”.

The idea is that the Board and the Cabinet Secretary cannot be on the same level. They cannot all have concurrence but one must approve where the other one has dispossessed.

(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 45 as amended agreed to)

Clause 46

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

THAT, Clause 46 of the Bill be amended-

(a) in sub-clause (3) by deleting the words “one signature of nominee of the Constituency Development Fund Committee and none of the signatories shall be members of Parliament or ward administrators” and substituting therefor the words “two signatures of two members of the Constituency Development Fund Committee”;

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

(3A) The Fund account manager shall hold the authority to incur expenditure of the funds at the constituency account.

(c) by inserting the following new sub-clause immediately after sub-clause (7)-

(7A) All unutilized funds at the Project Management Committee shall be returned to the constituency account.

(d) in sub-clause (4) by deleting the words “section 8” and substituting therefor the words “section 9”.

Part “a” is to seek clarity in terms of two signatures from Members of the CDFC and the more fundamental one is 3A where we were making it very clear. Hon. Oparanya has been playing us on this one that the Fund Account Manager will be the AIE holder and not the DDO. This is just cleaning 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)*

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 46 of the Bill be amended-

(a) in sub-clause (1) by inserting the words “and each constituency shall maintain only one account” at the end of the sub-clause;

(b) in sub-clause (4) by deleting the expression “section 8” and substituting therefor the expression “section 22”

I just want to explain this.

The Temporary Deputy Chairman (Prof. Kaloki): Before you explain, tell us whether you are dealing with part “a” or part “b”.

Eng. Gumbo: This is parts “a” and “b”. Let me explain part “a.”

I have been sitting in the Constituencies Funds Committee since I came here. One of the things we have noticed is that some constituencies – since it is not clearly provided for – maintain more than one bank account. We want to eliminate this by making it clear that each constituency shall only maintain one bank account. Part “b” is just a typo.

(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)

(Clauses 47 and 48 agreed to)

Clause 49

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

THAT, Clause 49 be amended in sub-clause (4) by inserting the words “and the Public Finance Management Act, 2012” at the end of the sub-clause.

(Question of the amendment proposed)

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

(Clause 49 as amended agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Minister, you can now deal with your part because you have another amendment.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 49 be amended –

a.) In sub-clause (3) by deleting the entire sub clause and replacing therefore by the paragraph –

“Sitting allowances for the members of the county projects committee shall be paid out of the funds set aside for the Board under sub section (1). The sitting allowances for the Constituency Development Fund Committee (CDFC) shall be paid out from funds set aside in Section 22 (7)”.

b.) In sub-clause (4) by inserting the words “each constituency and secretariat” after the words “The Account of”.

This is because the Bill is proposing that both should come from the secretariat and it is going to be very cumbersome. That is the clarification.

(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 49 as amended agreed to)

Clause 50

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, we had made one agreement which should carry through.

The Temporary Deputy Chairman (Prof. Kaloki): Can you do it because you were first there? You have to move because we are creating a record here.

Mr. Ethuro: But the record is what I spoke to. I said we had agreed previously.

The Temporary Deputy Chairman (Prof. Kaloki): You can just move it for simplicity.

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

THAT, Clause 50 be amended by deleting the word “Senate” wherever it appears and substituting therefor the word “National Assembly”.

The Temporary Deputy Chairman (Prof. Kaloki): Then hon. Gumbo, for the record you can now withdraw.

Eng. Gumbo: Mr. Temporary Deputy Chairman, I wish to withdraw my amendment as it is covered by the amendment that is on the Floor.

(Proposed amendment by Eng. Gumbo withdrawn)

The Temporary Deputy Chairman (Prof. Kaloki): Then hon. Odhiambo-Mabona, for the record you can now withdraw.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, I do not wish to withdraw and the reason is that my amendment is very different. My amendment is similar to the one we had passed earlier because it says that: “The Cabinet Secretary may amend any of the schedules through a notice in the Kenya Gazette.” I think I can withdraw if he puts the words “National Assembly” because my concern is that when you amend any schedule, it must pass through Parliament.

(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 50 as amended agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Now, hon. Odhiambo-Mabona, you can now do it there now.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, on the understanding that any amendments to the schedules will pass thorough Parliament, I withdraw my amendment.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

Clause 51

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

THAT, Clause 51 be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause-

- (1) The provisions of this Act shall be complimentary to any other development efforts by the national government, the county governments or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programmes.

This is just to ensure that allocations to CDF should not exclude the provisions from benefitting from national government, county government, NGOs or any other agency.

(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 51 as amended agreed to)

Clause 52

The Temporary Deputy Chairman (Prof. Kaloki): There is an amendment to be moved by Odhiambo-Mabona.

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

THAT, Clause 52 be amended by deleting the words “two hundred” and replacing therewith the words “five hundred”.

What Clause 52 provides is that if somebody misappropriates funds, then they shall be given a fine of not less than Kshs200,000 and I want to raise it to not less than, so that the lower limit is higher. A lot of times you see people misappropriate really high sums. So, if you make it discretionary by the magistrates, and you put the lower limit at Kshs200,000 somebody may have misappropriated Kshs8 million and then they are fined Kshs200,000. So, I increase it to Kshs500,000. I wish I had put it higher than this.

(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

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

THAT, Clause 53 of the Bill be amended-

(a) By deleting sub-clause(1) and substituting therefor the following new sub-clause-

(1) All complaints and disputes by persons arising due to the administration of this Act shall be forwarded to the Board in the first instance.

Mr. Temporary Deputy Chairman, Sir, the import of this is that we want to make abundantly clear that all complaints and disputes must go to the Board in the first instance and not to courts.

(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 53 as amended agreed to)

(Clause 54 agreed to)

Clause 55

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

THAT, Clause 55 of the Bill be amended-

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

(b) by deleting subclause (8) and substituting therefor the following new sub-clause-

(8) Any person who was an officer or employee of the former Board immediately before the commencement date of this Act shall be deemed to be an officer or employee of the Board on the same terms he or she was serving before the enactment of this Act.

(c) in clause (9) by deleting the words “until when a new Board and Chief Executive Officer are appointed in accordance with this Act” and substituting therefor the words “until the expiry of their existing terms”.

(d) by deleting sub-clause (10).

All of “a” is okay, “b” is okay, but in “c”, I want to add “and/or on the terms of the appointments”, so that it is not just like it is only until the expiry of their existing term; if the terms were otherwise, that should still apply.

(Question of the amendment proposed)

The Minister of State for Planning, National Development and Vision 2030

(Mr. Oparanya): Mr. Temporary Deputy Chairman, Sir, while I respect my colleague for this amendment, he is aware that the entire secretariat is under investigation and the investigation is going on; the Secretariat has lost a lot of money. Let me state it here. So, I do not see the need for protecting the Board or the Chief Executive Officer, when an investigation is going on, and this investigation is pointing at some members of the Board.

The Temporary Deputy Chairman (Prof. Kaloki): Well, then we will be voting on that. Yes, let us hear the Chair, hon. Ethuro.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, basically what the Minister is referring to is within his power; it is for him to do whatever he likes. We are not creating this law to disposes the Board. We want this for purposes of continuity, so that nobody feels that because he is alone in town, he is kicked out of office. If somebody is found culpable after investigations, there are normal ways to address that. This is why I am talking of terms of appointment or the expiry of the term. This is the normal way in which business must be conducted.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, you notice I had a similar amendment as hon. Ethuro’s; therefore I support his amendment. But I would want to say something in relation to what the Minister says that, investigations themselves are not proof of any guilt. That is why even in Kenya we have Members of

Parliament who are running for presidency, while they are still facing criminal charges; the Constitution allows them that until they are found guilty and they have exhausted all means of appeal. They are allowed that by the Constitution.

So, we cannot condemn anybody simply because there are investigations; investigations might find that they are---- Really, I do not think what the Minister is saying is in order.

(Mr. Njuguna stood up in his place)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Njuguna, you have a point of order.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I am supporting the amendment by the Chair----

The Temporary Deputy Chairman (Prof. Kaloki): Order, you know, I am giving you the opportunity because, and I am seeing that--- Okay, let hon. Odhiambo-Mabona complete her remarks and then I will allow a chance.

Proceed, hon. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Chair, I was actually just concluding by saying that we cannot use the law to settle what I would call administrative issues because that is what they are at this point.

So, I support the amendment of hon. Ethuro and withdraw mine.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Njuguna, what is that you wanted to contribute on.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, I was saying that we cannot condemn workers wholesale in this new amendment. So, I support the amendment brought by hon. Ethuro.

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

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

(Clause 55 as amended agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Odhiambo-Mabona you withdrew your amendment. There is an amendment by the Minister. We will deal with the Minister's first and then go to hon. Gumbo's.

First Schedule

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting the First Schedule.

Mr. Temporary Deputy Chairman, Sir, from my experience, I am aware that the agricultural organisation does not exist. It is owned by one person. It is not registered, and we have had problems. In respect of most of these other organisations, we have had problems. They either propose their chairperson or their secretaries. Sometimes these people do not have the necessary qualifications but they insist. So, the trend in all the other Acts that we have been enacting here has been to give leeway to the Cabinet Secretary to select people of particular experience and forward their names to Parliament for approval.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Prof. Kaloki): Eng. Gumbo, since you are also deleting the First Schedule in your amendment, do you want to join the Minister?

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I totally agree with the Minister. Some of these organisations nominate people to come there to be joy-riders. They do nothing. In fact, even the quality of the nominees from these organisations is wanting. Even engaging them in meaningful discussion is a problem. Some of them are just activists who are picked because they have loud voice. That is not what we need in the Board.

I propose and agree with the Minister entirely that we should delete the entire First Schedule.

The Temporary Deputy Chairman (Prof. Kaloki): Chair of the Committee, what do you have to say?

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I want to oppose vehemently the amendment proposed by the Minister and my rebellious Member.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Ethuro, let us dispose of the amendment by the Minister and then we will come to your further amendment.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, before you put the Question, I want to give a counter argument to that of the Minister and Eng. Gumbo. You have heard from one side.

This is a public fund which is going to all the constituencies all over the country. The participation by these nominating bodies, in terms of getting nominees to the Board, has made it more participatory in terms of public participation, which is a constitutional requirement.

Secondly, if the Minister feels that the first organisation is a ghost – I appreciate he had difficulties – he should just have included it on my long list, so that we can delete those organisations which we have not found useful. Surely, the Minister cannot say the same about the Institution of the Engineers of Kenya. I thought the engineer, who has become a fellow, can defend the same profession.

The Institute of Certified Public Accountants of Kenya (ICPAK) cannot by any stature of imagination be considered loud-mouthed. These are serious professionals who will bring to bear on the fund through their competences. This is the way we want to professionalise the fund. We want to have input from the best of this country's professionals, so that we can do a good job for this nation.

The Temporary Deputy Chairman (Prof. Kaloki): What is your point of order, Eng. Gumbo?

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, with all due respect, my Chairman, who is my occasional nemesis and occasional friend, is just being cheeky. He knows that the Cabinet Secretary will be in charge and that the Boards will be approved by Parliament. We have set very high standards. The Bill is very clear from which organisations the Board members should be picked. Of course, he knows that I belong to, and defend highly; the distinguished profession of engineering. He cannot compare engineering with some amorphous farmers' organisation that does not even exist. I feel that the Chair of the Committee owes me an apology for attempting to demean this highly distinguished profession, which I represent in this House.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, let us deal with the Minister's amendment. What is it, hon. Koech?

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, as you propose the Question, I want to be very clear that the Minister is proposing a deletion.

The Temporary Deputy Chairman (Prof. Kaloki): Yes.

Mr. Koech: After deletion, what next? Where do you bring in the Cabinet Secretary? I am not seeing it.

An hon. Member: It is already there in the main body.

Mr. Koech: Okay. I just wanted clarity, so that we know what we are doing.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, hon. Koech has understood.

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

(First Schedule deleted)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I have a further amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Millie Odhiambo, since the First Schedule has been deleted, you cannot do any further amendment on it because it is no longer there.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I know that it has been deleted. I was only trying to raise a point of order. I come from civil society background. I was loud-mouthed because I did not have an opportunity---

An hon. Member: You still are!

Mrs. Odhiambo-Mabona: Still I am but I am a civilised version because I have microphone to speak to. If it was in the past, I would have picketed here and done wonders. I have a microphone which the activists out there do not have. That is why they are loud-mouthed. We really need to respect that loud mouth because they are the ones who brought us where we are now.

The Temporary Deputy Chairman (Prof. Kaloki): Thank you, hon. Millie Odhiambo. Let us proceed.

Second Schedule

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
 THAT, the Second Schedule of the Bill be amended –
 (a) by deleting the word “STANDARD” appearing at the heading of the Schedule;
 (b) by inserting the words “Constituency Name” immediately after the words
 “Constituency No”;
 (c) by deleting the word “Secretary” and substituting therefor the word “Chairman
 CDFC”; and,
 (d) by deleting the words “secretary CPC Committee”.
 Mr. Temporary Deputy Chairman, Sir, this is really just 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)*

(Second Schedule as amended agreed to)

Third Schedule

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
 THAT, the Bill be amended by deleting the Third Schedule and substituting therefor the
 following new Third Schedule.

Constituency No.:..... Constituency Name.....County

Project Number

Project Title

Sector.....

Status of projects (tick one) New Extension ... On-going

Rehabilitation

Brief statement on project status at time of submission

.....

.....

.....

Financial Year:.....1st July To 30th June

Original Cost estimates, in Kshs. dated

Amount allocated last financial year

Person completing form:..... Signature

NamePosition

Date.....

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, this is just to align it with the
 way we have been using this particular project description form.

(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)

Fourth Schedule

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Fourth Schedule of the Bill be amended by deleting the heading and substituting therefor the following new heading-
“PROJECT RE-ALLOCATION FORM”
This is just to re-align it properly in terms of project re-allocation.

(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)

(Fourth Schedule as amended agreed to)

Fifth Schedule

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Fifth Schedule of the Bill be amended in sub-paragraph (4) of paragraph 3 by deleting the word “eight” and substituting therefor the word “five”.
I wish to move an amendment to an amendment in the light of what we did in the First Schedule, so that the quorum is not just left to the numbers but should be 50 plus. When we were saying eight to five, we were taking into account the numbers as 50.

Eng. Gumbo: How many are those?

Mr. Ethuro: I cannot remember now. You have made some amendments. All I am saying is that whatever the quorum, we agree on a percentage of 50 plus one.

(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)

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I am actually in agreement because the figure eight which had been put was about the earlier Bill. We have agreed. But I would request that before I drop my amendment Mr. Ethuro clearly explains what his amendment means; he is talking of 50 per cent plus one. I wish he could explain so that I can decide whether I---

The Temporary Deputy Chairman (Prof. Kaloki): Mr. Ethuro, just make it a little bit clearer to Eng. Gumbo so that he can decide what to do.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, you can appreciate my kind of membership. The amendment in the Fifth Schedule in sub-paragraph (4)---

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mr. Ethuro! Just be kind. You are doing well.

Eng. Gumbo: He is really being rough on me and I need your protection.

The Temporary Deputy Chairman (Prof. Kaloki): Just be nice. You are always nice.

Mr. Ethuro: Mr. Temporary Deputy Chairman, Sir, I stand guided but this is the only way to deal with some---

In sub-paragraph (4) we were looking at the figure in terms of the quorum. Since I cannot do the calculations immediately, I propose a further amendment to this in the sense that we do with a quorum of 50 per cent.

The Temporary Deputy Chairman (Prof. Kaloki): Eng. Gumbo, are you in agreement?

Eng. Gumbo: Mr. Temporary Deputy Chairman, Sir, I agree but kindly protect me from the hon. Member's foul mouth. This is vital; what he is spewing at me is---

The Temporary Deputy Speaker (Prof. Kaloki): He has been nice.

Eng. Gumbo: No, he has not. It is known that my understanding is above average, while his is below average.

The Temporary Deputy Chairman (Prof. Kaloki): Let me speak for him. Eng. Gumbo and Mr. Ethuro, you are working very well. So, let us make some progress.

So, Eng. Gumbo is withdrawing his amendment for the record.

Eng. Gumbo: I have only withdrawn the quorum issue but there is a further amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Eng. Gumbo, proceed and move your further amendment.

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

THAT, the Fifth Schedule of the Bill be amended-

(a) in sub-paragraph (4) of paragraph 3 by deleting the word "eight" and substituting therefor the word "five";

(b) by inserting the following new paragraph immediately after paragraph 7-

8. The provisions of this Schedule shall apply to the conduct of the business of the Constituency Development Fund Committee, but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of the Act.

I am proposing a further amendment and this is very important. If you look at the entire body of the Bill, there is no procedure for running the CDFC meetings. What I am

saying is that it is very clearly stated how to run the board meetings. The procedures for conducting the business of the board shall apply to the CDFC's in so far as they do not contradict other provisions in the Bill.

(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)*

(Fifth Schedule as amended agreed to)

(Title agreed to)

Clause 1

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

THAT, Clause 1 of the Bill be amended by deleting the words "the final announcement of all the results of"

This is an interesting one. I know this is the language of the Constitution that we have borrowed; we realize sometime they give presidential results without some constituencies like ours being taken into account. So, we just want to say "until the elections of Parliament."

(Question of the amendment proposed)

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

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we will be able to report later our consideration of The Constituencies Development Fund Bill.

Hon. Members, we are still in the Committee of the whole House and we will move to the second item on the Order Paper, which is the International Interests in Aircraft Equipment Bill (Bill No. 83 of 2012). The Minister for Transport, Mr. Kimunya, is here and that is his Bill; this is what we will deal with next.

THE INTERNATIONAL INTERESTS IN AIRCRAFT EQUIPMENT BILL

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

Clause 10

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, we agreed with the Minister that I withdraw the amendment to this clause. I will only amend Clause 1.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 10 agreed to)

(Clause 11 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Title agreed to)

Clause 1

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

THAT, Clause 1 be amended by deleting the words “on the fourteenth day after the publication in the Gazette” appearing after the word “operation” and substituting therefor the words “on 1st March, 2013.”

Mr. Temporary Deputy Chairman, Sir, the amendment to Clause 1 is on the effective date, but with a further amendment. Instead of saying “upon announcement of the final results,” I have put a further amendment to read: “On 1st March, 2013.”

(Question of the amendment proposed)

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

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

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we are done with The International Interests in Aircraft Equipment Bill. We are still in the Committee of the whole House and will now move to The Civil Aviation Bill (Bill No.81 of 2012).

THE CIVIL AVIATION BILL

Clause 2

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

THAT, Clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical sequence-

“National Civil Aviation Security Programme” means an integrated set of Regulations and activities promulgated and performed by the State aimed at safeguarding civil aviation against acts of unlawful interference.

Mr. Temporary Deputy Chairman, Sir, again, this is to include just one more item on the definitions.

(Question of the amendment proposed)

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

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

THAT, Clause 2 be amended, in the definition of “acts of unlawful interference”, by inserting the words “or threats of bodily harm to passengers and crew or persons not on the aircraft but whose safety are of interest to passengers or crew on the aircraft” immediately after the words “serious bodily injury” appearing in paragraph (j).

Mr. Temporary Deputy Chairman, Sir, the amendment is to also include threats to passengers and crew. What the law provides is actual injury and harm, but I want to include threats of bodily injury.

(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 agreed to)

Clause 4

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, we have consulted with the Minister. I, therefore, withdraw.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 4 agreed to)

(Clauses 5, 6 and 7 agreed to)

Clause 8

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, again, we have consulted with the Minister and I withdraw.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 8 agreed to)

(Clauses 9, 10, 11 and 12 agreed to)

Clause 13

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

THAT, Clause 13(1) be amended-

(a) in sub clause (1)-

(i) in paragraph (a), by inserting the words “through an open and competitive process” after the words “Cabinet Secretary”;

(ii) in paragraph (g), by-

(a) inserting the words “an open and” immediately before the word “competitive” appearing in subparagraph (i);

(b) deleting the words “or any other related field” appearing in subparagraph (ii);

(b) in sub clause (5), by-

(i) deleting paragraph (c);

(ii) deleting paragraph (e).

(c) in sub clause (6), by inserting the words “through an open and competitive process” after the words “appoint a member”.

This is just to ensure that for any appointment, it is through an open and competitive process.

(Loud consultations)

The Temporary Deputy Chairman (Prof. Kaloki): Mrs. Odhiambo-Mabona, please make it clearer to the Minister and hon. Members what exactly you are doing.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, what I am doing is basically to ensure that when there is an appointment it is---

(Mrs. Noor crossed the Floor without bowing at the Bar)

The Temporary Deputy Chairman (Prof. Kaloki): Order, Mrs. Noor! Go back to the Bar; you do not just cross the Floor.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, what I was suggesting is that any appointment be done through an open and competitive process and the Minister wanted to suggest a further amendment otherwise my amendment is to ensure that it is done through an open and competitive process.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

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

THAT, Clause 14 of the Bill be amended in sub clause (2), by inserting the expression “(1)” immediately after the expression “(13)”.

Again, this is some correction of some typo.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Prof. Kaloki): There is a further amendment by Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, first, I just want to notify the Minister that I missed what he was showing me in Clause 13. I thought he was going to move it.

However, I beg to move:-

THAT, Clause 14 be amended at sub clause (1) (d) by deleting the words “or to a fine exceeding one hundred thousand shillings” appearing after the words “exceeding six months”.

In effect, if you see what the Bill is providing, your appointment can be terminated if you are charged with an offence where you are fined for any sums above Kshs100,000. But now in the House we recently passed laws for minor traffic offences where we have given very hefty fines. So we may be stopping people from getting jobs because of very minor offences which are punitive but they are misdemeanors.

(Question of the amendment proposed)

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

(Clause 14 as amended agreed to)

(Clauses 15, 16, 17 and 18 agreed to)

Clause 19

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

THAT, Clause 19 be amended at sub clause (6) (d) by deleting the words “or to a fine exceeding ten thousand shillings” appearing after the words “exceeding six months”.

It is for the same reason where you are stopping somebody from getting a job because of a fine of Kshs10,000.

(Question of the amendment proposed)

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

(Clause 19 as amended agreed to)

Clause 20

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

THAT, Clause 20 of the Bill be amended in sub clause (2)(k), by deleting the words “the accountable executive of the State Safety and State Security Programme” and substituting thereof the words “the accountable executives of the State Safety Programme and the National Civil Aviation Security Programme”.

Again, this is just to improve on the editorial and the flow of the words.

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed to)

(Clauses 21, 22, 23, 24, 25,

26, 27, 28, 29 and 30 agreed to)

Clause 31

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I have agreed with the Minister that I withdraw my amendment.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 31 agreed to)

(Clauses 32, 33, and 34 agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Minister for Transport, you have an amendment on Clause 35. It is on my Order Paper!

The Minister for Transport (Mr. Kimunya): There is no such amendment on my Order Paper.

The Temporary Deputy Chairman (Prof. Kaloki): If you do not have it, then you can withdraw and that will take care of that. Please, go through the Bill and check whether you have it.

The Minister for Transport (Mr. Kimunya): There is no such amendment.

(Clauses 35, 36, 37, 38, and 39 agreed to)

Clause 40

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

THAT, Clause 40(1)(a) be amended by deleting the proviso.

Mr. Temporary Deputy Chairman, Sir, I propose that we delete the proviso. The reason is that I do not understand why we do not need the consent of the Land Control Board for that transaction. I do not think we spoke to the Minister on this one. Perhaps, he could explain why we do not need the Land Control Board or why we want to avoid the Land Control Act.

The Attorney-General is saying that the Act has been repealed and so my amendment is in order that we delete the proviso.

(Question of the amendment proposed)

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

(Clause 40 as amended agreed to)

Clause 41

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I am wondering why the Minister is telling me to go on because we had suggested that he proposes an amendment. The reason is that this is an amendment that is close to Government proceedings.

The Minister for Transport (Mr. Kimunya): I agree with your amendment.

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

THAT, Clause 41(b) be amended by deleting the words “twelve months” and substituting therefor the words “three years”.

Mr. Temporary Deputy Chairman, Sir, this is basically to synchronize it with the law.

(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 41 as amended agreed to)

(Clause 42 agreed to)

Clause 43

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, because I have discussed this with the Minister, I wish to withdraw. However, I would like to indicate that for purposes of clarity this should be subjected to the Government Proceedings Act for avoidance of doubt.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

*(Clauses 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53,
54, 55, 56, 57, 58,59, 60, 61, 62, 63, 64, and 65 agreed to)*

Clause 66

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

THAT, Clause 66 be amended by inserting the following new sub clause immediately after sub clause (3)-

“(4) In appointing members of the Tribunal, regard shall be taken to ensure that no more than two-thirds of the members of the Tribunal shall

be of the same gender and that the chairperson and the vice-chairperson shall not be of the same gender.”

This is basically to take into account gender representation in the tribunal.

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Millie Odhiambo, the Minister agrees with you.

(Question of the amendment proposed)

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

(Clause 66 as amended agreed to)

Clause 67

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

THAT, Clause 67(2)(c) be amended by inserting the word “lawful” immediately before the word “cause”.

(Question of the amendment proposed)

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

(Clause 67 as amended agreed to)

Clause 68

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

THAT, Clause 68 be amended at sub clause (1) by adding the words “through an open and competitive process” after the words “Cabinet Secretary”.

This is to provide that the appointment be through an open and competitive process.

(Question of the amendment proposed)

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

(Clause 68 as amended agreed to)

(Clause 69 agreed to)

Clause 70

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 70 be amended by deleting clause 70(6).

(Question, of the amendment proposed)

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

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I withdraw my amendment.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 70 as amended agreed to)

(Clauses 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 agreed to)

Clause 83

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

THAT, Clause 83(2)(a)(ii) be deleted.

If we leave this clause as it is, then that means that anybody with any criminal offence will be left scot-free. That is the effect.

(Question, of the amendment proposed)

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

(Clause 83 as amended agreed to)

(First Schedule agreed to)

Second Schedule

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, the Second Schedule be amended-

(a) in paragraph 2, by deleting subparagraph (a); and

(b) in paragraph 4(3), by inserting the words “and safety” immediately after the word “security” appearing in the third line.

This has to do with correcting some typos and editorial issues.

(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)*

(Second Schedule as amended agreed to)

Long Title

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

THAT, the long title be amended by-

(a) deleting the words “and re-enact” appearing after the word “repeal”;

(b) deleting the words “with amendments” appearing after the words “Civil Aviation Act”.

This is because you cannot pass a law and re-enact it.

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, we are waiting for the Attorney-General. Here he is. Remember we are still in the Committee of the whole House. We will now move on to The Nairobi Centre for International Arbitration Bill, Bill No. 65 of 2012.

THE NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION BILL

Clause 2

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended in sub clause (1) –

(a) by deleting the word “Trustees” appearing in the definition of the term “Board” and substituting therefor the word “Directors”;

(b) by inserting the following new definition in its proper alphabetical sequence-

“Fund” means the General Fund established by section 16 A;

(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 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

Clause 5

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman,
Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended-

(a) by inserting the word “facilitate” immediately after the word “promote” in paragraph (a);

(b) by deleting paragraph (c);

(c) by deleting the word “internal” appearing in paragraph (e);

(d) by inserting the words “procedural and technical” immediately after the word “provide” in paragraph (m);

(e) by inserting the following new paragraphs immediately after paragraph(m)-

(n) provide training and accreditation for mediators and arbitrators;

(o) educate the public on arbitration as well as other alternative dispute resolution mechanisms;

(p) enter into strategic agreements with other regional and international bodies for purposes of securing technical assistance to enable the Centre achieve its objectives;

(q) provide facilities for hearing, transcription and other technological services;

(r) hold, manage and apply the Fund in accordance with the provisions of this Act;

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

Clause 6

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended in sub clause (1) -

(a) by deleting the word “Trustees” and substituting therefor the word “Directors”;

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

(iv) Chartered Institute of Arbitrators;

(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 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 8 of the Bill be amended by deleting the words “and on advice of the Salaries and Remuneration Commission”

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

Clause 9

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended in subclause (2) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) has at least ten years’ experience in the relevant field of practice.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

Clause 10

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended-

(a) by deleting the words “the president of” appearing immediately after the words “instructions of”;

(b) by deleting paragraph (f) and substituting therefor the following new paragraph-

(f) undertaking any other duties, in relation to proceedings before the Court, assigned by the Court for the benefit of the Court.

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

Clause 11

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended by inserting the words “and on advice of the Salaries and Remuneration Commission” immediately after the words “may determine”.

(Question of the amendment proposed)

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

(Clause 11 as amended agreed to)

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

Clause 16

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 16 of the Bill be amended by inserting the following new subclause immediately after subclause (2) –

(3) The receipts, earnings or accruals of the Fund and its balances at the close of each financial year shall not be paid into the Consolidated Fund, but retained for the purposes of the Fund.

(Question of the amendment proposed)

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

(Clause 16 as amended agreed to)

(Clauses 17,18 and 19 agreed to)

Clause 20

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause-

(3) All the members of the Court under subsection 2(c) shall be appointed competitively by the Board for a period of five years but shall be eligible for re-appointment for one further term of five years.

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed to)

Clause 21

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 21 of the Bill be amended in subclause (2) by deleting the words “and not be subject to appeal”.

(Question of the amendment proposed)

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

(Clause 21 as amended agreed to)

Clause 22

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 22 and substituting therefor the following new Clause-

Applicable
arbitration
rules.

22. Subject to any other rules of procedure by the Court, the Arbitration Rules of the United Nations Commission on International Trade Law, with necessary modifications, shall apply.

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

Clause 23

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 23 of the Bill be amended by deleting the words “in accordance with Article 159(2)(c) of the Constitution”.

(Question of the amendment proposed)

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

(Clause 23 as amended agreed to)

(Clauses 24 and 25 agreed to)

New Clause 16A

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 16-

Establishment of

the Fund.

16A. (1) There is established a Fund of the Centre to be known as the General Fund.

Board. (2) The Fund shall vest in the Centre and shall be administered by the

(3) The Fund shall consist of-

(a) all monies received as subventions, grants or donations to the Fund;
(b) such sums as may be appropriated by Parliament for that purpose;
(c) monies earned or arising from any investment of the Fund;
(d) foreign aid and assistance from bilateral and multilateral agencies;
(e) all other sums which may in any manner become lawfully payable to,
received by or vested in the Centre relating to any matter incidental to its duties and functions under this Act.

(4) The Fund shall be used for meeting the capital and current expenditure relating to-

(a) educating the public on arbitration as well as on other alternative dispute resolution mechanisms;

(b) provision of procedural and technical advice to disputants;

(c) training for mediators and arbitrators;

(d) research, documentation and dissemination of data on arbitration; and

(e) any other matter incidental to the functions of the Centre.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Members, we are still in the Committee of the whole House. We will now move on to The Kenya Law Reform Commission Bill, Bill No.67 of 2012. The Attorney General will start by moving his amendments.

THE KENYA LAW REFORM COMMISSION BILL

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, may I, with your permission, make a little clarification to the House, so that hon. Members may not seek to amend things that I am no longer intending to move. Upon consultations with the Minister for Justice, National Cohesion and Constitutional Affairs, we have agreed that I will drop amendments to Clause 2 and to---

The Temporary Deputy Chairman (Prof. Kaloki): Order, Attorney-General. We have to follow the procedure. Let me call it and then you can make your clarification. Call it out, Clerk-at-the Table.

Clause 2

The Temporary Deputy Chairman (Prof. Muigai): Attorney-General, you can now move your amendment.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I no longer wish to move this amendment. I would like it dropped from the Order Paper.

(Proposed amendment by Attorney-General withdrawn)

(Clause 2 agreed to)

(Clauses 3, 4 and 5 agreed to)

Clause 6

The Temporary Deputy Chairman (Prof. Kaloki): There is an amendment by hon. Millie-Odhiambo.

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

THAT, Clause 6(1) be amended—
(a) in sub-clause (1), by—
(i) inserting the following paragraph immediately after paragraph (a)—
“(aa) keep an updated data of all the laws passed and reviewed by Parliament”.
(ii) inserting the following new subparagraph immediately after subparagraph (iv)
of paragraph (a)—
“(v) keep the public informed of reviews or proposed reviews of any laws”;
(b) inserting the words “technical assistance” immediately after the words
“provide advice” in paragraph (c);

(Question of the amendment proposed)

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

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

The Temporary Deputy Chairman (Prof. Kaloki): Yes, hon. the Attorney-General.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the proposed amendment to Clause 8 and substitute thereof a further amendment as follows---

The Temporary Deputy Chairman (Prof. Kaloki): Order! Order! Attorney-General, let me deal with that one first. Which amendment are you dropping?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I want to drop all of them and then propose two minor amounts which we have consented to.

The Temporary Deputy Chairman (Prof. Kaloki): Let us begin with first one; the one you are dropping. Indicate what part of the amendment to Clause 8 you are dropping.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I want to drop the proposed amendment to Clause 8(1)(b), 8(1)(d) and 8(2).

The Temporary Deputy Chairman (Prof. Kaloki): If you are dropping those amendments, I then propose the Question, which is that Clause 8 be part of the Bill.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I am proposing a further amendment.

The Temporary Deputy Chairman (Prof. Muigai): If you are proposing a further amendment, I will then propose the Question, which is that Clause 8 as amended--

-

Attorney-General, proceed with your further amendment first and then I will put the Question.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 8(1)(b) be further amendment by deleting the words “four members appointed by the Cabinet Secretary” and substitute them with the words “two members appointed by the Cabinet Secretary”.

Mr. Temporary Deputy Chairman, Sir, am I now within my rights?

The Temporary Deputy Chairman (Prof. Kaloki): Yes.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I further propose a new subclause (1)(e), which is “two members appointed by the Attorney-General”.

The consequence of that these four members should be divided between the Cabinet Secretary and the Attorney-General, so that there can be two nominees from each office.

(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 (Prof. Kaloki): Hon. Millie Odhiambo, you may now move your further amendment to Clause 8.

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

THAT, Clause 8(1) be further amended by—

(a) inserting the words “through an open and competitive process” immediately after the word “President” appearing in paragraph (a); and,

(b) inserting the words “through an open and competitive process” immediately after the words “Cabinet Secretary” appearing in paragraph (b).

Mr. Temporary Deputy Chairman, Sir, this is to provide for those appointments that---

The Temporary Deputy Chairman (Prof. Kaloki): Order, Millie Odhiambo. Mr. Attorney-General, I think we dealt with your amendments. Is that right?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I am very happy.

The Temporary Deputy Chairman (Prof. Kaloki): I mean you completed your amendments on Clause 8?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I am very happy. I assume that my colleague has finished moving hers. I want to indicate that I have objection to her amendment.

The Temporary Deputy Chairman (Prof. Kaloki): Let me hear her. Hon. Millie Odhiambo, I just wanted to make sure that the Attorney-General had completed his amendment, so that I could move to you. You can now move yours.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I moved my amendment as per the Order Paper. It is intended to provide for an open and competitive process.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

Clause 9

The Temporary Deputy Chairman (Prof. Kaloki): Proceed, hon. Millie Odhiambo.

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

THAT, Clause 9 be amended—

(a) in sub-clause (1) (b), by deleting the word “fifteen” and substituting therefor the word “ten”;

(b) in sub-clause (2)(b) by deleting the word ”ten“ and substituting therefor the word “five”.

Mr. Temporary Deputy Chairman, Sir, this is intended to give opportunity to young people.

The Temporary Deputy Chairman (Prof. Kaloki): Okay, let me propose the Question and the Attorney-General can give his views on it. Hon. Millie, do you want to explain your amendment?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I am proposing ten years for the position of the chair. For the position of a commissioner, I am proposing five years. For a person applying for the position of chairman, by the time he has done ten years, he will had sufficient experience. Equally, a person who wants to be a commissioner, by the time he has done five years, he will have gained enough experience for the job. There are some of us who are directors with less experience.

The Attorney-General (Prof. Muigai): Can I proceed, Mr. Temporary Deputy Chairman?

The Temporary Deputy Chairman (Prof. Kaloki): Hon. Attorney-General, I will give you time. First, let me propose the Question.

(Question of the amendment proposed)

Hon. Attorney-General, you may now contribute to the proposed amendment by hon. Millie Odhiambo.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I want to persuade my good friend, hon. Millie Odhiambo, to, please, drop this amendment.

We have a tradition in the Kenya Law Reform Commission where its current chairman has just been promoted to the Court of Appeal. This position is a Court of Appeal level. It is a very senior position. I am for youth empowerment. I would be happy any day to make any other concession.

But I think we should keep it to a position where the chairman of this body commands the respect of all the people. We have just given this commission authority to assist all the counties in developing their laws, regulations and by-laws. It is a very important responsibility. If my colleague would agree we drop those two, we will find a lot of space for younger people within the Commission to do other functions.

*[The Temporary Deputy Chairman
(Prof. Kaloki) left the Chair]*

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

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, let me concede to the extent that the Attorney-General has said that they want persons of the level of our Court of Appeal. Otherwise, if you have ten years experience, you command a lot of respect.

The Temporary Deputy Chairman (Mr. Ethuro): You are withdrawing your amendment?

Mrs. Odhiambo-Mabona: Yes, Mr. Temporary Deputy Chairman, Sir.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 9 agreed to)

Clause 10

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I bet to move:- THAT, Clause 10 be amended by deleting subclause (2).

This is because we cannot criminalize a person of being a politician.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I have no problem with that amendment. I have spent all my life around politicians.

(Question of the amendment proposed)

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

(Clause 10 as amended agreed to)

Clause 11

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11(1) of the Bill be amended—

(b) in subclause (4)(g) by deleting the words “Cabinet Secretary” and substituting therefor the words “Attorney-General”.

Mr. Temporary Deputy Chairman, Sir, I want to move only one amendment under Clause 11 and that is 11(1)(d). The Office of the Prime Minister I think is included in error because in the new dispensation, I do not think that office will be in existence.

I want to replace the office of the Prime Minister, without any prejudice, with the office of the Attorney-General. This is the panel to appoint the chairman if there is a vacancy. So, the Attorney-General and the Cabinet Secretary in charge of Justice will be useful additions. Otherwise, I will drop all the other amendments to Clause 11.

(Proposed amendments to parts “a”, “b”, “c”, and “e” withdrawn)

The Temporary Deputy Chairman (Mr. Ethuro): Just for clarity, Mr. Attorney-General, on page 4802 on Clause 11 you are saying that you are dropping parts (a), (b), (c) and (e) except (d)?

The Attorney-General (Prof. Muigai): Yes, 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 in place thereof
put and agreed to)*

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 11 be amended—

(a) in subclause (1), by inserting the following new paragraphs immediately after paragraph (f)—

“(g) the Federation of Women Lawyers;

“(h) the National Council for Persons with Disabilities;

(b) in subclause (6), by inserting the words “the youth and” immediately after the words “opportunities for”;

(c) in subclause (11), by deleting the words “President or” appearing immediately before the words “Cabinet Secretary”.

This is also to take into account organizations to be represented like persons with disabilities and women; also the Attorney-General said they would be taking care of the youth and under Clause 6, I am creating representation for young persons.

The Attorney-General (Prof. Muigai): I am happy to embrace Mrs. Odhiambo-Mabona’s amendment and I have no objection to it.

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

(Clauses 12, 13 and 14 agreed to)

Clause 15

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I am dropping all my proposals to amend Clause 15.

(Proposed amendments by Prof. Muigai withdrawn)

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

THAT, Clause 15 be amended by inserting the following new subclause immediately after subclause (4)—

“(5) The President or the Cabinet Secretary may adopt, partially or wholly, or reject, the recommendations made under subsection (2) and where the recommendations are rejected or partially adopted, the President or Cabinet Secretary shall give reasons for such rejection or partial adoption”.

This is meant to allow the President or the Cabinet Secretary to adopt the report partially, wholly or reject it and to give reasons.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I am a happy to confirm that I have no objection to this amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, you note that the amendments proposed by the Attorney-General to Clause 15 have been dropped. Then we will consider the amendments by Mrs. Odhiambo-Mabona.

(Question of the amendment proposed)

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

(Clause 15 as amended agreed to)

(Clauses 16, 17 and 18 agreed to)

Clause 19

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy I beg to move:-
THAT, Clause 19(4) be amended by deleting the word “three” and substituting therefor the word “five”.

Mr. Temporary Deputy Chairman Sir, this is to synchronize the terms with the other bodies that we have given five years instead of three.

(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 19 as amended agreed to)

(Clause 20 agreed to)

Clause 21

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

THAT, Clause 21(3) be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) equalization of opportunities for the youth”.

Mr. Temporary Deputy Chairman, Sir, this is actually even the better place to put the issue of mainstreaming equalizing of opportunities for young persons within the secretariat.

(Question of the amendment proposed)

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I am happy to confirm that I support this amendment.

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

(Clause 21 as amended agreed to)

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

Clause 29

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, again, here as I intimated to you, I want to drop this proposed amendment.

(Proposed amendment by Prof. Muigai withdrawn)

(Clause 29 agreed to)

*(Clauses 30, 31, 32, 33, 34, 35,
36, 37, 38, 39 and 40 agreed to)*

(First Schedule agreed to)

Second Schedule

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

THAT, the Second Schedule be amended in paragraph 2 by inserting the words “and regard shall be taken to ensure that the chairperson and the vice chairperson shall be of opposite gender” immediately after the words “vice-chairperson amongst their number”.

Mr. Temporary Deputy Chairman, Sir, this is to mainstream gender.

(Question of the amendment proposed)

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

(Second Schedule as amended agreed to)

Third Schedule

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

THAT, the Third Schedule be amended—

(a) in paragraph 2(2)(c), by adding the words “or in conformity with Article 35 of the Constitution” after the words “official duty”;

(b) in paragraph 7, by inserting the following new subparagraph immediately after subparagraph (2)(c)—

“(d) Committing any other act that is classified as sexual harassment under the Sexual Offences Act, 2006.”

Mr. Temporary Deputy Chairman, Sir, I have withdrawn the first part of my amendment, but retained the amendment to paragraph 2(2) (c) to ensure that it is in

conformity with Article 35 of the Constitution. I have also retained the amendment in paragraph 7 by including a new sub-paragraph that defines the issue of sexual harassment, as per the Sexual Offences Act, because the definition that is given here is limited.

(Question of the amendment proposed)

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

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

(Third Schedule as amended agreed to)

Long Title

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

THAT, the long title be amended by—

(a) deleting the words “reconstitute and incorporate the Kenya Law Reform Commission, immediately before the words “provide for”;

(b) inserting the words “Kenya Law Reform” immediately after the words “administration of the”.

(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)*

(Long Title as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, I am told that we have not reported on the other Bills and so we will report them literally at the same time. So we will go on to the next Bill; The Science, Technology and Innovation Bill.

PROGRESS REPORTED

THE CONSTITUENCIES DEVELOPMENT FUND BILL

THE INTERNATIONAL INTERESTS IN AIRCRAFT EQUIPMENT BILL

THE CIVIL AVIATION BILL

THE NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION BILL

THE KENYA LAW REFORM COMMISSION BILL

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Chairman, Sir. I rise on a point of order to beg to move that the Committee do report progress and either seeks leave of the House to continue consideration of the Bill in Committee again today.

As you notice, we only have 15 minutes and we will need to create some time to close all the Bills we have started today.

Hon. Members: No! Tomorrow!

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, we have 15 minutes. If we do not report progress and have all these five Bills that we have completed, all the work we have done over the last so many hours will be in vain. So, we need to report progress, get an extension so that we can get the Third Readings of all the work we have done. Otherwise, whatever we have done from the time we started will be wasted. It will not get anywhere. So I beg to move that the Committee doth report progress, seek leave to meet again another day and then at least we finish what we have already completed.

So, Mr. Temporary Deputy Chairman, Sir, the Committee of the whole House is considering The Constituencies Development Fund Bill, The International Interests in Aircraft Equipment Bill, The Civil Aviation Bill, The Nairobi Centre for International Arbitration Bill and The Kenya Law Reform Commission Bill and has instructed me to report progress and seek leave to sit again today.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Prof. Kaloki) in the Chair]*

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered various Bills and seeks leave to sit again today.

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

(Question proposed)

(Question put and agreed to)

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

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

THAT, notwithstanding the Resolution of the House made earlier today Tuesday, 8th January, 2013 under Order No.8, the House further resolves to extend its Sitting Time today until the conclusion of business appearing on the Order Paper under Order No.13.

Mr. Temporary Deputy Speaker, Sir, we completed deliberating various Bills at the Committee Stage. With the consensus that we built earlier in the Departmental Committee on Finance, Planning and Trade, we will have completed the Finance Bills so that, tomorrow, we can complete the rest of the business. At least, we have done something substantial to ensure that by the time we go home, we shall have done justice to Kenyans. I know we have sacrificed so much and I want to thank everyone for doing so much. Another one hour will help us a lot. With those words, I beg to move and ask hon. Githae to second.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, in view of time, I second.

(Question proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I stand to oppose. The reason is that we have been working very hard. Indeed, one of our colleagues is challenging us by telling us to be human. We have been sitting for long. Welcome to our sittings. Some of us have been sitting here daily up to midnight. So, welcome and do not be shocked that you will be sitting here for those long hours. Some of us are tired because we work with flesh and blood. Therefore, I oppose.

We have tomorrow. We can sit tomorrow morning and afternoon. I have told hon. Kimunya before that some of the things that we have here are not a priority. The next Parliament can sit and do them. Some of these things are not urgent. There is no reason why we should be sitting here to do business which is not urgent. So, I oppose. We need to go back to the 10.00 p.m. time that we set.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, we were expecting the Leader of Government Business to manage this programme. We wanted him to allow us one more hour so that all the Bills that have gone through the Committee Stage can be completed and the Attorney-General can carry on with the work. The remaining Bills in that order can move to the next day.

Surely, what is the value in Motion Nos.10, 11, 12 and 13, if not for some mischief to extend the liability to this nation, the fourth and the fifth generation?

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

*[The Temporary Deputy Speaker (Prof. Kaloki)
left the Chair]*

IN THE COMMITTEE

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

(Resumption of Consideration interrupted in Committee today)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members. We are back to the Committee of the whole House. I suggest that we close the first five Bills at the Committee Stage, so that we do not have to revisit them. We can start from the bottom with the Kenya Law Reform Commission Bill as we come upwards and hon. Odhiambo-Mabona will assist with the CDF one.

THE KENYA LAW REFORM COMMISSION BILL

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Kenya Law Reform Commission Bill, Bill No.65 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION BILL

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Nairobi Centre for International Arbitration Bill, Bill No.65 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE CIVIL AVIATION BILL

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Civil Aviation Bill, Bill No. 81 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE INTERNATIONAL INTERESTS IN AIRCRAFT EQUIPMENT BILL

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The International Interests in Aircraft Equipment Bill, Bill No.83 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE CONSTITUENCIES DEVELOPMENT FUND BILL

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Constituencies Development Fund Bill, Bill No. 77 of 2012 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we will now move to Item (vi), which is The Science, Technology and Innovation Bill, Bill, No.53 of 2012. If you have a proposed amendment, it is your job to catch my eye so that you can put your request early enough; if you do not I will move faster than your speed.

THE SCIENCE, TECHNOLOGY AND INNOVATION BILL

Clause 2

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

THAT, Clause 2 be amended—

- (a) in the definition of “incubation”, by inserting the word “ideas” after the words “infant technologies”;

(b) in the definition of “innovation”, by inserting the following new paragraph immediately after paragraph (c)—
“(cc) indigenous or traditional knowledge by communities of beneficial properties of land, natural resources including plant and animal genetic resources and the environment

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Chairman, Sir. Just for clarification. I only explained one part but I have two amendments in clause 2. Just for the record.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Odhiambo-Mabona, you remember we did not specify the sub-clauses. So, once we dealt with the clause, it captured all of them, even if they were ten or 20.

(Clauses 3 and 4 agreed to)

Clause 5

The Temporary Deputy Chairman (Mr. Ethuro): There are two amendments. Hon. Koech, will go first.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, clause 5 be amended—
(a) in subclause (1), by deleting paragraph (f) and substituting therefor the following new paragraphs—
“(f) three persons appointed by virtue of their knowledge and experience in science, Technology and innovation;
(fa) one person nominated by the body currently recognized as representing the interest of the private sector”;
(b) by inserting the following new subclause immediately after subclause (3)—
“(3A) In appointing members under this section, the Cabinet Secretary shall have regard to the objectives and needs of development of science, technology and innovation and ensure that there are balanced competencies, gender equity, inclusion of persons with disabilities, the marginalized and other minority groups”;
(c) in subclause (4), by deleting paragraph (d) and substituting therefor the following new paragraphs—
“(d) is convicted of an offence and sentenced to imprisonment for a period of six months or more;
(e) is guilty of misconduct;
(f) fails to meet the requirements of Chapter Six of the Constitution”;

(d) by deleting subclauses (5), (6) and (7) and substituting therefor the following new subclauses—

“(5) Where the office of a member of the Commission becomes vacant, the Cabinet Secretary may, subject to the provisions of this Act, appoint another person to fill the vacancy for the remainder of the term of such member.

“(6) Notwithstanding the generality of the foregoing, the Board shall ensure that any member suspected to have committed an offence under Chapters Six or Thirteen of the Constitution, or any other written law, vacates office to pave way for investigations.

(7) The chairperson and the members of the Commission under subsection (1) (f) shall be appointed by the Cabinet Secretary only from a list of, in case of the chairperson, three names, and in case of other members, nine names submitted by a selection panel appointed by the Cabinet Secretary in accordance with subsection (7).

(8) The selection panel referred to in subsection (7) shall comprise of a chairperson and six other persons appointed by the Cabinet Secretary as follows—

(a) a representative of the Public Service Commission;

(b) a representative of the Attorney-General;

(c) a representative of the Principal Secretary of the Ministry for the time being responsible for finance;

(d) one person to represent the body currently recognized as representing the interests of the private sector;

(e) one person to represent research institutions;

(f) one person to represent universities.

(9) The selection panel shall regulate its own procedure.

(10) The selection panel shall advertise for the vacancies and publicize the applicants and shortlisted candidates in at least two newspapers with a wide national circulation.

(11) The selection panel shall stand dissolved after the appointment of the members of the Commission.

(12) A person shall be qualified for appointment as a chairperson or member of the Commission, if the person—

(a) in the case of the chairperson—

(i) holds a doctorate degree from a university recognized in Kenya;

(ii) has at least fifteen years experience in leadership and management of public or private institutions;

(b) in the case of a member of the Commission, holds a Masters degree from a university recognized in Kenya.

(13) The chairperson or member of the commission shall be a person of high moral character and integrity in accordance with Chapter six of the Constitution and capable of contribution to science, technology and innovation.

(14) All appointments under this section shall be by notice in the Gazette.”

(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)

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

THAT, Clause 5(6) be amended by inserting the following new paragraph immediately after paragraph (d)—
“(e) the Law Society of Kenya”.

(Question of the amendment proposed)

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the amendment introduced by the hon. Odhiambo-Mabona introduces an additional member. We already have designated number of members in the committee, which is known. The only way we can accommodate the Law Society of Kenya is actually within “f” and not by an additional clause; it is as a body. So, I suggest that in clause(1)(f), we say not more than four persons, two of whom shall be of opposite gender and appointed by virtue of their experience in science, technology and innovation and the Law Society of Kenya.

(Mr. Koech stood up in his place)

The Temporary Deputy Chairman (Mr. Ethuro): What is your point of order, hon. Koech?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I have looked at the amendment by hon. Millie. I notice that she wants to amend Clause 5(6). In my amendment, I propose the deletion of clauses 5, 6 and 7. We have been able to discuss and make an addition, specifying clearly who the members of the panel should be. Therefore, I would like hon. Millie to withdraw her amendment because it has already been taken care of by my amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Millie, have you looked at hon. Koech’s amendment, including the Minister?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I am sorry; I did not understand what hon. Koech said. If he says that under Clause 5(6) there are definite institutions, I do not see what is wrong with adding another one because we have provided this even in other amendments. If we are talking about science, technology and innovation, there is a lot of stuff which has to do with intellectual property rights. You need a lawyer.

An hon. Member:---*(off-record)*

Mrs. Odhiambo-Mabona: Yes, but this is government-heavy. We need to have people who are not in government. We have moved from the culture where we used to have institutions that were government-heavy. So, we also need to have non-governmental organisations or professional bodies that are not necessarily government.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! Procedurally, we have carried the amendment that deleted clauses 5, 6 and 7 and hon.

Millie's amendment on Clause 5(6) has already gone. You should have spoken to it when he was proposing. It is, therefore, inadmissible by the Chair.

Minister, what is your position?

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am okay with the amendment.

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairman (Mr. Ethuro): There are two proposals for amendments to this clause. I urge the hon. Members who have proposed the amendments to look at them with a view to taking advantage of the earlier amendments, so that theirs are not caught up procedurally.

Yes, hon. Koech.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I have looked at hon. Millie's amendments. They do not cause any conflict.

Therefore, I beg to move:-

THAT, Clause 6 be amended—

(a) by inserting the following new sub-clause immediately after Sub-clause (2)—

“(2A) For avoidance of doubt, only the Commission shall have the powers to perform the functions set out in this section”;

(b) in Sub-clause (3) by deleting the word “Board” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Ethuro): Yes, hon. Millie.

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

THAT, Clause 6(1) be amended by—

(a) inserting the words “and innovation” immediately after the words “science and technology” appearing in paragraph (b);

(b) inserting the word “and innovation” immediately after the words “science education” appearing in paragraph (h); and,

(c) inserting the word “innovation” after the words “scientific research” appearing in paragraph (m).

Mr. Temporary Deputy Chairman (Mr. Ethuro): Hon. Millie, hon. Koech had made it very clear that he had checked both amendments and there was no conflict. Where there is no conflict, we take one amendment at a time. If there is conflict, you try to make a further amendment.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, you are the one who has given me the Floor.

The Temporary Deputy Chairman (Mr. Ethuro): Yes, I advised. Hon. Koech heard me better and clarified the matter. So, you did not listen to both the Chair of the House and the Chair of the Departmental Committee.

Therefore, I put the Question that Clause 6 be amended as proposed by hon. Koech.

*(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. Ethuro): Hon. Millie, you can now do a further amendment to the same clause.

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

THAT, Clause 6(1) be amended by—

(a) inserting the words “and innovation” immediately after the words “science and technology” appearing in paragraph (b);

(b) inserting the word “and innovation” immediately after the words “science education” appearing in paragraph (h); and,

(c) inserting the word “innovation” after the words “scientific research” appearing in paragraph (m).

(Question of the amendment proposed)

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

(Clause 6 as amended agreed to)

(Clause 7 agreed to)

Clause 8

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

THAT, Clause 8 be amended by inserting the following new subclause immediately after subclause (1)—

“(1A) a person shall be qualified for appointment as a Commission Secretary if the person—

(a) holds a doctorate degree from a university recognized in Kenya;

(b) has at least fifteen years experience in management of public or private institutions; and

(c) meets the requirements of Chapter 6 of the Constitution.”

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

Clause 9

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

THAT, Clause 9 be amended—

- (a) in subclause (2), by deleting the words “from outside the Commission” and substituting therefor the words “hired as consultants from outside the Commission”;
- (b) by deleting subclause (3).

This is basically to give the Commission an opportunity to hire a consultant as opposed to co-opting members because that would be getting commissioners through the back door.

(Question of the amendment proposed)

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, there are two things here that Mrs. Odhiambo-Mabona is trying to propose. One is to insert the words “hired as consultants”. I want to get clarity on this because sometimes they may actually engage consultants without actually hiring them. That is why we left out the word “hired”.

Two, she is proposing to delete sub-clause 3, where sub-clause 3 is saying that the Cabinet Secretary may, on recommendation of the Commission and from time to time by order in the Kenya Gazette, amend the Second Schedule. If you look at the Second Schedule it is actually talking about the research institutions that we have. Sometimes we may introduce a new research institution. I was going to propose to the hon. Member that maybe instead of deleting, we put the words “the Cabinet Secretary may, on recommendation of the Commission and with approval of Parliament from time to time by order in the Gazette amend the Second Schedule,” so that we do not leave the Second Schedule as it is forever. Sometimes it may change.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the amendment is really superfluous, but I really do not have a problem because for you to do an amendment it has to come through Parliament. So, whether you provide for it or not, it will come to Parliament. So, if he wants to put it, I am okay with it. The only thing is that it has to come to Parliament because a Schedule is part of law. It has to come to Parliament.

What I am saying is that I do not mind the proposed further amendment by the chairman to my amendment to subclause (2). What I was trying to cure is, you can use a different word--- You can amend by using a different terminology. But what I was trying to cure is a scenario where you have a very elaborate way of appointing commissioners and then a Cabinet Secretary just decides to appoint on their own without following that elaborate process. So, if you want technical expertise, you hire or employ consultants but you do not get a commissioner. You do not co-opt; that is getting commissioners through the back door.

Mr. Koech: On a point of order, Mr. Temporary Deputy Chairman, Sir. I do not know whether the proposal that you are putting is my proposed further amendment, so that we do not---

The Temporary Deputy Chairman (Mr. Ethuro): Order! I did not put your proposed amendment because according to hon. Millie and from the earlier discussions, it would still come to Parliament anyway.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I am stressing this because hon. Millie's amendment is proposing deletion of sub-clause (3) which is giving room for variation in future of the Fourth Schedule which talks about the research institutions that are in existence. If a new research institution comes into existence, then it would be very difficult to amend this if we delete sub-clause (3). That is why I was actually requesting the hon. Member to withdraw the deletion and add the words "with approval of Parliament" Sub-clause (3) should read:

"The Cabinet Secretary may, on recommendation of the Commission and with approval of Parliament from time to time---

The Temporary Deputy Chairman (Mr. Ethuro): Order! Order! Hon. Chairman of the Committee on Education, Research and Technology we have heard you. The issue is that when you made your presentation, especially in the Schedule and hon. Millie had already pronounced herself that you cannot change a Schedule before it comes to Parliament, I thought that it would make no big impact. You can still amend hon. Millie's amendment by proposing to delete part "b" of her amendment. That way you reinstate "3" but you also need to do a further amendment in terms of "hired as consultants." I thought that was a good point that you were making.

Hon. Members, for clarity let us undo it. Let us start with hon. Millie first and then go to hon. Koech.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I want to propose further amendment by providing that where I have written "hired as consultants from outside the Commission" we put "employ as consultants from outside the Commission," and by providing that instead of deleting sub-clause (3), we provide that the "Cabinet Secretary may, on recommendation of the Commission and from time to time, by order in the Gazette and subject to the approval of Parliament, amend the Second Schedule."

Mr. Temporary Deputy Chairman, Sir, I hope that you got my wording.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Millie! Our problem is just the procedure. You cannot amend the Bill because it is not yours. The proposals that you had already made are the ones that you can amend. But I thought that I heard you say that nobody can amend the Schedules because they still have to come to Parliament. So, what is the purpose of even putting them?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, it is because the Chairman of the Committee wants to see that. But really it is superfluous because there is nowhere you amend any law outside Parliament. It has to come to Parliament. So, it is the way I had said that we will amend this law---

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mrs. Odhiambo-Mabona! You have a very powerful argument and the Chairman, Mr. Koech, is listening to you. Why are you assuming he is not appreciating what you are saying? I think I can live with that one.

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I want to propose a further amendment to Mrs. Odhiambo-Mabona's amendment by withdrawing part (b) that reads "by deleting sub clause (3)" and propose the following amendment:-

THAT, Clause 9(3) be amended by inserting the words "with approval of Parliament" immediately after the word "commission".

The Temporary Deputy Chairman (Mr. Ethuro): Order! Mr. Koech, you cannot also purport to do what Mrs. Odhiambo-Mabona could not do because the Bill is not yours. The person who can do amendments on the Floor is the owner of the Bill who is the Minister. However, even the amendments you are proposing, I thought Mrs. Odhiambo-Mabona convinced you. The Second Schedule is part of the Bill, that is why we go through this and so it is the law. Nobody can do it without bringing it back to Parliament. So, your fears are already taken care of and so all you need to do and I think Mrs. Odhiambo-Mabona has already acceded to your request, is dropping part (b) of her amendment. This will, therefore, mean that Clause 9 has been amended in sub clause (2) by leaving out the words "from outside the commission" and substituting therefor the words "employed as consultants from outside the commission" and then part (b) is dropped.

(Proposed amendment by Mrs. Odhiambo-Mabona to sub-clause (3) dropped)

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

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

(Clause 9 as amended agreed to)

Clause 10

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

THAT, Clause 10(f) be amended by inserting the words "and innovation" after the words "and technology".

(Question of the amendment proposed)

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

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

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

THAT, Clause 12(5) be amended by inserting the following new paragraph immediately after paragraph (b)—

“(c) may result in the exploitation of the intellectual property rights of communities to their traditional knowledge”.

This ensures that research that allows for exploitation of intellectual property rights of communities to their tradition and knowledge is not allowed.

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

Clause 14

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

THAT, Clause 14 be amended by deleting the word “Commission” and replacing therewith the words “Regulations made under this Act”.

(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 14 as amended agreed to)

Clause 15

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

THAT, Clause 15 (1) (b) of the Bill be amended by-

(a) deleting the words “one million” and replacing therewith the words “five million”;

(b) deleting the words “six months” and replacing therewith the words “four years”.

Mr. Temporary Deputy Chairman, Sir, this is to enhance sentences. Abuse of intellectual property rights is a grievous offence to me and yet, the sentences we are providing are very lenient.

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Neto! He is not there and so we will not carry his amendment.

(Proposed amendment by hon. Oyugi dropped)

(Clause 16 agreed to)

Clause 17

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Neto! He is not present.

(Proposed amendment by hon. Oyugi dropped)

(Clauses 17, 18, 19, 20, 21 and 22 agreed to)

Clause 23

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

THAT, Clause 23(1) of the Bill be amended by deleting the words “either on its own accord or on invitation by a research institute or on request by the Cabinet Secretary”.

Mr. Temporary Deputy Chairman, Sir, this makes it obligatory for the Commission to assess research institutions and it is not discretionary every three years.

(Question of the amendment proposed)

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

(Clause 23 as amended agreed to)

(Clauses 24, 25, 26, and 27 agreed to)

Clause 28

The Temporary Deputy Chairman (Mr. Ethuro): There are two amendments here. We will take hon. Koech's first. If the amendment by hon. Koech is carried, then the one by hon. Millie's will be dropped.

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

THAT, Clause 28 of the Bill be amended—

(a) in subclause (3), by deleting paragraph (e) and substituting therefor the following new paragraphs—

“(e) four persons appointed by virtue of their knowledge and experience in science, technology and innovation; and,

(f) one person nominated by the body currently responsible for linking the industry with institutions for higher learning.”

(b) by deleting subclause (5) and substituting therefor the following new subclause—

“(5) The provisions relating to the appointment of members of the Commission set out in Section 5 shall apply *mutatis mutandis* to the members of the Agency.”;

(c) by deleting subclause (6).

Mr. Temporary Deputy Chairman, Sir, as you have rightly put it, down there in Part 5, this actually takes care of competitiveness with regard to appointment.

(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)*

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

(Clause 28 as amended agreed to)

Clause 29

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

THAT, Clause 29(1)(b) of the Bill be amended by deleting the words “specialized innovation centres” and substituting therefor the following words “science and innovation parks”.

(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)*

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

THAT, Clause 29 of the Bill be amended in sub clause (1), by-

- (a) deleting the words “provide advocacy for” in paragraph (h) and substituting therefor the word “ensure”;
- (b) inserting the following new paragraph immediately after paragraph (r)-
“(ra) provide incubators for innovative ideas”.

Mr. Temporary Deputy Chairman, Sir, this is a body that has the mandate to take up certain activities and so, it cannot be advocating. So, the correct word is “ensure”. They will also be providing incubators for innovative ideas.

*(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 29 as amended agreed to)

(Clauses 30 and 31 agreed to)

Clause 32

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 32 be amended by—

- (a) deleting the words “an initial” appearing subclause (2)(a);
- (b) inserting the words “every financial year” immediately after the word “treasury” appearing in paragraph (b) of subclause (1);
- (c) deleting the words “with approval of the Cabinet Secretary responsible for finance, be tax deductible under Income Tax Act” appearing in subclause(3) and substituting therefor the words “be zero rated”.

(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)

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

THAT, Clause 32 be further amended by-

(a) in subclause (2), by inserting the following new paragraph immediately after paragraph (c)-

“(d) such other sums of monies from fees levied on for licences for research”.

(b) in subclause (5), by inserting the words “through an open and competitive process” after the words “which shall compile”.

(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 agreed to)

Clause 34

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

THAT, Clause 34(1) be amended by—

(a) deleting the word “scholarships or bursaries” appearing in paragraph (c);

(b) deleting the word “foundation” appearing in paragraph (l) and substituting therefor the word “Fund”.

(Question of the amendment proposed)

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

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

THAT, Clause 34(1)(c) be further amended by inserting the words “with priority being given to marginalized and indigent communities and groups” immediately after the word “innovation”.

(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 and 36 agreed to)

Clause 37

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 37(2) be deleted.

(Question of the amendment proposed)

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

(Clause 37 as amended agreed to)

(Clauses 38, 39, 40 and 41 agreed to)

Clause 42

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

THAT, Clause 42(2) be amended by deleting the word “may” appearing after the
words “such regulations” and replacing therewith the word “shall”.

(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 42 as amended agreed to)

(Clauses 43, 44 and 45 agreed to)

Clause 46

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 46 be amended by deleting the words “after which he shall be
replaced in accordance with the provisions of this Act”.

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Clause 46 as amended agreed to)

Clause 47

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 47 be deleted and replaced with the following new clause—
Secretary and staff.

47. (1) Any person who immediately before the appointed day is the Secretary to the Council shall remain in office for the remaining period of his or her term of office

(2) Any person who is an officer of the Council immediately before the appointed day shall be deemed to be an officer of the Commission subject to such terms and conditions of service as the Commission may determine.

(Question of the amendment proposed)

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

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

(Clause 47 as amended agreed to)

(Clauses 48, 49 and 50 agreed to)

New Clauses

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Bill be amended by inserting immediately after Clause 33 the following new clauses be inserted immediately after Clause 33—
Director
and staff
of the
Fund.

33A. (1) There shall be a Director of the Fund.

(2) The provisions relating to the appointment of the Secretary of the Commission set out in section 8 shall apply *mutatis mutandis* to the appointment of the Director of the Fund.

(3) The provisions relating to the appointment of staff of the Commission set out in section 8 shall apply *mutatis mutandis* to the appointment of staff of the Fund.

Provisions
relating to
the Fund.

33B. The financial provisions set out in Part VII of this Act shall apply *mutatis mutandis* to the Fund.

(Question of the new clauses proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause

Mr. Koech: Mr. Temporary Deputy Chairman, I beg to move:-
THAT, the following new clause be inserted immediately before Clause 35, under the heading “PART VIII—FINANCIAL PROVISIONS”—
Funds of the
Commission.

34A. The funds of the Commission shall consist of—
(a) fees and charges for services rendered;
(b) such monies as may be lawfully earned from income generating activities; and
(c) monies granted, donated or lent to the Commission from any other source, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause

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

THAT, the following new clause be inserted immediately after clause 50—

Act to

prevail. 51. Where any conflict arises between the provisions of this Act and the provisions of any other written law in relation to accreditation, co-ordination of research institutions or any function of the Commission, the provisions of this Act shall prevail.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

First Schedule

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

THAT, the First Schedule be amended by deleting the word “Board” wherever it appears and substituting therefor the word “Commission”.

(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)

(First Schedule as amended agreed to)

Second Schedule

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

THAT, the Second Schedule be amended by inserting the following new paragraph immediately after paragraph (e)—

“(ea) earth and space sciences”.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Mr. Ethuro): There is also a further amendment to the Second Schedule by hon. Oyugi, but he is not here.

(Proposed amendment by Mr. Oyugi dropped)

(Second schedule as amended agreed to)

(Third scheduled agreed to)

(Fourth schedule agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Oyugi is not around. So, all his amendments have been dropped.

(Proposed amendment by Mr. Oyugi dropped)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Madam Minister, you may move.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Science, Technology and Innovation Bill, Bill No.53 of 2012, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members, we are on Item V11, The Technical and Vocational Education and Training Bill, Bill No.55 of 2012

THE TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING BILL

Clause 2

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 2 be amended—

(a) in the definition of “Commission”, by deleting the words “technical and vocational education and training” and substituting therefor the words “university education”;

(b) by deleting the definition of “technical college” and substituting therefor the following new definition—

“technical and vocational college” means an institution offering technical and vocational education and training at diploma level”;

(c) by deleting the definition of “technical teacher training college” and substituting therefor the following new definition—

“teacher trainer college” means an institution offering technical teacher training at diploma level”.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Clauses 3, 4, 5 and 6 agreed to)

Clause 7

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the proposed amendment to Clause 7.

The Temporary Deputy Chairman (Mr. Ethuro): The amendment is therefore withdrawn.

(Proposed amendment by Mr. Koech withdrawn)

(Clause 7 agreed to)

Clause 8

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

THAT, Clause 8 be amended—

(a) in Sub-Clause (1), by—

(i) deleting the words “not more than”;

(ii) inserting the words “legal” immediately before the words “and financial matters”;

(b) by deleting Sub-Clause (2) and substituting therefor the following new sub-clause—

“(2) The chairperson and the members of the Board under subsection (1) (a) and (e), respectively, shall be appointed by the Cabinet Secretary only from a list of, in case of the chairperson, three names, and in case of other members, nine names submitted by a Selection panel appointed by the Cabinet Secretary in accordance with Sub-Section (3)”;

(c) by deleting subclause (3) and substituting therefor the following new Sub-Clause—

“(3) The selection panel referred to in subsection (2) shall comprise of a chairperson and four other persons appointed by the Cabinet Secretary as follows—

(g) a representative of the Public Service Commission;

(h) one person nominated by the body recognized as representing technologists and technicians;

(i) a representative of the Federation of the Kenya Employers;

(j) one person to represent the body currently recognized as representing the interest of the private sector”;

(d) by deleting subclause (5) and substituting therefor the following new sub-clauses—

“(5) The selection panel shall advertise for the vacancies and publicize the applicants and shortlisted candidates in at least two newspapers with a wide national circulation.

“(5A) In appointing the members of the Board under this section, the Cabinet Secretary shall have regard to the objectives and needs of development of technical and vocational education and training and shall ensure that there are balanced competencies, gender equity, inclusion of persons with disabilities, the marginalized and other minority groups.

“(5B) The selection panel shall stand dissolved after the appointment of the members of the Board”;

(e) in subsection (8), by deleting the words “this section” and substituting therefor the words “Sub-Section (2);

(f) by deleting Sub-Clause (9) and substituting therefor the following new sub-clause—

“(9) Subject to the provisions of this Act, the chairperson and members of the Board shall hold office for a term not exceeding four and three years, respectively, and shall be eligible for re-appointment for one further term.”

(Question of the amendment proposed)

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

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

(Clause 8 as amended agreed to)

Clause 9

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

THAT, Clause 9 be amended—

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

“(1) There shall be a Director-General of the Authority who shall be appointed by the Cabinet Secretary on the recommendation of the Authority following a competitive recruitment process and who shall serve for a period of five years, which term may be renewed once”;

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

“(3) A person shall be qualified for appointment as a Director-General if the person—

(d) holds a doctorate degree from a university recognized in Kenya;

(e) has at least fifteen years experience in management of public or private institutions; and,

(f) meets the requirements of Chapter 6 of 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)

(Clause 9 as amended agreed to)

(Clauses 10, 11, 12, 13, 14, 15 and 16 agreed to)

Clause 17

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the proposed amendment on Clause 17.

(Proposed amendment by Mr. Koech withdrawn)

(Clause 17 agreed to)

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

Clause 22

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

THAT, Clause 22 be amended—

(a) in subclause (1) by deleting the words “one year” and substituting therefor the words “six months”;

(b) in Sub-Section (4) by inserting the words “and shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or to both” immediately after the word “offence”.

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

Clause 23

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I wish to withdraw the proposed amendment on Clause 23.

(Proposed amendment by Mr. Koech withdrawn)

(Clause 23 agreed to)

Clause 24

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, again, I wish to withdraw the proposed amendment on Clause 24.

(Proposed amendment by Mr. Koech withdrawn)

(Clause 24 agreed to)

Clause 25

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, again, I withdraw the proposed amendment on Clause 25.

(Proposed amendment by Mr. Koech withdrawn)

(Clause 25 agreed to)

Clause 26

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

THAT, Clause 26 be amended—

(a) in Sub-Clause (1)—

(i) by deleting the words “Technical Colleges” in paragraph (b) and substituting therefor the words “Technical and Vocational Colleges”;

(ii) by deleting the words “Technical Teacher Training Colleges” in paragraph (c) and substituting therefor the words “Technical Trainer Colleges”;

(b) in Sub-Clause (2)(b) by inserting the words “with the approval of the Cabinet Secretary” immediately after the word “offered”;

(c) in Sub-Clause (4) by inserting the following new paragraph immediately after paragraph (b)—

“(ba) the appointment of the Principal”;

(d) in Sub-Clause (5) by inserting the words “in consultation with the Cabinet Secretary responsible for technical education” immediately after the word “Act”.

(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 26 as amended agreed to)

(Clause 27 agreed to)

Clause 28

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

THAT, Clause 28(1) be amended—

(a) in paragraph (b), by inserting the words “and Vocational” immediately after the word “Technical”;

(b) in paragraph (d), by deleting the words “Teachers Training” and substituting therefor the word “Trainer”.

(Question of the amendment proposed)

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

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

(Clause 28 as amended agreed to)

(Clause 29 agreed to)

Clause 30

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 30 be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) There shall be a Principal of a public training institution established under section 26 (1) (a) (b) who shall be appointed by the Cabinet Secretary on the recommendation of the Board of Governors following a competitive recruitment process and who shall serve for a period of five years, which term may be renewed once”.

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

*(Clauses 31, 32, 33, 34, 35,
36, 37, 38, 39, 40, 41,42, 43, 44 and 45 agreed to)*

Clause 46

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, Clause 46 be amended—

(a) in subclause (1), by—

(i) deleting the words “not more than” in paragraph (d);

(ii) renumbering subparagraph (d)(v) as paragraph (e);

(b) by inserting the following new subclauses immediately after subclause (5)—

“(5A) The provisions relating to the appointment of the Director General and staff members of the Authority as set out in sections 9 and 10 shall apply, *mutatis mutandis*, to the appointment of the Director and staff of the Council.

“(5B) The provisions relating to the financial provisions of the Authority as set out in sections 11, 12, 13, 14 15 and 16 shall apply, *mutatis mutandis*, to the Council.”

(Question of the amendment proposed)

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

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

(Clause 46 as amended agreed to)

(Clause 47 agreed to)

Clause 48

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 48 be amended in subclause (1), by—
(a) inserting the following new paragraph immediately before paragraph (a)—
“(a) a chairperson”;
(b) renumbering paragraphs (a), (b) and (c) as paragraphs (b), (c) and (d);
(c) deleting the words “not more than seven” appearing in the renumbered paragraph (d)
and substituting therefor the word “six”.

(Question of the amendment proposed)

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

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

(Clause 48 as amended agreed to)

*(Clauses 49, 50, 51, 52, 53,
54, 55, 56, 57 and 58 agreed to)*

(First Schedule agreed to)

Second Schedule

Mr. Koech: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the Second Schedule be amended—
(a) in paragraph 1, by—
(i) deleting the words “from names submitted by an independent selection panel”
appearing in subparagraph (1);
(ii) deleting subparagraph (2);
(iii) in subparagraph (3), by—
(a) inserting the following new paragraph immediately before paragraph (a)—

- “(a) a chairperson”;
- (b) renumbering paragraphs (a), (b) and (c) as paragraphs (b), (c) and (d);
- (c) inserting the words “Governor of the County” immediately after the word “county” in the renumbered paragraph (c);
- (d) deleting the words “at least seven” appearing in the renumbered paragraph (d) and substituting therefor the word “six”.
- (b) by inserting the following new paragraph after paragraph 3—
- “3A. The Board of Directors for private institutions shall be composed of such number of members as may be determined and appointed by the sponsor or proprietor as indicated in the certificate of registration of that institution”.

(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)

(Second Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Technical and Vocational Education and Training Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We will now move on to Item VIII, The Sports Bill (Bill No.43 of 2012)

THE SPORTS BILL

Clause 2

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended—

- (a) by deleting the definition of the word “Authority”;
- (b) by deleting the definition of the word “Board” and substituting therefor the following new definition-

“Board” means the Board of Sports Kenya constituted in accordance with section 6(1);

(c) in the definition of the word “Council”, by deleting the word “Institute” and substituting therefor the word “Academy”;

(d) by deleting the definition of the word “Institute”;

(e) by deleting the definition of the word “Registrar” and substituting therefor the following new definition-

“Registrar” means the Sports Registrar appointed under section 40;

(f) by deleting the definition of the words “sports institutions” and substituting therefor the following new definition-

“sports institutions” means the Sports Kenya, the National Sports Fund Board of

Trustees, the Kenya Academy of Sports and the Sports Disputes Tribunal established under this Act; and

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

(i) “Academy” means the Kenya Academy of Sports established under section 28;

(ii) “Club members” includes officials and member athletes; and

(iii) “Sports Kenya” means the Sports Kenya established by section 3.

(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)*

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

THAT, Clause 2 of the Bill be further amended in sub-clause (1)-

(a) by inserting the word “Deaflympic” immediately after the word “Paralympic” appearing in the definition of the expression “national sports organization”;

(b) by inserting the following new definition in proper alphabetical sequence-

“sportsperson’s representative” means a person who is duly authorized and registered as such according to the constitution of the respective sports organization.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new subclause —

(1) There is established a body to be known as Sports Kenya.

(b) in subclause (2) —

(i) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”; and

(ii) by deleting the words “the Authority” in paragraph (c) and substituting therefor the words “Sports Kenya”;

(c) in subclauses (3),(4),(5) and (6), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”.

The Temporary Deputy Chairman (Mr. Ethuro): I am informed that the amendment to Clause 3 will take care of the amendment to the heading of Part II.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended—

(a) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya;

(b) in paragraph (g), by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”;

(c) by deleting paragraph (n);

(d) in paragraph (r), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”; and

- (e) by inserting the following new paragraph immediately after paragraph (r)—
- (rr) recommend, in liaison with the respective sports organisations, tax exemption for sportspersons.

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

Clause 5

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended —

(a) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya; and

(b) in paragraphs (a),(c),(d),(e),(f),(g) and (h), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

Clause 6

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, Clause 6(1) of the Bill be amended —

(a) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”; and

(b) in paragraph (d) —

(i) by deleting the word “National” and substituting therefor the words “Academy of”;

(ii) by deleting the word “Institute”; and
(c) in paragraph (h), by deleting the words “the Sports Authority”
and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

Mrs. Noor: Mr. Temporary Deputy Chairlady, Sir, I beg to move:-

THAT Clause 6 of the Bill be amended-

(a) in sub-clause (1) –

(i) by inserting the words “holds a degree from a university
recognized in Kenya and is” immediately after the word “person”
appearing in paragraph (a);

(ii) by inserting the following new paragraphs immediately
after paragraph (c)-

(cc) the Attorney-General;

(dd) the Principal Secretary in the Ministry responsible for
education;

(iii) by deleting the words “three persons” appearing in the
opening statement to paragraph (g) and substituting therefor the words “four
persons” ;

(iv) by inserting the word “deaflympics” immediately after
the word “Paralympics” appearing in sub-paragraph (i) of
paragraph (g);

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

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

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

Clause 7

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, Clause 7 of the Bill be amended—

(a) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”; and

(b) in paragraph (a), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”;

(c) in paragraph (b)—

(i) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”; and

(ii) by deleting the words “the Commission” and substituting therefor the words “Sports Kenya”;

(c) in paragraphs (c) to (e), by deleting the words “the Commission” wherever they appear and substituting therefor the words “Sports Kenya”; and

(d) in paragraph (f), by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

Clause 8

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, Clause 8 of the Bill be amended—

(a) in sub clause (1), by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”;

(b) in sub clause (2), by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”;

(c) in sub clause (3), by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”; and

(d) in sub clause (4)—

(i) by deleting the words “the Authority” appearing in introductory portion and substituting therefor the words “Sports Kenya”; and

(ii) paragraphs (a) to (d) and (g), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

Mrs. Noor: Madam Temporary Deputy Chairlady, Sir, I beg to move:-
THAT, Clause 8 of the Bill be amended in sub-clause (3) by deleting the words “for such period” and substituting therefor the words “for a term of three years, renewable only once”

(Question of the amendment proposed)

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

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

(Clause 8 as amended agreed to)

Clause 9

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended in subclause (1), by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

Clause 10

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended in sub clause (1), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

Clause 11

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg go move:-

THAT, Clause 11 of the Bill be amended—

(a) by deleting the words “the Authority” appearing in introductory portion and substituting therefor the words “Sports Kenya”;

(b) in paragraphs (a) to (f), by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

Clause 13

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg go move:-

THAT, Clause 13(1) of the Bill be amended—

(a) in paragraph (e), by deleting the words “the Kenya Sports Development Authority” and substituting therefor the words “Sports Kenya”; and

(b) in paragraph (f), by deleting the words “National Sports Institute” and substituting therefor the words “Academy of Sports”.

*(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)*

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 13 of the Bill be amended in sub-clause (1) –

(a) by deleting the words “three trustees” appearing in the opening statement to paragraph (h) and substituting therefor the words “four trustees”;

(b) by inserting the word “Deaflympics” immediately after the word “Paralympics” appearing in sub-paragraph (i) of paragraph (h);

(c) by deleting the word “three” appearing in paragraph (i) and substituting therefor the word “two”.

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

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

(Clause 13 as amended agreed to)

*(Clauses 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24,
25, 26, and 27 agreed to)*

Clause 28

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 28 of the Bill be amended—

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

(1) There is established an Academy to be known as Kenya Academy of Sports.

(b) in subclause (2), by deleting the word “Institute” and substituting therefor the word “Academy”;

(c) in subclause (3), by deleting the word “Institute” and substituting therefor the word “Academy”; and

(d) in subclause (4), by deleting the word “Institute” and substituting therefor the word “Academy”.

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

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

(Clause 28 as amended agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, since that clause has been carried, it takes care of the amendment to the Title of Part IV.

Clause 29

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 29 of the Bill be amended by deleting the word “Institute” and substituting therefor the word “Academy”.

(Question of the amendment proposed)

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

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

(Clause 29 as amended agreed to)

Clause 30

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 30(1) of the Bill be amended—

(a) by deleting the word “Institute” and substituting therefor the word “Academy”;

(b) in paragraph (e), by deleting the words “Kenya Sports Development Authority” and substituting therefor the words “Sports Kenya”; and

c) in paragraph (f), by deleting the word “Institute” and substituting therefor the word “Academy”.

(Question of the amendment proposed)

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

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

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 30 of the Bill be amended in sub-clause (1) –

(a) by deleting the word “three” appearing in paragraph (g) and substituting therefor the word “two”;

(b) by deleting the word “three” appearing in paragraph (k) (sic) and substituting therefor the word “four”;

(c) by inserting the word “Deaflympics” immediately after the word “Paralympics” appearing in sub-paragraph (i) of paragraph (k) (sic);

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

Clause 31

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 31 of the Bill be amended—

(a) by deleting— (i) the word “Board” and substituting therefor the word “Council”;

(ii) the word “Institute” and substituting therefor the word “Academy”; and

(b) by deleting the word “Institute” wherever it appears in paragraphs (a) to (e) and substituting therefor the word “Academy”.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

Clause 32

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 32(1) of the Bill be amended by deleting the word “Institute” and substituting therefor the word “Academy”.

(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 32 as amended agreed to)

Clause 33

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 33 of the Bill be amended—

(a) by deleting the word “Institute” appearing in the first line and substituting therefor the word “Academy”; and

(b) in paragraphs (a) to (e), by deleting the word “Institute” wherever it appears and substituting therefor the word “Academy”.

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

(Clause 34 agreed to)

Clause 35

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 35 of the Bill be amended in subclause (4) —

(a) by deleting the words “the Authority” and substituting therefor the words “Sports Kenya”; and

(b) by deleting the word “Institute” and substituting therefor the word “Academy”.

(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 35 as amended agreed to)

(Clauses 36, 37, 38 and 39 agreed to)

Clause 40

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 40 of the Bill be amended—

(a) in sub clause (1) —

(i) by inserting the word “Sports” immediately after the words “office of the”; and

(ii) by deleting the words “of sports organizations”;

(b) in sub clause (2) —

(i) by inserting the word “Sports” immediately after the words “appoint the” appearing in the introductory portion and deleting the words “of sports organizations”;

(ii) by inserting the word “Sports” immediately after the words “office of the” appearing in paragraph (a) and deleting the words “of sports organizations”; and

(iii) by inserting the words “in accordance with the provisions of this Act” immediately after the word “persons” appearing in paragraph (c).

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

(Clauses 41, 42, 43, 44, 45, 46, 47 and 48 agreed to)

Clause 49

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 49 of the Bill be amended by deleting the introductory portion of sub clause

(1) and substituting thereof the following new sub clause—

“(1) Where a sports organization fails to comply with the recommendations of an inspection, the Cabinet Secretary may—“.

(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 49 as amended agreed to)

(Clauses 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61 agreed to)

Clause 62

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 62 of the Bill be amended in sub clause (1)(h) by deleting the word “institutions” appearing immediately after the words “national sports” and substituting thereof the word “organizations”.

(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 62 as amended agreed to)

(Clause 63 agreed to)

Clause 64

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 64 of the Bill be amended—

(a) in sub clause (1), by deleting the words “the Authority” and substituting thereof the words “Sports Kenya”; and

(b) in sub clause (2), by deleting the words “the Authority” and substituting thereof the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Clause 64 as amended agreed to)

Clause 65

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 65 of the Bill be amended by deleting paragraphs (a) and (b) and substituting thereof the following new paragraphs—

“(a) “Sports Kenya”;

(b) “Academy of Sports”, or “Kenya Academy of Sports”; or”.

(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 65 as amended agreed to)

(Clauses 66 and 67 agreed to)

(First schedule agreed to)

Second Schedule

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, Sir, I beg to move:-

THAT, the Second Schedule of the Bill be amended in paragraph (a) by inserting the words “and athletes” immediately after the words “elections of officials”.

(Question of the amendment proposed)

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

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Second Schedule of the Bill be amended-

(a) by deleting paragraph (c) and substituting therefor the following new paragraph.

(c) the elections contemplated in paragraph (a) above shall be held at regular intervals after a period of between two years and four years, and persons elected as officials thereof shall consequently hold office as follows-

(i) the chairperson shall hold office for a term not exceeding four years, but is eligible for re-election for one more term;

(ii) any other official shall hold office for a term not exceeding four years, but is eligible for re-election for one more term.

(b) by deleting paragraph (d) and substituting therefor the following new paragraph-

(c) elections shall be held in accordance with the general principles for the electoral system as stipulated in Article 81 of the Constitution.

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

(g) that the election of officials at national, branch and sub-branch levels shall be done directly and only registered club members are entitled to vote at those elections;

(h) that the selection of the Kenyan team and the technical personnel shall be done in good time and transparently using fair criteria;

(i) that the criteria for authorization and registration of sportspersons and sportspersons’ representatives shall be codified, transparent and fair.

(Question of the amendment proposed)

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

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

(Second schedule as amended agreed to)

Third Schedule

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Third Schedule of the Bill be amended in paragraph 7 by deleting the words “Board, Board of Trustees or Council of Trustees or Council” appearing immediately after the word “Council” and substituting therefor the words “of Sport Kenya, the Fund or the Academy respectively”.

(Question of the amendment proposed)

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

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

(Third Schedule as amended agreed to)

Fourth Schedule

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Fourth Schedule of the Bill be amended—

(a) in paragraphs 1 to 6 by deleting the words “the Kenya Sports Development Authority” wherever they appear and substituting therefor the words “Sports Kenya”; and

(b) in paragraphs 7 to 9 by deleting the words “the Authority” wherever they appear and substituting therefor the words “Sports Kenya”.

(Question of the amendment proposed)

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

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

(Fourth Schedule as amended agreed to)

New Clause 15A

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

Filling
of vacancy

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 15—

15A. Whenever the office of a trustee appointed under section 13(1)(h) becomes vacant before the expiry of the trustee's term of office, the Cabinet Secretary shall, on the recommendation of the nominating body, appoint a person similarly qualified to fill the vacant position for the remainder of the term.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clauses

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 27—

Administrative expenses
of the Fund.

27A. The Board of Trustees shall establish an account into which shall be paid—

(a) the initial grants provided by Government for the expenditure incurred by the Board of Trustees in the exercise of its powers or the performance of its functions under this Act;

(b) the annual administrative fee deducted from the investment income of the Fund at the rate approved from time to time by the Cabinet Secretary but subject to a maximum of three per cent of such investment income;

(c) such monies or assets as may accrue to or vest in the Board of Trustees in the course of the exercise of its powers;

(d) income from the investment of the monies held in the account; and

(e) all monies from any other source provided for or donated or lent to the Board of Trustees.

Investment of surplus funds.

27B. (1) The Board of Trustees may invest any surplus funds held in the account established under section 27A in securities approved by the Cabinet Secretary for the time being responsible for matters relating to finance.

(2) The Board of Trustees may place on deposit with such bank or banks as it may determine any monies held in the account established under section 27A that are not immediately required for the purposes of the administration of the Fund.

Reserve Account.

27C. (1) There shall be maintained a reserve account of the Fund into which shall be deposited-

(a) any special contribution paid into the Fund by the Government for the purpose of facilitating sports persons; and

(b) any income of the Fund that the Board of Trustees determines should be set aside to support national sports organizations subject to a maximum of ten per cent of such income:

Provided that no money shall be drawn out of the reserve account without the authority of the Board.

Actuarial Board of Trustees Fund

27D. (1) The Fund shall be valued at intervals not exceeding five years by an actuary appointed by the Board of Trustees.

(2) The actuary appointed under subsection (1) shall-

(a) prepare a report on the state of the Fund; and

(b) recommend any necessary action to be taken.

(3) The actuary shall submit the report prepared under subsection (2) to the Board of Trustees.

(4) The Board of Trustees shall within six months of the receipt of such report pay due regard to any recommendations made by the actuary and in so doing, may-

(a) increase or decrease the rates of contribution payable in respect of sports agencies; or,

(b) take any other action recommended by the actuary.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

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

(The new clauses were read a Second Time)

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

New Clause 67A

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT the Bill be amended by inserting the following new clause immediately after Clause 67-

Anti-doping rules 67A (1). Every person involved in sports and recreation shall observe anti-doping rules.
(2) The Cabinet Secretary shall make regulations for the better management of anti-doping activities and such regulations may prescribe penalties for contravention of subsection(1).

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

Long Title

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Chairlady, I beg to move:-

THAT, the long title of the Bill be amended by inserting the words “drug-free” immediately after the word “promote”.

(Question of the amendment proposed)

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

(The Long Title as amended agreed to)

(Short Title agreed to)

(Clause 1 agreed to)

The Minister for Youth Affairs and Sports (Mr. Namwamba): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Sports Bill (Bill No.43 of 2012) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we are now going to the third Bill, which must be done within 15 minutes.

THE NATIONAL GOVERNMENT CO-ORDINATION BILL

Clause 2

The Temporary Deputy Chairlady (Dr. Laboso): Yes, hon. Millie Odhiambo.

QUORUM

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Chairlady, there is no quorum.

The Temporary Deputy Chairlady (Dr. Laboso): Okay. Let the Division Bell be rang.

(The Division Bell was rung)

The Temporary Deputy Chairlady (Dr. Laboso): Order, hon. Members, please let us be orderly. I have to report back to the House that there is no quorum. So, hold on where you are.

(The House resumed)

*[The Temporary Deputy Speaker
(Prof. Kaloki) in the Chair]*

REPORT

LACK OF QUORUM

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that there is no quorum.

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, there being no quorum, the House stands adjourned until tomorrow, Wednesday 9th January, 2013, at 9.00 a.m.

The House rose at 11.42 p.m.