

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 15th July, 2014

The House met at 2.30 p.m.

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

PRAYER

PAPERS LAID

Hon. Speaker: Leader of Majority Party

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Tuesday 15th July, 2014:-

(i) The Report of the Auditor General on the Financial Statements of the Ministry of Regional Development for the year ended 30th June, 2013 and the certificate of the Auditor General therein.

(ii) The Annual Report of the Ministry of Energy and Petroleum, prepared pursuant to Article 153(4).

(iii) The Report of the Auditor General on the Financial Statements of the Ministry of Cooperative Development and Marketing, Vote 122, for the year ended 30th June, 2013 and the certificate of the Auditor General therein.

(iv) The Report of the Auditor General and the Financial Statements of the Ministry of Lands for the year ended 30th June, 2013 and the certificate of the Auditor General therein.

(v) The Report of the Auditor General and the Financial Statements of the Ministry of Agriculture, Vote 110, for the year ended 30th June, 2013 and the certificate of the Auditor General therein.

(vi) The Report of the Auditor General and the Financial Statements of the Ministry of Housing for the year ended 30th June 2013 and the certificate of the Auditor General therein.

(vii) The Report of the Auditor General on the Financial Statements of the Ministry of Livestock Development for the year ended 30th June, 2013 and the certificate of the Auditor General therein.

(viii) The Report of the Auditor General on the Financial Statements on the Ministry of Planning, National Development and Vision 2030 for the year ended 30th June, 2013 and certificate of the Auditor General therein.

Thank you hon. Speaker.

REQUESTS FOR STATEMENTS

OPERATIONS OF MOBILE ROADSIDE COURTS

Hon. Speaker: Hon. Gitari

Hon. Gitari: Thank you hon. Speaker,

I wish to seek a Statement from the Chairperson in charge of Transport, Public works and Housing, regarding the operation of the mobile roadside courts established by the Judiciary Service Commission in relation to traffic offences.

Hon. Speaker: Yes, Hon. (Eng) Mahamud

Hon. (Eng) Mahamud: I will be able to give a response in two weeks' time.

Hon. Gitari: Hon. Speaker, it is acceptable if he will bring it in two weekss time.

EXTENSION OF ELECTRICITY SUPPLY TO MANDERA/WAJIR COUNTIES

Hon. Abbas: Hon. Speaker, I wish to request a Statement from the Chairperson of the Departmental Committee on Energy Communication and Information, concerning coverage of electricity grid. The Chairperson should inquire and report on what the current coverage electricity grid is at present, whether there is any plan to extend the national electricity grid to cover Mandera and Wajir counties, plans by the Government to extend electricity supply to cover the entire country.

Hon. Speaker: Enough! Hon. Kiptanui, the Vice Chair.

Hon. Kiptanui: Thank you hon. Speaker; we shall be able to give a response in the next two weeks.

Hon. Speaker: Two weeks, hon. Abbas?

Hon. Abbas: That is okay, hon. Speaker.

Hon. Speaker: Very well.

Hon. (Ms) Shukran Gure has written to say that she is away for some period. So, her Statement request is suspended and will be reinstated on the Order when she will be back.

Hon. (Ms) Wahome; not here?

Hon. (Ms) Kiptui; not here?

Yes, hon. Otaalo.

REASONS FOR RISING CASES OF INSECURITY IN KAKAMEGA

Hon. Otaalo: Thank you hon. Speaker. I wish to request a Statement from the Chairperson of Departmental Committee on Administration and National Security on increasing cases of insecurity in Kakamega. In his Statement, he should stress on the causes of insecurity being experienced in Kakamega Town, the factors fueling killings, including religious and political rivalry; and lastly the measures the Government is taking to ensure that lives and properties of the residents of Kakamega are protected.

Hon. Speaker: Hon. Abongotum to give the response.

Leader of Majority Party, hon. Abongotum is absent, perhaps you could---

Hon. A. B. Duale: Hon. Speaker, as of last evening that Committee was busy preparing a Report. But I can undertake to deliver an answer in two weeks' time. I will pass this request on to the Chair.

Hon. Speaker: Two weeks' time hon. Otaalo, is that okay?

Hon. Otaalo: I am hoping that two weeks will be two weeks because many on occasions we have been raising problems and we wait for up to almost six months before it is answered to.

Hon. Speaker: It is good to have hope.

Yes, hon. Gakuya.

Hon. Gakuya: Thank you hon. Speaker.

Pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the status of Nairobi River and a new park sandwiched between Kijabe and Kipande roads. In his Statement---

Hon. Speaker: Enough! Yes, hon. (Ms) Amina Abdalla.

Hon. Members I think you are not always present when I give communications. I have already indicated that you will be limited to what is appearing on the order paper. Just follow this, so that we can save on time and do business. This is not business. Remember this is not the core business of Parliament.

Hon. (Ms.) Abdalla: Hon. Speaker, three weeks.

Hon. Speaker: Three weeks?

Hon. (Ms.) Abdalla: Yes.

Hon. Speaker: Yes, hon. Gakuya

Hon. Gakuya: I think three weeks are okay, if we stick to them. But I would---

Hon. Speaker: She said three weeks and you said it is okay; the rest is an unnecessary story.

(Laughter)

We took 10 days to go and relax and meet your constituents. You must be having a lot of stuff you want to tell each other. Please, let us do business.

Yes, Hon. Wamalwa.

COUNTRYWIDE POLICE RECRUITMENT

Hon. Wakhungu: Thank you, hon. Speaker. I wish to request a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the on-going countrywide police recruitment in terms of compliance with Article 232 of the Constitution in relation to the principle of equal opportunity for all, equity and equality.

Hon. Speaker: Hon Asman Kamama is once again absent. The responsibility goes to the Leader of the Majority again.

Hon. A.B. Duale: Hon. Speaker, I am also sorry. For the first time I have forgotten my card. Is it because of the 10 days of recess, or is it because of the holy month of Ramadhan?

The matter is very serious. As I walked along the corridors of Parliament today, many people were asking many questions concerning this recruitment. I will tell the Chair of this Committee, with your indulgence, to bring a Statement on Thursday

afternoon, as a matter of national importance, on the criteria used for selection, the numbers, the gender, the height and even the discrimination that happened to the people of Naivasha. I am told that they missed slots because of environmental issues. I will tell the Chair to make sure that he brings a comprehensive Statement to the House on Thursday. If he does not, I will ask the Member to give me a copy of the same request so that I can send it to the National Police Service Commission for an answer.

Hon. Speaker: I agree with you, Leader of the Majority Party.

Hon. Wamalwa, we will from time to time be dealing with this situation this way because it is an urgent matter. Recruitment happened yesterday and today is the first sitting day. If you follow the former system, Questions by Private Notice required responses in about two or three days.

Hon. Wamalwa, so as to get a proper response, since the Chairman is not present, give a copy of the request to the Leader of Major Party; that way, you are likely to get a response faster. Maybe, I could allow you to read out the full content of your request.

Hon. Wakhungu: Thank you, hon. Speaker. This is something of importance to this House. I was hoping that when the Cabinet Secretaries will come to this House, it will be a good opportunity for ole Lenku to answer this.

Having said that, pursuant to Standing Order No.44 (2)(c), this is a request for a Statement from the Chair, Departmental Committee on Administration and National Security, regarding the on-going countrywide police recruitment. The Government is currently undertaking a police recruitment drive to beef up the security situation in this country. While this is a commendable step, the recruitment has been marred with irregularities and imbalances. There has been skewed hiring in terms of regions and gender.

(Applause)

In the Statement, the Chairperson should inquire into and report on the following:-

(i) whether the recruitment is in line with Article 232(1) of the Constitution that requires equal opportunity for all in terms of equity and equality;

(ii) the number of police officers recruited per constituency, including gender and ethnic background;

(iii) the measures taken to correct any irregularities that have arisen in this exercise;

(iv) report on any corrupt cases that have been reported so in relation to this recruitment, and what action will be taken against perpetrators.

Thank you, hon. Speaker.

Hon. Speaker: The Leader of Majority, I think it is now clear.

Hon. A.B. Duale: Hon. Speaker, I will tell the Chair. I will help him to deliver the Statement on Thursday. However, I do not think that the Chair or I can deliver on cases of corruption. On this, it means that I have to go and deal with independent institutions. That is the Ethics and Anti-Corruption Commission (EACC) which does not fall within the purview of the National Police Service Commission. The Member will

give us time on the bit on cases of corruption. However, with the help of the Speaker, we will deliver a Statement to the House on Thursday on the other scenarios.

Hon. Speaker: Cases of corruption are reported to different places. Even recommendations of this House where we suspect that there is corruption--- You merely make recommendations to specialized Government agencies to take action as deemed necessary. So, hon. Wamalwa is advised to go to the EACC, the Kenya police or other bodies like Transparency International. These people could also be of assistance. We will go by the Thursday assurance.

Yes, hon. Alice Wahome for the second time.

SUSPENSION OF TECHNICAL UNIVERSITY
OF MOMBASA STUDENTS

Hon. (Ms.) Wahome: Thank you, hon. Speaker. Accept my profuse apologies.

This is a request for a Statement pursuant to Standing Order No.44(2)(c). I wish to request a Statement from the Chairperson, Departmental Committee on Education, Research and Technology regarding the suspension of male student leaders of the Technical University of Mombasa, formerly Mombasa Polytechnic University College.

The students were sent home on 26th June.

Hon. Speaker: That is enough! We have said that we want to limit it to what is on the Order Paper. Since the gist of the Statement is with the Chairperson, Departmental Committee on Education, Research and Technology, let us hear her.

Hon. (Ms.) Wahome: Hon. Speaker, I just wanted to make one point on the request for No.2.

Hon. Speaker: No! We are just indulging you; you came late. We had gone past your Statement request. You will be more than lucky to get that. What is here is enough. The full content of your Statement is with the Chairperson.

Hon. (Ms.) Wahome: There is some information---

Hon. Speaker: It does not matter what the information is.

Hon. (Ms.) S.W. Chege: Thank you, hon. Speaker. I request the Member to give us a period of three weeks, so that we investigate the matter and then come back to her.

Hon. Speaker: Issue the Statement after three weeks.

For the second time, let us move on to Grace Kiptui's request. The Member is absent. She is still enjoying the 10-day holiday. The request for the Statement is dropped.

(Request for Statement by hon. Kiptui dropped)

Hon. (Eng.) Gumbo: On a point of order, Hon. Speaker. I wish to seek your direction on a matter that I had actually raised with you before regarding Order No.15 appearing on today's Order Paper. I had written to you on 19th May, 2014 requesting your indulgence and noting the fact that this Bill is very voluminous. My request then was that considering the abnormal volume of this Bill we consider introducing a Procedural Motion to increase the time that is allocated for moving and Members contributing. I think that if we go by the provisions of the Standing Orders, Members who are interested in the Bill may not have time to deliberate on it.

You went ahead and wrote to me to propose a Procedural Motion, which I did to the Office of the Clerk and to the Chairman of the Departmental Committee on Justice and Legal Affairs; I proposed a Procedural Motion under Standing Order No. 97(4) to say that this House orders that speech on the Insolvency Bill be limited to a maximum of 120 minutes for the Mover and 60 minutes in replying and a maximum of 90 minutes for any other Members speaking except for the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of 105 minutes each and that priority be accorded to the Leader of the Majority Party.

Hon. Speaker, I would have hoped that this Procedural Motion precedes the debate on this Bill because, as it is, I do not think that those of us who have cared to look at the Bill---

Hon. Speaker: The only problem is that you are already out of order yourself. This is because you know that the way to go about that is not at any time; it is just before the commencement of debate.

Hon. (Eng.) Gumbo: Hon. Speaker, I was saying that because I have looked at the Order Paper and I was hoping that the Procedural Motion would be put on this Order Paper. As it is, it is not possible. We will go to that particular Order after Order No.14. I just wanted your guidance using Standing Order No.1.

Hon. Speaker: If you have written to the Clerk, then let the matter be raised before the House Business Committee (HBC).

Hon. (Eng.) Gumbo: Hon. Speaker, I wrote to the Clerk on 26th May, 2014.

Hon. Speaker: It will be discussed in the HBC today.

Hon. (Eng.) Gumbo: But my request, hon. Speaker, is that---

Hon. Speaker: It cannot be done now. It is not on today's Order Paper.

Hon. (Eng.) Gumbo: I was just requesting if it could be withdrawn pending this Procedural Motion. Really, it is important, hon. Speaker; you could use your discretion to withdraw Order No.15.

Hon. Speaker: Are you talking about Order No.15?

Hon. (Eng.) Gumbo: Yes, hon. Speaker.

Hon. Speaker: Are you suggesting that we are likely to cover Orders 8, 9, 10, 11, 12, 13 and 14 today?

Hon. (Eng.) Gumbo: It is possible, hon. Speaker.

Hon. Speaker: I do not see this miracle working as--- I can see hon. Nyikal wondering whether we could possibly get there. It does not look like we could.

However, I am in receipt of your communication and I think we are addressing it. We appreciate the concerns that you have raised. In fact, not many Members, including hon. Kamama, who has just come in late, are aware of the issues being raised by hon. Gumbo. He is raising a very important issue, which relates to two Bills; that is the Insolvency Bill and the Companies Bill, both of which are before this House and are due for Seconding Reading. He is proposing that at an appropriate time a Procedural Motion be moved to increase the number of hours or minutes each Member will take in contributing to these two Bills. I suspect most of you have not seen these Bills.

Please, you are advised to go to Room No.8 to pick a copy of each of the Bills. Carry the two of them home tonight and you will understand the enormity of the issue that hon. Eng. Gumbo is raising. They are important. As you know, the Companies

Bill is trying to repeal the existing Companies Act, which, as you know, dates way back to 1948. Therefore, the issues in the Companies Bill and the Insolvency Bill are very weighty and will require each Member contributing to really take a fair amount of time. That is the point hon. Eng. Gumbo is raising; but I can see there is a lot of excitement after the 10-day holiday.

However, the matter will be raised in the HBC, and appropriate time is allocated, so that you can prosecute the matter.

Yes, hon. Eng. Gumbo.

Hon. (Eng.) Gumbo: I thank you, hon. Speaker.

Hon. Speaker: I thank you for raising that matter.

Who was contributing to Order No.8? Hon. Cheptumo, you are moving the Motion.

MOTION

ADOPTION OF JOINT REPORT ON CDF REGULATIONS

Hon. Cheptumo: Hon. Speaker, I beg to move---

(Loud consultations)

Hon. Speaker: Order, Members! Allow hon. Cheptumo to move this Motion. It is an important one. It deals with regulations touching on the CDF. I am sure that it will make everybody alert.

(Laughter)

Allow him to move the Motion. You must listen to this one, at least, if nothing else, the CDF. I am sure this is music to your ears.

Hon. Cheptumo: Hon. Speaker, I beg to move the following Motion:-

THAT, pursuant to the provisions of Section 18 of the Statutory Instruments Act, No.23 of 2013, and Standing Order No.210 (4)(b), this House adopts the Report of the joint sittings of the Committee on Delegated Legislation and the Committee on Constituencies Development Fund on the Constituencies Development Fund Regulations, 2014 laid on the Table of the House on Wednesday, 23rd April, 2014 and resolves to annul Regulations 5, 9(2)(d), 14, 15(3)(b), and 22(3)(b) of the Constituencies Development Fund Regulations, 2014.

As I move this Motion, I wish, on behalf of the Members of the CDF Committee and the Members of the Delegated Legislation Committee, to present to this House the Committees' joint report on the CDF Regulations, 2014.

Hon. Speaker, the Committee on Delegated Legislation is established pursuant to provisions of Standing Order No.210 and the one for CDF is established under the CDF Act. The Committee on Delegated Legislation has a membership of 29 and that of CDF

has a membership of 19. In the interest of time, I do not really wish to read the names; they are well captured on pages 1 and 2 of the Report.

The two committees have clear mandates under the regulations, the Standing Orders and the CDF Act. The mandate of the CDF Committee, as I have said, is in Section 28 of the Act while that of Delegated Legislation is set out under Standing Order No.210. The Committee on Delegated Legislation is required under Standing Order No. 210(3) to consider--- This is a very important point. We are supposed, as a Committee, to consider if any statutory instrument laid on the Table of the House meets the requirements set out in the Standing Order No.210(3)(a) to (q), and also if it meets the requirements of the provisions of the Statutory Instruments Act.

Hon. Speaker, again, I do not wish to take time in reading the requirements under Standing Order No.210 because of time, it they are very clearly spelt out in the Standing Order. In the event that the Committee resolves that the statutory instrument does not meet the requirements of Standing Order No.210(3), and the provisions of the Statutory Instruments Act, 2013--- It is important for hon. Members to know because this is a very important process in which this House is involved.

Therefore, the Committee invokes the provisions of Standing Order No.210 (4) (b) and the provisions of the Statutory Instruments Act, 2013 and recommends to the House whether a statutory instrument, or any part thereof, should be annulled. If the Committee is satisfied that the statutory instrument complies with the requirements of Standing Order No.210, they will proceed to accede to it and pass it over to the regulations making authority for it to implement it. It is for the Committee to recommend to the House annulment of a portion of the instrument or the entire instrument.

Hon. Speaker, the reason as to why we have this Report before us today is that we are recommending that the House annuls certain sections of the Constituencies Development Fund (CDF) Regulations, 2014. It is important for this House to know that we delegated the power of making regulations to various institutions and Ministries. It is our business, when we receive Regulations, to confirm that they have been properly done and that they conform to the Constitution, the relevant law and any other written law. So, it is not our business to take away the same powers that we delegated. Ours is only to ensure that it is done within the law.

The Cabinet Secretary of the Ministry of Devolution and Planning formulated the CDF Regulations, 2014, which were tabled before the House, and which you referred to a joint CDF and Delegated Legislation Committee. We had five sittings, during which we had the benefit of listening to the CDF Committee. It is important for this House to know that prior to these Regulations being brought to the House, the CDF Committee had consulted the CDF board and the relevant Ministry. Therefore, the CDF Committee had already taken a stand and agreed on certain directions with the Ministry.

Hon. Speaker, therefore, in the interest of time, allow me to say that during the joint sittings the CDF Committee reported to the Joint Committee on the consultative meetings that the former had held with the CDF board and the Ministry of Devolution and Planning, during which they came up with a joint position on various regulations to be incorporated in these Regulations. Therefore, having scrutinised the CDF Regulations, the provisions of Standing Order No.210(3) and the Statutory Instruments Act, 2013, and considered consultations undertaken among the CDF Committee and the CDF

Secretariat, the CDF board and the Cabinet Secretary, the Committee came up with appropriate recommendations. It is important for hon. Members to take note of the proposed annulments because they will have a direct effect on the running of CDF programmes in our constituencies.

On Regulation 5, as presented by the Cabinet Secretary for Devolution and Planning, the Committee has proposed an annulment of the same Regulation. As presented, the Regulation gives a 14 days' notice for public meetings to be held. The feeling of the Committee, after looking at the general provisions of the Act, is that the proposed period of time is too long. Above all, the notice under Regulation 5(2) is to be served on the ward administrator and the elected ward Member. The concern here is that this has the likely consequences of the CDF Fund being seen as a county fund – which is not the position. We do not want a situation where, after we pass these Regulations here, somebody uses them to challenge the legality of the CDF Fund as a national fund and not a county fund. Therefore, we recommend annulment of Regulation 5 for the reasons I have given. As I said earlier, it is not our business to make new Regulations. It is our duty to apply the law on the proposed Regulations.

Hon. Speaker, Regulation 9(2) (d) is another section that became of concern to the Committee. The essence of this proposed Regulation is to place the duty of receiving and undertaking all the correspondence on behalf of the CDF Committee on the Secretary to the CDF Committee. Currently, the Secretary to the CDF is not a full-time employee of the CDF Committee. The office is held by a member of the CDF Committee, who is elected by members of the public. He only goes to the office during meetings and goes home. For us to place the responsibility of receiving correspondence and keeping records to that particular member of the CDF Committee is not proper.

This particular provision of the Regulation contravenes Section 24(10) of the Act, which provides that the Fund Accounts Manager shall be the custodian of all records and equipment of the CDF. So, that is the right person on whom to place the role of receiving correspondence and keeping records, so that when there are meetings he can produce the same to the CDF Committee. Therefore, the role of receiving and undertaking all correspondence on behalf of the CDF Committee should be played by the CDF Manager. Therefore, due to that contravention, we propose annulment of the particular Regulation; it contravenes the express provisions of the CDF Act, a law that was passed by this House.

The third one is regulation 14, which provides for the procedure of convening CDF meetings, issuing notices, provides quorum and general management of meetings. This is one of the cases where these proposed regulations are purporting to do what is already provided for by the CDF Act. The conduct of business and affairs of the CDF Committee is clearly provided for under Sections 4 and 7 of the CDF Act. It is, therefore, not necessary to have this proposed regulation because it contravenes, or rather provides, what is already provided for under the Act.

Regulation 15(3)(b) provides for the establishment of CDF inspection and acceptance sub-committee. The establishment of that sub-committee is actually welcome because it is a good practice. This requirement to establish an inspection and acceptance sub-committee is already provided for by an existing legislation. The requirement should

have provided for membership of such a sub-committee and a clear inclusion of a technical person as a member of that proposed sub-committee.

The last one which we propose to annul is Regulation 22(3)(b). The essence of this regulation is to increase the number of signatories to the CDF bank accounts. Section 42(3) of the CDF Act is clear as to the signatories to the CDF accounts. Any attempt by this regulation to increase the number of signatories is *ultravires* the provisions of the CDF Act. We propose that this proposed regulation be annulled. You realize that our recommendation on the five proposed regulations is to be annulled and not to make new regulations. But if they are approved, it will be for the Cabinet Secretary to relook at these issues. If she wishes to make further recommendations complying with what we say, that will be okay, because they will still have to come back to this House for further discussion and adoption.

Our Report is very clear that in addition to the annulment of regulations 5, 9(2), 14, 15(3)(b) and 22(3)(d), there is another area which I wanted to clarify; I had said earlier that we are not supposed to make regulations. If you read Section 11 of the Statutory Instruments Act, we are supposed to receive in this House published regulations. I am aware Standing Order No.210 does not make it mandatory, but it is a requirement that we deal with this issue.

The regulations-making body is a new concept and we are developing our procedures and rules on this particular issue. These regulations, which are in a draft form, are before this House. I want to say where there are draft regulations, which are not gazetted or published pursuant to Section 11 of the Act, under Section 16 of the Act, we are allowed, as a House, to engage the regulation-making Authority to give comments and proposals, because the regulations are meant for the benefit of the Kenyan people and not anybody else.

In addition to the annulment of the regulations which I have mentioned, the Committee recommends to the Cabinet Secretary to consider inclusion of the regulations agreed upon during the consultative meetings between the CDF Committee, the Board and the Ministry.

I do not think, it will be fair after spending public funds, when the CDF Committee has gone to Mombasa or Naivasha, engaged Ministries and agreed on a certain position for the regulations-making authority to fail to include what was agreed to on; we feel that those are areas which need to be taken into account. The consultations were undertaken pursuant to provisions of Section 5 of the Statutory Instruments Act. The new regulations recommended by the Cabinet Secretary are set out on pages 8-10 of the Report.

Let me report to the House at this point that my Co-Chair, hon. Lessonet, confirms to me that after that time they have held consultations again with the relevant Ministry. Those proposed additional recommendations, if you can allow me to refer Members to them, are on removal of the CDF members by the area Member of the National Assembly in consultation with the officer of the Board. Another area is administrative reporting by the fund account and approval of the CDF board budget and budget ceiling.

These are issues that were really discussed and agreed upon between the CDF Committee and the Ministry responsible. My Co-Chair, who is also the Chair of the CDF Committee, will expound on those four items as he seconds this position.

Allow me at this point in time to very sincerely thank the officers of the Speaker's Office and the Clerk of the National Assembly for the necessary support extended to our committee when we were having our meetings. The Chairpersons of the committees take the opportunity to thank all the Members of the Joint Committee for their useful and immense contributions in entrenching the CDF Regulations 2014. The Joint Committee further wishes to record its appreciation for the services rendered by the staff of the National Assembly, who enabled the production of the Report.

It is, therefore, now my pleasure and duty to, on behalf of the Joint Committee, recommend this Report to the House, pursuant to the provisions of our Standing Orders and the Provisions of the Statutory Instruments Act, 2013.

With those few remarks, I beg to move and request my colleague, who is also the Chair of the CDF Committee, to second this Motion.

Thank you, hon. Speaker, for the time accorded to me.

Hon. Speaker: Yes, hon. Lessonet.

Hon. Lessonet: Thank you, hon. Speaker. I stand to second this Motion, and say that these draft regulations are before us basically to attempt to streamline the management of the CDF. Once these regulations are gazetted they will enable the CDF Committees (CDFCs) and these hon. Members of Parliament to efficiently and effectively manage this Fund in a manner that will be able to give the desired service to the people in the constituencies we represent.

Hon. Speaker, among what we are intending to introduce in these regulations is the removal of the CDFC members. The CDF Act, as it is at the moment, is not very clear as to how to remove a CDFC member. It is not very clear as to how to dissolve a CDFC. The Act is very clear that elections are done at the ward levels and thereafter nominees to the CDFC are appointed by the Members of Parliament in consultation with the Fund Manager, it is not clear as to how to remove those members.

Hon. Speaker, as the Chairman of the select committee on CDF, I am aware of challenges which we are facing in close to 100 constituencies, where there is a stalemate in the leadership of those CDFCs occasioned by the fact that chairmen and the CDFC members are saying that they are gazetted and, therefore, they want to be independent even from these hon. Members. It is for that reason that we are introducing a regulation. We are proposing this regulation to the Cabinet Secretary (CS) to enable removal of a CDFC member or dissolution of a CDFC. So, that is one very key issue which will come up after this House adopts this Report on the regulations.

Hon. Speaker, the other issue where we have challenges in managing the CDFCs and the CDF at the constituencies is the role of the Fund Accounts Manager. Most of the time the Fund Accounts Managers are a law unto themselves. Most of the time the Fund Accounts Managers do not report to anybody at the constituencies. Considering that the CDF board is only able to send one employee in the name of a Fund Accounts Manager to a constituency, issues of supervision, reporting and absence from duty are extremely rampant. It is because of that, that through these regulations we are introducing an administrative reporting by the Fund Account Manager. Once this House passes these

regulations by adopting this Report the Fund Accounts Manager shall henceforth report to the CDFC. When that Fund Accounts Manager wants to leave his station, he must be able to get permission from the chairman of the CDFC. When that Fund Accounts Manager wants to go on leave he will seek permission from the chairman. Even at the end of the year we want him/her to be appraised as to how he/she performed in the past year. That function and activity shall be performed by the CDFC. They are the ones who are with him on a daily basis. They are the ones who, therefore, at the end of the year will tell us whether a Fund Accounts Manager is performing or not.

Hon. Speaker, as the Chairman of this National Assembly select committee on CDF, we receive complaints every week of Fund Accounts Managers who did not report for duty for a whole week, and who are out of station purportedly in Nairobi in seminars or in meetings. This regulation will sort out that issue of absenteeism; it will, of course, address the fact that the Board is not able to supervise the Fund Accounts Managers.

Hon. Speaker, in this financial year, 2014/205, the Jubilee Government allocated Kshs33 billion to the CDF, of course, very much with the support of this House and the hon. Members that we have such an amount of money allocated to CDF. A percentage of this money, specifically 5 per cent, is used by the CDF board to manage the Fund. When you work out five per cent of Kshs33 billion, you get a substantial amount of money. We are saying that we want the Board to be able to bring their budget for approval by this House through the National Assembly select committee on CDF. So, we are introducing a regulation, so that we can also curb the excesses of the Board, and be able to efficiently use the five per cent of the money allocated to CDF. We are doing this through introduction of a regulation, which you will have seen in the Report.

Hon. Speaker, I have mentioned that Kshs33 billion was allocated to the CDF. It was our intention that we allocate the lowest amount per constituency of Kshs100 million. We were not able to achieve that. We succeeded to bring the lowest constituency, Lamu East, from Kshs60 million to Kshs85 million. The CDF Act at the moment requires 2.5 per cent as money allocated to CDF. We are, therefore, introducing through regulations a further conditionality that the smallest constituency should not receive less than Kshs100 million.

(Applause)

Hon. Speaker, we are doing that through these regulations and once you go through the Report, you will be able to notice that we are introducing a budget ceiling for each constituency, which shall not be less than Kshs100 million.

Hon. Speaker, I believe if we had succeeded to process these regulations before the Budget probably we would have given the smallest constituency Kshs100 million; I believe in the next financial year, or possibly, in the Supplementary Budget we will be able, after we pass these regulations, to comply with the law that the lowest allocation to a constituency should be brought up to Kshs100 million.

Hon. Speaker, you will have noted that the CDF does more work and activities at the constituencies than the county governments. It does more work basically because 95 per cent of the money that goes to CDF ends up in development. The CDF money cannot take anybody abroad. It cannot take anybody to seminars. It cannot take anyone for

retreats; it is for this reason that we want to continuously lobby for more funding to the CDF; this is the real money *mwananchi* is looking to.

Hon. Speaker, with those few remarks, I beg to second the Motion. Thank you.

(Applause)

Hon. Speaker: Hon. Members, if you have been listening, you know where we are now; we need to transact business properly.

(Hon. Members walked towards one side of the Chamber)

Hon. Members from Gusiiland, who are walking around, you can just listen.

(Question proposed)

Hon. Wakhungu: Thank you, hon. Speaker, for giving me this opportunity. I rise to support.

First, I want to thank the two committees for work well done. I know hon. Lessonet and hon. Cheptumo are serious chairmen of committees; indeed, this has been demonstrated by the product that has come out.

As it has been clearly said, the CDF Act is very clear in terms of the appointment of the CDFC Members. But, how do you remove the CDFC? In many cases, you realized that CDFC members were behaving like hon. Members. This is because they said that they were also elected. Therefore, the issue of accountability and responsibility was not update. With these regulations in place, at least in case of any misbehavior, we are sure of there being some sanction, and we are going to have a proper working relationship.

In many of my colleagues' constituencies I have visited, you find that you have decided on a project and the CDFC chairman decides to initiate a specific project in the area he comes from; Maybe, he wants to be the next Member of County Assembly (MCA) or the next Member of Parliament. Therefore, these regulations are going to bring some discipline.

When it comes to the Fund Account Managers, they are the small kings in their regions. When it comes to reporting, they come to office even in the afternoon. It has been a big problem. When the Chairman of the Committee tries to question them, they say that they do not report to the Chairman of the CDFC Committee. With these regulations in place, at least the Committee in place will deal with performance appraisal; at least there is going to be an element of answerability.

Hon. Speaker, it is my prayer that the CDF board is going to take seriously the comments that are going to come from the CDFC, because the CDFC is going to be the immediate boss of the Fund Account Manager, who must be accountable. In many cases I have seen that when it comes to evaluation of projects--- Maybe you want to allocate projects to certain regions; you find the Fund Account Manager, who does not even come from this or that particular community or constituency, wants to dictate the kind of projects to be prioritized, yet the CDF Act is very clear on selection of projects.

Hon. Speaker, the CDF has added a lot of value and has improved the welfare of the common *mwananchi*. As a matter of fact, the money that is going to governors is not being felt at the grassroots as much as the CDF is felt. We know very well that in the CDF Act, it is clear. It says that it should not go beyond 5 per cent. We are using 2.5 per cent. It is high time we raised the allocation from 2.5 per cent to 5 per cent. If you look at the allocation that is given to the governors, they cannot even absorb the money. The money does not come back! Have you ever seen the CDF money coming back? Most of the time, it cannot even be the amount that is required. Therefore, it is high time, if these people cannot absorb this money and it goes back, it was allocated to this CDF.

When it comes to the issue of signatories, I am happy that this issue has been addressed. We have had a big problem when it comes to signatories. It takes forever to be done. Another issue which I thought should be done and it is not here--- I hope hon. Lessonet is listening.

When you look at the CDF Act, it is very clear that every ward elects some representatives - I think five representatives. After you elect the five representatives, they come together and you get the eight. But the same law is silent about the other elected ones. Where will they go to? It has given problems to many hon. Members. I wish the Chair addressed that, so that instead of electing these five representatives in each ward, we only get one because it is a problem when they are five. How do we handle the others who are left out when they have been elected as provided for in the law? Therefore, hon. Lessonet, who is listening keenly, in your next meeting, please look for a way in which we are going to absorb these people.

Thank you, hon. Speaker. I support.

Hon. Gichigi: Thank you, hon. Speaker. I rise to support this particular Motion and thank the Committee for proper scrutiny of these regulations. Any person who has experience with the convening of meetings in the constituencies - unlike former board meetings--- When you give notice to members of the public, you might find that you do not have quorum or proper numbers in the meetings. The proposal that we reduce the notice period to seven days for convening of these meetings makes sense. It is actually reasonable, so that the issue is live from the issuance of notice to the date of the meetings. That is a well-thought out provision.

Hon. Speaker, the issue of the secretary becoming literally a day-to-day functionary of the Committee is, obviously, not right. This is a person who has other duties and the proposed annulment of regulation 9 should be accepted, so that the day-to-day functions of the management of the Committee are left to the Fund Account Manager as well as the other staff employed by the Committee. It makes sense. Otherwise, the Committee Secretary would have to be followed around, even to his house, to receive and write letters. I do not think he has that capacity.

Looking at the qualifications of Members of the Committee that are given in the Act, there is no requirement for technical people. So, you might find that the eight Members of the committee do not have any knowledge in buildings, roads or anything like that. Therefore, the Committee is forced to get support from technical officers of the Ministry, or even from the private sector, so that the buildings and other structures under construction are done properly. When we say that we want a sub-committee on inspection to have a technical person, it makes sense, so that we do not have white elephant projects.

We have also seen projects that have been done and after they are completed, for example a classroom, within one year it actually collapses. Therefore, it is important that we incorporate technical people in the inspection and acceptance sub-committee.

Hon. Speaker, you can recall that the concept of electing committee members was tried for the first time after last year's general election and it was not clear the sort of people who were required. The law also does not provide for the management of that election; thirdly, there was no funding for that election. Therefore, it was a bit chaotic. Some people, who are of no assistance at all to the constituency committee, might have been elected and sneaked into the membership. Over time, it may come out that somebody has no capability, or does not qualify for their position under Chapter Six of the Constitution. We do not want to have a situation where you are asking the same Committee to dismiss itself. That is not going to happen. So, the proposed new Regulation 22 makes sense. Let us come up with a better way of removing Members who do not add value to the CDF Committee.

Hon. Speaker, under the same Regulation, the Committee proposes that the Fund Accounts Manager also reports to the CDF through its chairman. I agree with the Mover and the Seconder that sometimes you have no way of even knowing where the Fund Accounts Manager is. He or she will say that they are in a seminar or in Nairobi following up something. Nobody really knows what is happening. So, it is important that when the office is not being manned by the Manager, the Committee is aware of what is happening. The recommended improvement of Regulation 22 is, therefore, reasonable.

I am concerned about this issue of five per cent of the entire budgetary allocation to the CDF going to the Board. I am hoping that the CDF Select Committee is considering reducing the figure. If the Budget by the Board has been proposed at five per cent, it does not make sense to me. Last year, the entire Budget was Kshs23 billion, and this year it is Kshs33 billion. I am sure the management expenditure of the Board has not risen by a similar ratio. It cannot be that last year it was five per cent of Kshs23 billion and this year, the Board needs to use five per cent of Kshs33 billion. The law is clear that it is a maximum of five per cent. We should make sure that the budget of the Board is reasonable. It should not be automatically five per cent of the Budgetary allocation.

I am happy with the proposal that the minimum budget for each constituency should be put at Kshs100 million. It makes sense. We do not want to have a situation where the members of the public are looking upon the CDF to handle issues that relate to the national Government in the constituency, yet the funding keeps on being constrained by other needs.

As I conclude, I am going to suggest that the CDF Act also be amended in due course because of instances where there are by-elections. Currently, the CDF Act is not very clear on what happens when there is a by-election. Does the current CDFC continue to be in office even where the Member of Parliament is new? A situation then crops up where a Member of Parliament works with a committee that was elected when he was not in office.

Hon. Njuki: On a point of order, hon. Speaker. Given the importance of this matter to most Members, will I be in order to suggest that we reduce the contribution time to five minutes instead of ten minutes, so that most Members can contribute?

Hon. Speaker: Hon. Members, please, do not do this again because I have noticed that there is that tendency to just rise in your place at any time. Read your Standing Order No.97. Hon. Gumbo raised it earlier on and you should know when it is that you can make that kind of request. It is not any time. It is at the commencement of the Motion, whether it is debate on a Motion or a Bill; if debate is adjourned, it is at the next time before resumption of debate and not in the course of debate. Surely, I do not have a background of behaving that way myself. In my former life, it was order. You must follow order. So, you are out of order.

Continue, hon. Gichigi.

Hon. Gichigi: Hon. Speaker, my final comment is that we probably need to amend the CDF Act to bring to an end a committee when there is a by-election, so that the Member of Parliament can have in office a committee that may not be hostile to them since they are an ex-official Member.

I support.

Hon. (Eng.) Gumbo: Hon. Speaker, I want to start by thanking you for giving me the opportunity to support this Motion. From the outset, as a Member of this Committee, I am happy that our Committee, together with the Committee on Delegated Legislation, has done a good job with regard to proposing these amendments to the proposed Regulation.

I know that there is a lot of interest in this matter, and I do not wish to go over issues that have been canvassed by my colleagues; I want to take up what hon. Wamalwa stated. While it is important that we shorten the time for the notice of the election of the CDFC members, those of us in the constituencies know that we have had a lot of problems in this area, because the law says that you nominate five people from each ward, out of which you select eight. As we go forward as the Members of the National Assembly Select Committee on the CDF, we must look at what we do with those who remain because the moment the five are selected and their names are forwarded to the constituency headquarters, inevitably, a sense of entitlement ensues.

I am fully in agreement with incorporating a technical person in the Inspection and Acceptance Committee. The CDF (Amendment) Act came into force in early 2013 and we sat in this House late into the night. Initially, there was a proposal that we impose some education requirements for those who were to sit in the CDFC. We did not quite come out specifically about it; even having done that, one omission that is clear from the Act is that the professional background for the members of the committee is not stated in the Act; perhaps, it is not even necessary considering the role that the CDF is intended to play. It is important that we expand our mandate at the constituency level, so that we incorporate technical persons in the Inspection and Acceptance Committee. Some of the projects that we do, for example in the water and roads sectors and even in building classrooms, are fairly technical and it is not possible that the CDFC alone can have sufficient capacity to do the inspection and acceptance without support from outside.

The proposed amendment to Regulation 22 is very good. As has been said very clearly by my Chairman, hon. Moses Lessonet, rogue members of the CDFC have held committees to ransom while being driven by nothing other than an ego trip. A lot of them say, of course, which is true, that they have been elected, but their interpretation of that election has only served to frustrate the affairs of the CDFC in the constituencies. This

particular proposed amendment is very important because it clarifies where the buck stops with regard to overall responsibility.

On the issue of the administrative reporting by the Fund Account Manager, this matter has more or less been a circus. I remember at one point we engaged the then Minister for Planning and National Development, hon. Oparanya, who was in charge of the CDF, in one of the sessions in Mombasa. One of the most laughable sessions was when he was lamenting that for a month, he was unable to locate his Fund Account Manager. If the Minister then, and even now, cannot locate a Fund Account Manager for a whole month, clearly, the Fund Account Managers, as it is today, are some of the most underworked and underpaid Kenyans in the whole country. Some of these fellows hardly report to work for one day in a week. Therefore, this proposed amendment to Regulation 22 to provide for administrative reporting for them is very important. Now, at least we know that they will be accountable to someone at the constituency level.

As I rush to conclude, I wish to touch on the approval of the budget of the Board. The Board of the CDF is vetted by the National Assembly Select Committee. Since the National Assembly Select Committee (NASC) vets the Board, it is equally important that the same Committee and the Kenya National Assembly provide oversight as to how the Board spends public funds that have been entrusted to it.

Hon. Speaker, what we have found in the past is that, because of the absence of these oversight responsibilities, many board members have converted themselves into executive board members where they spend too much at the board secretariat, in a sense trying to get into operational details of how the board is run, and of course drawing allowances while at it. I think this provision will address such a lacuna which allows allocations for board activities which are in any case, frivolous and do not add value to the operations of the fund.

As I conclude, the proposal to set the minimum to Kshs.100 million should have come earlier so that it should have been effected in the 2014/2015 Financial Year. I have sat in the CDF committee since I was privileged to join this House in 2008. If you see the impact that CDF has had all over the Kenyan landscape, you will be surprised. We went to places where before the advent of CDF, hardly ten years ago, they only had one secondary school, but through CDF they have been able to increase not just enrolment in secondary schools but they have built 20 secondary schools. The impact is there for all to see. What I would urge the Committee headed by my good friend and our Chairman, hon. Lessonet is to have--- there has been a lot of talk on what CDF is doing and what it is not doing. I think now we need to move a step further and conduct a thorough impact assessment of CDF, so that Kenyans can see clearly what this fund has done for the ten years that it has been there.

(Applause)

CDF has provided bridges where there were none; it has provided roads where there were none and clean drinking water to people who had not seen it before. When you compare with what the county governments have done, sometimes it is amazing. Roads that we are able to do with about Kshs.2 to 3 million, the county governments somehow inexplicably do them with about Kshs.20 to 30 million. So clearly, I think this

framework makes a case as has been proposed by my colleagues so that we increase this fund to even 5 per cent, if not more. As a Committee, we are going to put it as a proposal and when it comes to this House, we request Members to support it. Also, because it would have implications on public spending, we will need to persuade other relevant arms of Government so that the proposal to increase the CDF allocation to at least 5 per cent can go through. The impact is there and there is no question about it. Of course, you quite cannot exclude there being cases where we have had reports in the Committee on misuse of CDF. But compared to how public funds generally are utilized in Kenya, I think the cases of misuse of CDF are few. The success rate of CDF even by the worst critics of CDF still stands at about 85 per cent which for public funds is really admirable and commendable.

With those remarks I support.

Hon. Speaker: Hon. Kiptui, proceed. This is usually a very irresponsible way of doing business. She cannot have left her card there and made a request here. Her name appears here very---

Hon. Njuki: Thank you, hon. Speaker for giving me the opportunity to contribute to this very important Motion. I want to support this Motion from the outset. The regulation that stipulates how the elections of the CDFC should be done has caused a lot of anxiety. I remember when we were doing the elections there were some parts of this country where people who wanted to be elected as CDFC members took it like a campaign. I remember in one place, posters were printed. They created a campaign mode because of the length of time given for them to prepare themselves for the elections. When it is reduced to only one week, it is just enough time to consult and members will have peaceful elections. I want to echo the words of hon. Wamalwa in connection to the criteria we use for elections. When we elect members and leave a team at the ward level; these people later become disoriented because they are left hanging. We do not have regulations that stipulate how exactly they are supposed to play a role in the CDF, yet they are elected. These are the same members who masquerade as members of the CDFC as we carry out implementation of projects. They actually want to be given allowances because they believe they are members of the CDFC. No communication is made after the eight Members are picked. It will be important in future for us to amend that provision, so that we can either have ward representatives of CDFC who can be mandated with the responsibility of taking care of projects at that level, or we directly allow for elections to take place for only those eight members who are supposed to form the CDFC. On the issue of appointment, of course when there is an appointment, it also goes with firing. Some of the CDFC have become very notorious because they feel they were elected by the people and they have tenure of three to five years. They do not listen to the fund manager or the chair. If we have been given the mandate, then we can ensure that they deliver on the purpose they were actually elected for.

On the issue of fund managers, these people are like small gods. The committee members think that the fund manager is the boss of the Member of Parliament. They come to work when they want and they are available only when they feel it is important for them, not for the CDFC members. Every week, we receive complaints and we have no way of playing oversight role except to believe what fund managers tell us. The employer sits in Nairobi and they are out there in the village. There is no way we can

have clocking time at the office to keep track of reporting time. It is not a must that they have to come in everyday at a particular time, but the workload tells a lot. It is clear evidence that these people have a lot of free time on their hands which they use to do their private businesses and because of that reason, there are Members of Parliament who are receiving the second tranche of money that was meant for the previous financial year. The fund managers are lagging behind and there is nothing you can do to supervise them to ensure that they deliver in good time. It is important that even as we amend this, we make sure that the role of the Chairman of the CDF is elevated to the level that he is practically in charge, not theoretically, to be able to oversee the fund manager who should be answerable to him so that they can move forward as a team. Remember that at the end of the day the fund manager is an employee of the CDF. However, the CDFC are actually employees of the members of the community or members of the constituency whom they are answerable to when the projects are not delivered in good time.

On the budget ceiling for the CDF, I support that we should increase this fund to be above Kshs100 million. This is because this is one fund that has been felt by the community. This is the only fund that you cannot walk around with a cheque book and spend it from your pocket.

In this dispensation, we have seen devolved money in the county government being wasted without regard to the law. There have been instances in this country where a governor contributed Kshs1 million from the kitty of the county government to cater for a funeral. I can guarantee you that there has never been a situation where Members of Parliament have used money for the CDF because it has clear guidelines on how it is supposed to be utilized. That is on matters that are for the welfare of the people that is outside the mandate that is stipulated by the CDF Act.

We know that the county governments by all means possible would like to bog down what is being done by the CDF. We have seen areas where the projects that are being funded by the CDF are also being duplicated in theory by the county government. You will find the same projects in their budget but when it comes to implementation, they just look where this has been implemented by the CDF and then pass them to be their projects. This is very common with roads, bridges and other related structures. So, it is important that we keep on increasing this money so that we can empower the Member of Parliament to be able to deliver on the mandate given by the people.

With those few remarks, I would like to support this Motion.

Hon. Mulu: Thank you, hon. Speaker, for giving me this chance to support this Motion. The purpose of regulation is to facilitate the implementation of the principal Act. I like the recommendation in terms of annulling a number of these regulations. This is because if you look at them, you will find that they are likely to slow the process of implementing the projects under the CDF.

Starting with Regulation No.5, the idea of reducing the number of days in which the locals are informed about the elections; that is from 14 to seven is very important. This is because what happens is that when members of the public are given a lot of time to prepare, some of them engage in serious campaigns. Some people who were elected ended up spending a lot of money to get elected at the ward level. Their anticipation was that when they got elected and became a member of the CDF Board, he or she would recoup his or her money through corruption-related means. They end up misappropriating

the money for projects to recover their money. However, what happened is that after they were elected to the board, some of them became very frustrated because they were unable to access that money. So, what is happening is that even though they sit in the board, they are just there because they were elected.

In terms of removing them, it is not clear what you need to do to remove them. This is because it talks about either being declared bankrupt or being seen to divide the committee. Some of them are not doing that currently. The whole idea of reducing the number of days is very good. I even propose that we reduce that further to possibly two or three days. This is because any time you walk to any village in this country and you ask the locals or the people who reside in those areas who they would propose to be their church leader or elder, they will tell you that they are known. If you want people who would lead them in terms of development, you will find that they are well known. If you want people who will lead them in terms of welfare and burials, you will find that they are known. To me even three days will be enough. This will ensure that we get genuine people who will lead these areas in terms of development. However, the idea of removing the committee members is interesting. What has happened is that since these committee members were elected and gazetted--- If you look at the process, you will find that it is the same process that Members of Parliament went through. We were elected and gazetted before you swore us in.

At one point, the Chair will remind you that you were elected and gazetted. I was actually elected and gazetted. So, we are equal in terms of controlling this fund. You will find that you end up having conflict between the Chair and the Member of Parliament who is the patron. Any time you go to the rural Kenya, we might like it or not; we might legislate it or not, but the issue is that the CDF is equal to the Member of Parliament and the Member of Parliament is equal to the CDF. When things work well, they say that the Member of Parliament is doing very well but when things go bad, they say that the Member of Parliament is doing very badly. In a scenario where you have a chair who says that you are equal because you were elected and gazetted the same way, you end up not implementing the projects as expected. The Members of Parliament end up looking very bad. I did not like the idea that removing these committee members should be made as easy as possible so that if we see any sign of somebody sabotaging the implementation of projects then we should go ahead, discuss with the fund manager and that committee member is removed from the committee, we get a replacement and we move on in terms of implementation.

[Hon. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Hon. Kajwang') took the Chair]*

Hon. Temporary Deputy Speaker, the other thing concerns the board's budget. The law is very clear. It says that not more than 5 per cent of the total allocation. What we need to do just as other boards do is that we need the board to submit a budget which they can present to the Parliamentary Committee and if this Committee is convinced that the budget makes sense, it is approved. This makes a lot of sense because we are paying

all the board employees at the constituency. I really do not understand. For example, this year, the board got about Kshs1.7 billion. They are not implementing any project and that money is purely for recurrent expenditure. I know that the board members earn allowances and not salaries. I cannot imagine the kind of allowances we are paying to the tune of Kshs1.7 billion. I propose that the budget for the board should be submitted to the Select Committee on the CDF so that the Committee can look and approve the budget according to the needs of the board. We have no issue even if that will reflect 1 per cent of the budget. It could be 1 per cent or 0.5 per cent of the budget. What we want is to get value for money.

Hon. Temporary Deputy Speaker, the other point I want to touch on is the issue of the Kshs100 million minimum figure. We are only allowed 6 per cent of the money to be used for administrative purposes when it comes to the CDF. So, you can only allocate 6 per cent of the total budget for administrative issues. Look at what is happening in some of the counties. We have even heard of counties which are spending more than 100 per cent of the budget for recurrent expenditure. This means that there will be no development.

In CDF you are assured of 94 per cent of the money going directly to development activities. I think that is how we are going to grow the economy of this country. I am implying that we need to provide more money for CDF in order to have this country grow. So, the proposal of Kshs100 million is good. We need to support this proposal so that this country develops.

The other point is the issue of establishing this committee we are calling the Committee of Inspections and Acceptance. This particular committee is important. Currently, if you look at the board, the only person who sits on that board who is more of a Government person is the Deputy County Commissioner or the Sub County Commissioner. These are the people who sit there more as *ex officio* members. However, you will realize that most of the commissioners are administrators. They are not technical persons; they are not medical doctors, engineers and so on. Therefore, even though they sit on the board, they cannot really provide that technical input during implementation. That is why this committee being proposed is very important. In this committee, we could have education experts, medical doctors and engineers who will add value in terms of discussing and processing CDF projects. It is for that reason that I support the annulment of all these regulations because it will make the work of the board very easy and important especially when it comes to supervising the fund manager.

We all know that the fund managers are people who need to be tamed. I really do not like the idea of leaving all these to the board. I think the CEO of CDF should also have a role in monitoring what the managers are doing because he is the person who pays them. You know the boards at the local level are not paying them so; at least, you can ignore the board. The CEO should make sure that these people are monitored on a daily basis. This will help the constituencies.

With those remarks, I support the Motion.

Hon. Wandayi: Thank you, hon. Temporary Deputy Speaker. Without really belabouring the point because a lot of facts have been canvassed, I wish to support this very important Motion. Indeed, this is a critical Motion especially at this time in the calendar of this Parliament. I want to talk on two issues. One is on the matter of removal

of the CDFC members. I agree fully that since the Members of Parliament actually appoint--- Out of the five members who have been elected in every ward, two of them sit in the CDFC. It only follows that what one can do, one should be able to undo. It is, therefore, in order that the Member of Parliament be given the powers to facilitate the removal of one or more of the CDFC members if and when it is necessary. There has been a lot of confusion and the fallacy that the Members of Parliament control the CDF. This has been propagated by members of the public and sometimes the media, I would say, out of ignorance. It is a fact that under the current CDF Act, 2013, Members of Parliament have got no control over the CDF. As a matter of fact, Members of Parliament only sit in the CDFC as *ex officio* members; they do not even vote. Therefore, it is right to conclude that Members of Parliament play their rightful role of oversight by sitting merely as *ex officio* members in the CDFCs. Of late, of course, there has been a clamour by all sorts of people wanting to be given funds to control or manage like Members of Parliament which is a fallacy because, in the first place, Members of Parliament do not control any fund! Members of Parliament simply sit in the CDFCs to oversee the management of these funds.

Hon. Temporary Deputy Speaker, it would be important, therefore, that this role of Members of Parliament in terms of managing the exit of the members of the CDFC is entrenched in the Act. If not, therefore, it must come out very clearly in the regulations. This is so that the CDFC members do not become rogue as has been witnessed in many constituencies.

Another matter I want to talk about is the administrative reporting structure. It is common knowledge that even the CDF Board sitting here in Nairobi many a times does not know where their employees are or what they are doing wherever they are.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): Order, hon. Wandayi! Let us restore order first of all. That beautiful caucus, which is, I am sure, discussing the CDF Motion, please, allow hon. Wandayi to be heard without interruption.

Hon. Wandayi: Thank you very much, hon. Temporary Deputy Speaker. I was saying that it is, therefore, necessary as has been suggested and proposed by the Joint Committee that the fund manager or the representative of the CDF Board at the constituency does report to the CDF Committee through its chairman; that is important so that we instill some sense of discipline in the CDF fund manager at the constituency level. It will be important, bearing in mind the fact that these fund managers are people who are thoroughly schooled. These are people who are accountants and have degrees in commerce and so many other disciplines. We have to take measures to build the capacity of the CDF Committee and particularly the position of the Chairman of the CDF Committee. It will be difficult for a CDF Committee Chairman who is sitting there by virtue of the fact that he has been elected by the people but has no capacity to manage the human resource to be put in charge of a fund manager who is thoroughly schooled in matters of accounting and other respects. It is important that we put in place measures to induct these CDF Committee members and the Chairman in order to equip them with the capacity to manage the fund manager. In future, I will suggest that we need to put in place some minimum level of academic qualifications for those who will be wishing to

join the CDF Committee so that they are able to manage this fund effectively and efficiently.

I was talking about the issue of groups of people clamouring for funds to manage simply because they perceive MPs to be managing some funds. It should be noted that since Members of Parliament, legally, have no control over the CDF--- In practice, the public still equates the CDF with the Member of Parliament. To most members of public, the CDF is Member of Parliament and Member of Parliament is CDF. Therefore there is confusion. Every time a CDF Committee makes mistakes those mistakes are construed as having been made by a Member of Parliament. Therefore, it is important that we also entrench the role of the Member of Parliament, if not necessarily to make him a manager of the CDF. He needs to have some role in terms of instilling discipline. That is why I support the fact that the Member of Parliament needs control over the members of the CDFC.

On the issue of the groups of people clamouring for funds to manage, that is, the MCAs and the women representatives - They are our colleagues and they succeeded and we are happy for them. Now we hear of the Senate; they are coming up with some clamour for funds. It must be pointed out clearly that one of the principal roles--- In fact the only tangible role of the Senate constitutionally is to protect the counties. We all know that counties are in charge of development matters. It is, therefore, superfluous for the Senate, again, to want to be given some fund to manage simply because Members of the National Assembly are managing some funds. It is a fallacy. This matter of clamouring for funds must be put in its right context.

Hon. Temporary Deputy Speaker, I want to thank the Joint Committee for the exemplary work that they have done. I am very grateful to the chairmen of the two committees for the very good work that they have done in terms of streamlining these regulations. In fact, this must be a warning to the Cabinet Secretary because there has been a tendency in this country for Cabinet Secretaries to continually ignore the input of Parliamentary Committees. It is not just a matter of the CDF Committee but in many other matters as well, Parliamentary Committees have been ignored. Therefore, these latest recommendations by the Joint Committee must be taken into consideration by the Cabinet Secretary as she goes about drafting the new set of regulations.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, as you realise, there is Order No.9, which is really the business of the House. We have spoken to this Motion for quite some time now. We are now really talking to ourselves. So, I want to urge that, for those of you who will speak, you do two things: First of all, do not repeat what somebody else has already said, even if it is a compelling thing to say. This is because it is just a matter of lexical test. It is just the language usage that may have differed but the point has been made. Secondly, you do not have to use ten minutes. You can use three or five minutes and make your points, so that other hon. Members can use the rest of the time. So, let me see change on how you debate.

Member for Nakuru Town East, if you do as proposed, we will really change the tempo of business in this House today.

Hon. Gikaria: I will do so, hon. Temporary Deputy Speaker.

First of all, I want to not really condemn the CDF Committee and the fund manager. I would say that my constituency is one of those constituencies which have had a lot of consistence. The CDF manger has really done a good job in my constituency, in terms of being in office as required for the time he is required to be there.

One of the areas in which I have a problem with is the board. The problem started recently when the CDF board took the CDF Committees through some seminars and tutorials within the constituencies. The management of the board needs to be questioned by the Chairman of the CDF because I think they misadvised the CDF Committees. When the board chairman goes to some seminar and tells the CDF Committee members that they are gazetted public officers, and that Members of Parliament have no business directing or telling them anything, it creates problems.

That is the biggest problem that we started seeing within the constituencies. The training programme started some two months ago. Since then, I have had a lot of problems, including the neighbouring constituencies in my area, where the turnover of fund managers was so much. So, maybe, the Chairman of the CDFC may need to sit down with the CDF board and tell them the importance of them passing over the right messages to the CDFC on the ground.

Hon. Temporary Deputy Speaker, I want to agree with what hon. Wamalwa said. After the election of the five representatives from every ward, we were supposed to pick one person from the local administration. Of course, when they were reading the programme, they were saying: "We are part and parcel of this Committee." One of the problems that the Committee needs to look at as they propose amendments to the regulations is to give directions as to what happens to the four people who were left out after one of them was elected member of the CDF board.

I concur with the Joint Committee; the development aspect of the CDF has been improved. I want to agree with the Committee on the proposal to enhance the allocation of 2.5 per cent of national revenue to the CDF. If we raise it as proposed, the least that a constituency can get is Kshs100 million. I want to believe that this will go a long way in improving the lives of people. As it has been indicated, over 70 per cent of the CDF money goes towards education. That is why we should provide more money to the CDF. We will have educated communities at the constituency-level, which will in turn support the development efforts of this country.

Hon. Temporary Deputy Speaker, as regards the issue of re-election, I totally agree with the Committee but it should be modified. I was recently reading a newspaper where a Member of Parliament had some issues with the IEBC. There was a by-election but he never came back to Parliament. By then he had already picked his CDF Committee. When the new Member of Parliament was elected, he tried to change the management of the CDF. That is where the two Committees came in. It is important that they have come up with a way of enabling hon. Members to have regime change.

Of course, it has been indicated in the Constitution that if a governor is kicked out through an electioneering process, he goes out with his entire executive. You can imagine coming in as a new governor with an existing executive, over which you have no control. So, I want to concur with the Joint Committee on that aspect. I do not want to belabour what has already been spoken to. I totally agree that the signatories of the CDF need to be

looked into. Currently, if the CDF manager is out of town for a month, all the processes at the CDF stall. So, I agree with the Joint Committee on that aspect.

Hon. Temporary Deputy Speaker, lastly, I would like to echo what hon. Wandayi was saying. The Member of Parliament and the CDF are one and the same thing, irrespective of the fact that the law has changed, making us *ex-officio* members. Should anything go wrong, everybody including the media will always portray the Member of Parliament as the person who should be answerable for the mess. We would like the CDF Committee members to always take such responsibility as per the law. Basically, I support the amendments that have been proposed to enable us quantify and amplify the issues of the CDF Committee members, the CDF managers and the other issues regarding the signatories.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, Member for Samburu West!

Hon. Lati: Thank you, hon. Temporary Deputy Speaker. I want to thank the Joint Committee for work well-done.

Looking at the proposed amendments to the regulations, they are basically addressing two issues: To make sure that the regulations conform to the parent Act and improve areas that are not covered very well by the regulations.

Hon. Temporary Deputy Speaker, the success story of the CDF is written all over our country. If you move across the country, you will see that the success story of the CDF is written in bold all over. Every good dispensary, school or anything else, you will see that their construction was funded through the CDF. The CDF was the first sign of devolution in this country.

There is a mistake being made by so many quarters today that the Members of this House are managing the CDF simply because they have been elected. That is a fallacy. The reason as to why we have the CDF in the country is because the initiative came way back before we had devolution. It was very successful. The CDF is employing many people. To try and take away the CDF is probably not an option for our country. Members of Parliament are patrons of CDF not because they were elected, as Senators are claiming, it is because of the CDF success story that makes as it is today.

Hon. Temporary Deputy Speaker, there are very important areas that have been touched by these regulations. On the proposal of removal of the CDFC members, I have to be honest; I did not even know how I would remove any rogue or underperforming member of my committee although I do not have any such persons right now. Most of the members of my CDFC are doing very well. I am very happy with them.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Samburu West, hon. Members are struggling to hear you. Can you speak up? Speak near the microphone. Speak like lunch was provided today.

Please, proceed.

Hon. Lati: CDF is a true success story in our country. It is written all over our nation. If you go anywhere today in our country, you will see projects done by CDF as the main and best projects in local communities. The main reason why we have CDF today is because it has been a success story and not simply because members of this House are elected, as claimed by some squatters who want to get money to manage as

well. We have money under the Members of this House as patrons because it has been a success story, it was the first devolution our country has seen and has succeeded. There is a famous saying by the American people that “if it is not broken, do not fix it”. The CDF is there because it works so well and is not broken.

We cannot do anything to CDF because it has employed people. If we were to take it away today, many people will lose jobs, and many communities which have depended on CDF both for bursary and development will have to run out of that development and it is something which we can only sustain as a county. I have to confess that I did not know how I would remove any of my CDF Committee Members if need arose although now they are doing very well, but this regulation will address that. It is necessary that as a Member of Parliament who is involved with the CDF and represents it as far as the local community is concerned, there is a way in case of underperformance or regress of Member of the CDFC that you can use to remove them.

This year as you know very well, we increased CDF from Kshs.21 billion to Kshs.33 billion. It is not right though to have the CDF Board here in Nairobi taking 5 per cent of every allocation of CDF. If you take about 5 per cent of Kshs.21 billion, it amounts to over Kshs.1 billion or something like that. But if you were to take 5 per cent of Kshs.33 billion it goes to over Kshs.2 billion. I do not think the CDF Board can justify that in one year their expenses have increased by almost Kshs.1 billion, almost doubling. It means that like any other organization, department or Ministry we have in this country the CDF Board should produce a budget annually so that as Members of Parliament, we decide through the CDFC how much money is needed by that board, so that we can allocate to them what is only useful for their work.

One thing that the CDF Board is failing to do in this country is to publicize the work done by CDF across our nation. They should have enough money to advertise in the daily newspapers and show the good work that CDF has done. They should make sure that the success story of CDF is seen by everybody in our county so that those people against it can see that there are communities that are wholly dependent on it.

The other thing that they need to put across is that CDF is one of the few funds in this county where expenditure in terms of administration is fixed so that almost 95 per cent of the fund goes to development. If we were to do that with the county funds, we would do a lot more work.

We also need to make sure that the lowest constituency in this country receives Kshs.100 million. We did that through the budget committee and the workings of the CDF Committee but the National Treasury frustrated our efforts. The lowest constituency last year was Lamu East and it was given Kshs.60 million. We worked out a formula to take Lamu East to Kshs.100 million. We need to multiply Lamu’s money by a factor of 1.67. We agreed with the National Treasury but for some reason, they went against that after the passing of the Budget Policy Statement by this House and this was illegal. The National Treasury bypassed what this House had passed in the Budget Policy Statement. We should have taken Lamu East as the lowest constituency, to Kshs.100 million and all other constituencies would have been at about Kshs.130 million or so. It is good that the National Treasury understands that money that is put in CDF is the best in this country in terms of projects, because almost 95 per cent of it goes into

development projects. I want to stop there by thanking the two committees for the good work they have done.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright Members. Probably, I should take you back to the Motion which we are looking at which is to resolve to annul specific regulations which have been set. We appreciate Members’ feelings which traverse the whole of CDF management, projects and everything else but to save time, we are looking at specific regulations and the word is “annul.” So, this is something which you can be very specific about and speak to the issues, to save time. Time will come when CDF Act will be before the House for amendment and we will have a lot of time to debate it.

County Women Representative for Migori County, you were down on the request list, but I have decided to recognize your presence. What do you have to say about this Motion?

Hon. (Ms.) Ghati: Thank you, hon. Temporary Deputy Speaker. I want to support the Motion and thank the committee. This Report is for the good of this country, it is not about the current Members of Parliament but also about those who will come after them. So, we have the best interest of this country at heart. By looking at the budget ceiling of CDF, if there is a fund in this country that even a child would tell you about, it is the CDF. I have grown knowing CDF and gone to school through CDF and seen projects funded by it. By saying that we want to add and put a ceiling of Kshs.100 million to every constituency, it is for the interest and better of our constituency and for any person who aspires to be an MP. Everyone who looks at this proposal will definitely support it for the development of our various constituencies.

I am taking an issue with the CDF fund managers I want to agree with my colleagues here that they have become some mini-MPs. These are people who actually want to be seen as MPs. Our constituents know them as people who control the money and you find that they do not have respect for the current MP. What reason is there, for example, for a person seconded to your constituency not to report to you? You are the Chief Executive Officer of your constituency and anybody who is in your constituency has to report to you and also to the board. I want to agree that some form of vetting and appraisal should be there. Members of the Committee should appraise the CDF fund managers for purposes of letting that person also be inter dem with developments that are happening in the constituencies.

I want to also suggest that even members of CDFC at some point should have some minimum qualifications, so that they are able to understand what these funds are and what they are managing. That way, fund managers will not take CDFC members for granted because we have seen this happening. They are not paid sitting allowance, if it is there and they do not understand what is happening. We want to have a situation where CDFC members are able to have minimum qualifications and not just some sycophants who do not understand rules and procedures of CDF.

With those few reasons, I want to support this Report and thank the two committees. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you and you have saved us almost six minutes. Member for Belgut, proceed.

Hon. E. Keter: Thank you, hon. Speaker for giving me this chance. I stand to support the Motion. I support the enactment of all these regulations specified down there. However, when we have a situation where the CDFC members are doing contrary to the expectations of the constituents, I think there should be a way of how we should remove them. At the same time, while removing them it should not take a long time before replacing them. So, there should be a regulation to provide for a by-election so that we do not take a long time say three months replacing a member.

Hon. Temporary Deputy Speaker, the other issue concerns the projects in the constituencies. In some cases we disburse money to water or road projects through the chairmen and committee members but it is misappropriated because there is no professionalism. There is no officer who knows about the water or road projects. So, it should be well specified that there should be a technical person to guide these committee members in their various schools, road and water projects.

Hon. Temporary Deputy Speaker, the other issue I would like to take some exception with is the CDF fund manager. Normally, you will find these officers, as the other Members have said, taking long time to issue a cheque. So, a Member of Parliament goes to his constituency and he wants to present a cheque to a group and it takes about one or two months. This is specifically because the fund manager neglects these groups. So, I think it should be specified in the regulations how this should be hastened so that we do not have a lot of problems in the issuance of cheques to various groups.

Hon. Temporary Deputy Speaker, I want to also say again that the action taken by the CDFC, particularly the Chair should be looked into so that we do not give entire control of the fund to the Chair because he or she can misuse it. So, in a case like that one I think the regulation should be well specified so that we do not give the chairs room to spoil the fund.

Hon. Temporary Deputy Speaker, finally, I want to end by stressing the point that disbursement of these funds from the CDF board should not take a long time. As we talk now there are many constituencies which have not received the second tranche of these funds. So, I urge that it should be very speedy so that they save us on the ground, otherwise it is the MPs who suffer a great deal. Members of the public do not know whether it is the chair or fund manager who is responsible but only blame the MP. So, I stress the point that these funds should be disbursed as soon as possible.

With those few remarks, I thank you hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. You have also saved us another five minutes. I think we are doing well. Member for Karachuonyo, you are on a point of order.

Hon. (Eng.) Rege: Thank you, hon. Temporary Deputy Speaker. I read the mood of the House. Would it be in order to ask the Mover to reply?

The Temporary Deputy Speaker (Hon. Kajwang’): Well, thank you. The Member for Karachuonyo is rising in his place to ask if it is in order to ask the Mover to reply. It is a question that we must deal with as a debating Chamber. So, I will put the Question.

*(Question, that the Mover be called upon to reply,
put and agreed to)*

Hon. Cheptumo: Thank you, hon. Temporary Deputy Speaker. I wish with your permission to donate some two minutes to---

The Temporary Deputy Speaker (Hon. Kajwang’); Order! You are a senior Member who is senior than me in the other life that we led but if you look at your Standing Orders, where the House has resolved it becomes a resolution of the House and so you do not have the discretion to donate.

Hon. Cheptumo: Thank you. I stand guided, hon. Temporary Deputy Speaker and I am sorry for my colleague.

Hon. Temporary Deputy Speaker, I wish to very sincerely thank the hon. Members for their contributions. What has come out clearly now is that Members have certain challenges with regard to the management of the CDF. These regulations will be able to assist Members a great deal in terms of streamlining the areas that Members have had challenges.

Hon. Temporary Deputy Speaker, the whole idea of making the fund manager accountable to the CDFC and to the chairman is important because the board is in Nairobi and these managers are really in the constituencies. The contributions by Members have really enriched this debate and I do not really want to take a lot of time. I want to really appreciate each of the Members who have gotten a moment to debate this Motion. Even the ones who had no time I realised they were supporting the recommendations.

Hon. Temporary Deputy Speaker, it is our hope that the Cabinet Secretary in charge of Devolution and Planning will be able to take into account the proposed further regulations so as to enrich the operations of the CDFCs in our constituencies.

Hon. Temporary Deputy Speaker, with those remarks I want to say thank you very much Members and I believe that these regulations now will be published and will have the effect of the law. We hope that they will benefit Members. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): I order that this business appears in the next sitting of this House. The Question will be put specifically tomorrow in the afternoon.

Next Order.

BILL

Second Reading

THE SCRAP METAL BILL

(Hon. A.B. Duale on 1.7.2014)

(Resumption of Debate interrupted on 2.7.2014)

The Temporary Deputy Speaker (Hon. Kajwang’): I understand the Member for Karachuonyo you have nine minutes into this discussion.

Hon. (Eng.) Rege: Hon. Speaker, I join my colleagues in supporting this Bill. In the 10th Parliament, I presented the Energy and Communications (Amendment) Bill. I did this so that we could amend the Energy and Communications Act to take care of vandalism in the energy and telecommunications sector. This is basically because the Kenya Power transformers were so much prone to frequent vandalism almost on a weekly basis; transformers and ground wires, that is the third wire that supports the stability of electric transmission. In telecommunication, fibre vandalism was very rampant causing delays and outages of telecommunication. We saw that these were due to serious vandalism in the sector. Therefore, we moved the Motion to amend sections 217, 221 and 227 of CAP. 503 of the Scrap Metal Act and Section 2 (2) of the Information and Communications Act, 1998.

These were amended and assented to by the President and the law was changed using the Statute Law (Miscellaneous Amendments) Act of 2012. This amendment fell short of proper enactment by the Inspector General of Police. These were due to corruption and other serious flaws in the Act. Therefore, I do support that the Scrap Metal (Amendment) Bill, 2012 be taken seriously since the Energy and Communications (Amendment) Bill fell short of some serious issues. It is, therefore, my wish to bring these amendments to this Bill of 2014. I plan to bring these amendments in the Third Reading stage of the Bill and these amendments may even involve changing the title of the Bill.

Therefore, I support this amendment pending my insertion of the said changes.

Thank you, hon. Speaker. I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Well, hon. Members, I assume that the request list as I see it is for those hon. Members who want to speak to the Bill that is being discussed.

Hon. Member for Seme, the Floor is yours.

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker, for giving this opportunity to contribute to this Bill.

Trade in scrap metal is widespread and for a long time it has been free for all. Because of that, there has been misuse of this trade and it tends to lead to destruction of infrastructure. When you look around, you can see roads, rails and bridges vandalized and weakened. Transformers have also been stolen. Telephone and electrical wires have been stripped and this has been terrible. It has led to loss of property in homes. Vehicles have also been vandalized. Therefore, it is high time we put regulations in place.

I, therefore, support this Bill that seeks to put regulatory structures in place and particularly the establishment of a council. I know that there has been an export business in scrap metal, something that I think we can ill afford while we are actually importers of metal. It is good that we have criminalized this act of vandalism and we are now able to protect Government infrastructure, homes and property. It is particularly important that this Bill puts in place an inspectorate and establishes inspectors who will go around into factories and other establishments to establish the source of scrap metal that they find there

With those few remarks, I support this Bill.

Hon. Limo: Thank you, hon. Temporary Deputy Speaker, for giving me this chance to contribute to this Bill.

From the outset, it is important that we come up with various legislations to manage various resources that we have in this country. Scrap metal is one of the worst nightmares we have been having for a long time now to the extent that any investment put in place ranging from gates to pipes for water projects are now at risk because unscrupulous traders collect scrap metal regardless of whether they are really scrap material or stolen items. Therefore, this Bill has come at the right time and we need to support it so that the scrap metal industry is regulated.

Hon. Temporary Deputy Speaker, it is shameful that this country exports metals while we are not mining any metal. You will find our factories are looking for materials yet we are boasting that we have scrap metal for export. Therefore, we really have to support this Bill from the outset so that the field is regulated with the right penalties to discourage people from stealing scrap metal. We must have ways of vetting the materials which are delivered to the various factories so that the sources are clearly stipulated and marked so that the people who go round stealing gates from our institutions and sign posts on the roads are punished.

Hon. Temporary Deputy Speaker, it is really bad that this country got the first modern road, the Thika Highway and we have seen that already the road signs are being removed. I was shocked yesterday when I was driving along the Limuru-Nairobi Road, the dual carriage road and found that the barriers between the two roads which were built way back in 1992, have started falling down because vandals are demolishing them at night to get scrap metals. Therefore, we really need to even amend this Bill further and ensure that the penalties are very punitive because people are going scot-free and yet they are stealing from the public.

Hon. Temporary Deputy Speaker, majority of the accidents are happening because road signs and road protection rails have been removed. These people are heartless; they just do that in total disregard of the safety measures on our roads. When you drive along the Nairobi-Mai Mahiu Road, the rails which were put on the slope towards Mai Mahiu are being removed because people are looking for money in all ways. Therefore, I urge this House to support this Bill so that the field is regulated and there will be very clear ways of buying and selling scrap metals.

Hon. Temporary Deputy Speaker, we cannot allow everybody to wake up in the morning with a sack to go round collecting metals. We must have a way of licensing people who are allowed to go round collecting these metals and selling them. We must also have licensed dealers who have actually subscribed to certain code of conduct.

With those few remarks, I support and urge the House to support this Bill, so that as soon as possible, we have a regulated industry. This will help the economy to grow rather than making it to stagnate. We put a lot of resources into the road signs. Through the CDF, we fund schools to write sign posts to show where they are, but these sign posts disappear within a week. Again, visitors get into trouble because they do not find any signs along the highways. This is not because Kenyans have not been erecting sign posts, but it is because people have been stealing them. At our road blocks, you find lorries carrying scrap metal, which are clearly marked with school names and churches and they are allowed to move on. We need to find a way of implementing the laws that we pass. We can have a law on paper, but on the ground, no one is implementing it. We need to

find a way of monitoring and ensuring that once we pass these laws, they are implemented and followed up by all our law enforcement officers to the letter.

I support.

Hon. Sang: Thank you hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to the debate on this Motion. Following what has been said by hon. Limo, it is true that this particular industry seriously requires this Act, so that we can regulate it.

As we have seen, there is a lot of confusion almost everywhere. We have seen a good number of people destroy anything metallic. For this reason, there has been a lot of confusion. We have been told that unscrupulous Kenyans are minting millions of shillings on this. Because of lack of regulation and lack of punitive measures, there is a lot of confusion in this industry. As my friend has rightly put it, there is a lot of confusion. The purpose of this legislation, which emanates from the Cabinet Secretary for Industrialization and Enterprise Development, is to regulate the dealings in scrap metal and establish and provide for the function of the Scrap Metal Council. I know this Council will also come up with its own regulations to regulate the issues of scrap metal.

I support.

Hon. (Ms.) Gathecha: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to speak on this Bill. I rise to support the Motion. When we look at the steel industry in Kenya, Kenya is one of the largest exporters of steel to South Korea. We do not produce steel, but we export it. If we are going to protect our industries - which is very critical for a nation like ours that is growing - to develop a strong economic industry that will create jobs for our youth and the women in this country generally, it is important that we have a strong steel industry. We cannot protect it if we are going to allow cheap imports from other countries. For us to stop destroying our structures to export steel, it behooves us to ensure that we have a balance and we are able to protect our industries and jobs.

There is a lot of vandalism in this country. If we are looking to protect our travellers on the highways, it is important that our signage is protected. If you travel along the Thika Highway now, you will find that some major parts of it have been chopped and hived off and sold to people who are not licensed to deal with scrap metal. Because there is a big demand, its price is so high and Kenyans have no recourse against the people who engage in these illegal activities, they wantonly destroy property that the Kenyan taxpayers have invested a lot of money into. We are heavily taxed by this Government to ensure that we deliver services, but when we look at it, on the other side, there are just criminals who are benefiting from the infrastructure that we are paying so heavily for and have even mortgaged our children in order to provide the necessary infrastructure.

I support this Bill. I would prefer that tighter and more stringent action is taken against these criminals. No nation can develop without a steel industry. We have discovered that we have oil supplies in this country, but for us to protect it, we must protect our industries. If we look at countries like China, if they were to import steel into this country, we would honestly never be able to develop a steel industry. Looking at the scope and the size of the industries that they work with, they can supply all over Africa

through just one shipment. That is not beneficial to this country since we have the supplies.

Therefore, with those few points, I support this Bill.

Hon. F.K. Wanyonyi: Thank you, hon. Temporary Deputy Speaker, for giving me this chance. I want to wholly support this Bill. It has come at the right time. First and foremost, I am aware that the industry controls a lot of revenue and offers employment to our people, both in the informal and formal sectors. It is therefore, important and urgent that we have a regulation. It is just bad manners that you go to a place, and as has been said elsewhere, you find people selling scrap metal and they have no licence. They are not licensed. It is free for all. This country is too developed not to have a regulation in this industry. If you go to the Industrial Area, you will find somebody with a pick-up, a truck or a tractor full of scrap metal and if you ask where it is coming from, he cannot tell you. He does not have to prove because it is not regulated. There is no requirement for licence.

Secondly, there is the black market. As said by some Members here, we take this for granted. Last night, I was travelling from Kitale and when it is raining, it is so risky. You must get used to the road to be able to travel at night, especially during the rainy season because there are no road signs. We have so many accidents on our roads because we do not have sign posts. Recently, a transformer was stolen in my area at six in the morning to be sold as scrap metal.

We no longer see telephone copper wires out there. They have all been taken. No wonder we have mobile phones. Therefore, it is because of the cannibalization of public infrastructure, the highway signs, the metals and other materials that is actually making us have this legislation to tame people who have bad manners. I say it is bad manners because a sign-post is erected showing a school or how many kilometers there are to another destination and then somebody comes and removes it without due respect to what the other person has done. Therefore, the best way forward is to have a legislation on that because being a developing country, we also want to reach where our neighbors have reached. The Japanese, for example, do a lot of recycling of metals. I have seen cars being crushed there. Here, we buy vehicles and then see somebody putting a metal---. The other day, we were in Industrial Area and somebody was exporting metals to the Far East. You wonder! So, that business must be licensed. We must license the dealers so that they can bring discipline in that particular sector.

The legislation is also providing for an inspector. I am for that idea because the inspectors can enter the premises and inspect. I am hoping that there will be a display of a license for somebody to deal with scrap metal and, therefore, if one does not have a license, he or she should be punished. We will bring amendments to this Bill to heavily punish those who deal with scrap metals without licenses and those who export without licenses. That is because they are economic saboteurs.

Last but not least, I want to say this: For us to industrialize like Japan and Malaysia--- I was in Malaysia some five years ago. They have an industrial park which deals specifically in melting the scrap metal into iron ore and exporting. We should have a safe place to convert scrap metal to iron bars for both local and foreign consumption. We would have added value to scrap metal businesses. We can export and get money out of that. So, value addition to scrap metal is very important.

I am also supporting the fact that this Bill is going to introduce the people who will be going round checking for scrap metal. If we suspect that some premises are hiding scrap metal, those metals should be confiscated and the owners taken to court for engaging in that kind of business. I want to say that I support this Bill wholeheartedly because it is going to bring some sanity in the whole industry. I am told that over 500,000 people are involved directly in scrap metal business. Let us regulate it. I want to support this and I hope with that we will be able to send some signals to those who are destroying our infrastructure in this country.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Member for Kisumu Town East.

Hon. S.S. Ahmed: Thank you, hon. Temporary Deputy Speaker. On the outset, I support this Bill wholeheartedly. However, there are some issues on this Bill that are very questionable and I will be raising them in the Third Reading. The council that has been proposed seems to have been given the responsibility of giving licenses and yet, it has no “teeth” and no self-regulation. All the countries to which our scrap metals have been exported to; that is, India, South Korea, China, Malaysia and even some of our neighboring countries, have all banned the export of scrap metal. We also banned it because we are part of that agreement. But for some reason, it fell apart. I am yet to come across a scrap metal dealer who is not a millionaire.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Kisumu Town East, I hope the document you are holding is the Bill.

Hon. S.S. Ahmed: Yes, it is the Bill. I have the Bill here and my notes.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes! You have every right to refer to your notes.

Hon. S.S. Ahmed: Those are my notes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes! You have every right to refer to them.

Hon. S.S. Ahmed: Thank you. And I have the Bill

The Temporary Deputy Speaker (Hon. Kajwang’): Yes! Proceed.

Hon. S.S. Ahmed: So, I am yet to find a scrap metal dealer who is not a millionaire. They have taken advantage of this country and have become the scavengers of Kenya. Even the *Ninjas* and *wengine*; the ones who steal scrap metal are thieves and yet, we are trying to regulate a thieving industry. We must be very clear. Scrap metal should be a no-no business and if it is going to be done anywhere, it must be done by a parastatal or somebody else. Those are our assets. You know the number of people who have been taken to court even if they are found with copper, brass and full containers. You will never hear the outcome. So, we are saying that we are tired of this issue. I am in the Finance, Planning and Trade Committee where the Association of Scrap Metals came and said that the fines are too much – the Kshs10 million and Kshs20 million shillings. Our question was: “Do you intend to break the law?” That is because they wanted it to be reduced to Kshs500,000. If it is Kshs20 million fine, let it be that. If you do not want to break the law, do not do that. Section 21 says that metals that are poached by scrap metal dealers and other meddlers must remain for seven days so that they can be checked. If a lorry brings some metals, put it somewhere for seven days. I intend to ask

that we change to thirty days because seven days is a short time. Section 20 says that there should be no trade between 6.00 a.m. and 6.00 p.m. My colleagues have just said that they see lorries in the middle of the night. I think even 6.00 a.m. and 6.00 p.m. should be altered to 8.00 a.m. and 5.00 p.m. In my constituency, there is a scrap metal dealer called Ebasinia. They use lorries of over 50 tonnes and transport scrap metal at 8.00 p.m. The Chiga-Robour Road that we built, not a single culvert is left unbroken. When we talk to those people, they are arrogant because they feel they have protection somewhere and they will not be done anything.

The Temporary Deputy Speaker (Hon. Kajwang’): Order, hon. Members! Order! Whereas I respect your opinion to talk about issues in your constituency, to name an individual who does not have an opportunity to defend himself in the Chamber will be out of order. Can you discuss that person in such a way that he is not identified by name?

Hon. S.S. Ahmed: I take your guidance. I am very sorry. There are a number of steel millers who are breaking the law with impunity. When you talk to them they say: “Do you not know so and so is a partner?” We have said that “so and so is a partner” does not matter. Some of my colleagues have raised this issue of value addition. This is our steel metal. It should be in our country. We cannot export it. I am totally against the issue of exporting. Finally, if we do not control and regulate very strictly the scrap metal business, the Kisumu-Nairobi Railway that was built by all our fore-fathers is going to disappear go china. That is a fact. Already, we have seen some people being caught with rails. I am very much for this Bill. But it is not strong enough and I will be raising some more comments on it.

Thank you for your time hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. The Nominated Member, hon. (Ms) Sunjeev Birdi.

Hon. (Ms.) Sunjeev: Thank you very much, hon. Temporary Deputy Speaker, for giving me this chance to add my voice to the Scrap Metal Bill. This Bill was supposed to be passed not this year, but as earlier as 10 years ago. I support this Bill.

A few months ago when we had rains in Makadara, we had huge manhole covers being stolen once a month. They were replaced, but they were stolen again. We used to ask the people who live there the people responsible for the theft. They told us that they identified the persons, but nothing happened. That is the case and yet, a child could fall into the manholes when it has rained and never be seen again. A man could also come home from work late and fall into those manholes, die and nobody will ever know.

Hon. Temporary Deputy Speaker, the Scrap Metal Bill has come at the right time. We should make buying and selling of scrap metal legal. This Bill is basically for the vandals who have been roaming freely in our country for the past few years.

I agree that many businessmen have complained that this Bill has brought many problems to them because profits have gone down. However, I would like to inform the businessmen who deal in scrap metal that this Bill is not only going to be for their benefit, but it is also going to be for the benefit of our country. We need to bring sanity into that sector.

I would also like to say that the Scrap Metal Bill brings some relief to institutions, especially schools where we have transformers. It takes even six months for a transformer

to be fixed after it has been vandalized. That means six months without electricity for the children to study and continue with their daily lives.

Hon. Temporary Deputy Speaker, I think this Bill has come at the right time and it is for the benefit of those people. This Bill states that the place where the businessman does his business should be labelled clearly. This is meant to ensure that the people in that area know the kind of business that goes on there. We know that people from all walks of life want to sell scrap metal and it is very important that the businessman knows where the scrap metal comes from. Lastly, I would like to say that the location is necessary. How, what and the way we do the business are also necessary.

Hon. Temporary Deputy Speaker, with those few remarks, I beg to support this Bill. Thank you.

Hon. M'uthari: Thank you, hon. Temporary Deputy Speaker. From the outset, I rise to support this Bill. This Bill is very important because it will bring order into the scrap metal business. We are aware that, that business has caused a lot of damage to the infrastructure in this country. We end up losing what is rightfully ours as a country. Scrap metal is taken out by unscrupulous businesspeople and, at the end of the day, some of the products from the scrap metals are re-imported back into the county. If this Bill is enacted, it will bring sanity to the sector.

I support this Bill given the fact that it also discourages the export of scrap metals. That is because we end up destroying our infrastructure. People get scrap metals, export them, destroy what we have and then we re-import those materials. We are destroying our infrastructure. We export the scrap metal and then we get the same materials in another form. It is important that, as we debate this Bill, we encourage more of value addition to the materials that we have by recycling the same locally. The Government should put in place mechanism to support the local manufacturers so that we can provide sources of raw materials from within.

Hon. Temporary Deputy Speaker, when it comes to enforcement, it is good that the Bill proposes heavy penalties for the offenders. That is because they are the ones who support those unscrupulous people who destroy what is rightfully ours.

As we look at this Bill, we should know that there are challenges within our system. It is important that, as we have the inspectors who play the role of the police, we look at corruption. This is likely to be another problem. That is because the inspectors will end up being compromised. As a Government, we have very good policies, procedures and systems for doing things. However, those rules are broken at the end of the day. Even when we have strict regulations like what we have proposed here, instead of them being used to support the cause for which they were meant for, they end up being an avenue for extorting money for certain individuals who have been entrusted with those responsibilities. At the end of the day, we end up losing what we intended to gain.

Hon. Temporary Deputy Speaker, I support this Bill. We may need to move amendments to the Bill to strengthen the clauses that touch on the export of those materials, so that they can become more expensive. It is likely that the people who will be buying those materials may be buying at a higher price than our local manufactures who desires those materials. The people who export the materials out of this country can easily corrupt the system and continue doing what we are meant to discourage.

All in all, I support the Bill because it is high time that we came up with laws that can be enforced and bring sanity to the sector like the one which is being proposed here.

Hon. (Dr.) Otichilo: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this very important Bill. We discussed this matter in the Tenth Parliament and it was not possible to bring the Bill because of time. I am very happy that this Bill has finally been brought to the Floor of this House.

I can term the issue of scrap metal in this country as an economic sabotage or crime. That should be punished very severely. What those economic saboteurs do to our road furniture is, indeed, appalling. Therefore, it is important that this House passes this Bill as soon as possible. I hope that once it is passed, the President will assent to it so that it can be implemented as soon as possible.

I am happy that this Bill is creating the Scrap Metal Council which will oversee how the business of scrap metal is undertaken in this country. One of its main functions will be to issue a licence to scrap metal dealers because anybody can currently deal with scrap metal. Those vandals have done a lot of damage. Take for example the infrastructure we build using CDF money. I will give an example of my constituency. We have built bridges. But those bridge guards are removed immediately. At night, thugs go to the homes of people who have built permanent houses in my constituency but have left and are staying in Nairobi, remove iron sheets and metal doors and sell them.

We need to reign in on those economic saboteurs of this country. As my colleagues have said, scrap metal is very important. It is not prudent for a country to allow its scrap metal to be collected in a haphazard manner and sold by unscrupulous dealers outside this country. Scrap metal is very important for our industrialization. It is, therefore, important for that business to be controlled. Everybody who deals in that business must be legitimate and must be given a legitimate licence to undertake that business.

I have looked at some of the penalties that are being proposed in this Bill and my view is that they are still very lenient. This being an economic crime, those people must be punished severely. I believe, for example, that anybody dealing in scrap metal and is found to have committed a crime in that business should face severe punishment in terms of jail term or a fine. Some of the penalties proposed include three years imprisonment or a fine of Kshs20 million. I believe the fine is okay, but the imprisonment should be a jail term of about ten years. This is so that it is a deterrent. I will be bringing an amendment to increase the penalty in terms of the jail term. Those people should be jailed because they are economic saboteurs of this country and they should not be left in the streets.

Hon. Temporary Deputy Speaker, Clause 24 of this Bill is about road furniture. When our roads are built they have nice signage and rail guards. However, within a short time, all the metal is taken away as scrap metal. We need to punish those people severely. Anybody who is found with scrap metal he or she cannot account for should be charged and jailed or fined severely and the metal forfeited.

With regard to exportation, we should put very stringent rules and regulations on how and under what circumstances we should export our scrap metal. It should be the last thing that we should do. We need the scrap metal here. Why are we exporting it only to import scrap metal that has been processed either in India or China at double the price or even more?

Finally, with regard to enforcement, we may make this law and the President may assent to it. But the biggest problem in this country is enforcement. We must ensure that there is enforcement once this Bill becomes law. If we do not do so, this will end up like the Traffic (Amendment) Bill. In the Tenth Parliament, I remember, we put so many stringent laws in the Traffic (Amendment) Act to ensure that anybody who makes a mistake on the road, say, overlapping and jumping lights, should be punished. What happened next? Look at our roads! The *matatus* are still doing what they used to do and yet the law is there. Therefore, we need very stringent enforcement mechanisms. I am very happy that this Bill has proposed the appointment of independent inspectors who will be able to inspect some of those scrap metal dealers and ensure that whatever they are doing is correct. Those inspectors must be recruited in a transparent manner so that we do not end up recruiting corrupt inspectors who will only perpetuate corruption. The recruitment of inspectors should be looked into and we need to consider serious integrity issues when making regulations later on. Inspectors must be people of high integrity and they should ensure that no deals are undertaken in that business.

I am also happy that no export of scrap metal will be undertaken in accordance with Clause 26 until the Minister in charge of that business issues an export licence. This Bill proposes that every dealer will only have a licence for one year which will be renewed on an annual basis. This will ensure that those found flouting the law will not have their licences renewed.

With those very many comments, I want to strongly support this Bill. I will be bringing amendments to increase the penalty because I believe that those people must be penalized thoroughly.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Member for Othaya, this is definitely not your maiden speech.

Hon. (Ms.) Munene: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to support this Motion. We hear of accidents happening near schools. That is because there are no road signs to direct the motorists. On some roads, there is no signage to show that animals are crossing. Motorists are very likely to hit crossing animals and, therefore, get hurt.

The people who are given licences to deal in scrap metal must be monitored so that we know the sources of their scrap metal. In many places, there is no water because the dealers in scrap metal steal water pipes. We need to have inspectors who will be inspecting the scrap metal. Again, we do not need to export our metal. We end up buying back the metal in a processed form and at a higher cost.

I support this Bill because I know it will help us. This law will reduce accidents on our roads. I thank you very much.

The Temporary Deputy Speaker (Hon. Kajwang’): If everybody will be as brief as the Member for Othaya, we will really do a lot of business in this Assembly. Member for Njoro! I am sure you will also be brief.

Hon. J.K. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. I rise to support the Bill. The passage of this Bill is long overdue because even in the last Parliament, we debated it. Since it has come up again, I have only a few comments to make.

Hon. Temporary Deputy Speaker, if exportation of scrap metal is banned, all the problems that we have been experiencing will end. We have suffered from road signs and telephone vandalism. Households and areas of human-wildlife conflicts have not been spared. Many fences have been vandalized by scrap metal dealers. Some women have been forced to keep their household utensils in their bedrooms. Such experience should be forgotten.

In order for us to wipe out that problem, I urge hon. Members to support the Bill and ensure that it passes. We should make sure that exportation of scrap metal is stopped. I would also like to urge this House to explore ways of heavily penalizing people who deal in scrap metal in order to discourage them.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, Member for Elgeyo/Marakwet!

Hon. (Ms.) Chebet: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity. I rise to strongly support the Bill because the scrap metal business has given us a lot of problems back home. Boys leave school to collect scrap metal and sell cheaply. They even sell their own properties at home. They sell milk cans and cooking *sufurias*, which is very unfortunate.

Secondly, sign posts have been removed on the roads. All the road signs have been stolen, as long as they are made of metal. Road guards, which guard vehicles from falling off the road, have been removed due to the high demand for scrap metal. So, we should pass this Bill and ensure that those who will be found collecting scrap metal without following the proper procedure are heavily penalized.

The passage of this Bill will save the boy-child from illiteracy by ensuring that he goes back to school to continue with education. It will save the road signs, family materials and the Kenyan economy.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, Member for West Pokot!

Hon. (Ms.) Changarok: Thank you very much, hon. Temporary Deputy Speaker. I rise to support the Motion.

The scrap metal business has really become an issue in this country. If you walk along the roads, you can be shocked by the way metal facilities have been removed. This has cost this country a lot of money. The scrap metal business has also turned our children into thieves. Children sneak away from school and steal milk containers, *sufuria* and many other metal materials to sell off to scrap metal dealers.

Therefore, I support the passage of this Bill to regulate the scrap metal business. Recycling of scrap metal will produce very important materials, which can be used to power this economy. In other countries, recycling is a very important aspect. It has caused countries to be known worldwide. Why not do the same in Kenya? So, let us regulate the scrap metal business so that the persons dealing in the business can be known.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, Member for Nakuru Town East!

Hon. Gikaria: Hon. Temporary Deputy Speaker, I rise to support this very crucial Bill.

I think that up to about 30 per cent of the road accidents on our roads arise from the removal of road infrastructure, especially road signs. When you look at the value of putting up that road furniture viz-a-viz how much money is supposed to be paid by the scrap metal dealers, there is no comparison at all. It is very bad when we lose so many young boys and girls to that business, when they leave school to collect scrap metal from different points.

Hon. Temporary Deputy Speaker, one of the issues that we need to bring into perspective during the Third Reading of this Bill is what happens to a metal scrap dealer who is found buying scrap metals from children who are supposed to be in school. That is something we need to introduce in this Bill during the Third Reading as an amendment. We should make it an offence where a scrap metal dealer is found buying goods from very young people who are supposed to be in school.

Of course, the introduction of the Scrap Metal Council is important. Its composition, especially, the Inspector-General of Police, who will be having a representative, is well thought-out. The biggest problem that we have in this industry is policing. It is not that the police are never notified but, again, that becomes a corruption den. So, inclusion of the Inspector-General or his representative in the membership of the proposed Council is welcome. However, they must be told that when it comes to enforcement, because that is where we go wrong.

We could be having a very good law with very huge penalties but, again, we just end up opening some avenues for police officers to enrich themselves. Of course, where one is liable to pay a fine of Kshs20 million, the police would gladly take Kshs1 million from such culprit as a bribe and set him or her free. So, we need to re-emphasize that even police officers who fail to act on such information need to be brought forward and be investigated.

Hon. Temporary Deputy Speaker, there is the issue of the proposed licence fees. As we all know, this country has always had everybody, everywhere charging a fee such that it makes business very difficult to operate and, consequently, discourage anybody who wants to come and do genuine business in scrap metal. My County of Nakuru passed through their Finance Bill. In order for you to get a licence to operate at whatever level – be it small-scale, middle-scale or large-scale – you are supposed to pay a licence fee of Kshs150,000.

Of course, the National Government, again, will levy its fee. We need to look into ways of encouraging genuine investors who want to come and do business without putting a lot of hurdles.

As proposed in this Bill, if you operate without a licence, if you are a first offender, you will be charged a fine of up Kshs10 million. That is a little bit punitive. Charging somebody that amount of money for operating a genuine business without a licence is a little bit too much of punishment. A second offender will be charged Kshs20 million. We need to encourage businesses but, at the same time, enact laws which will encourage business people to come up and do business. I totally agree with what they are saying. Those licenses should be renewed on a yearly basis, so that we can continuously check on the business people and know who they are. When it comes to transfer, it is

indicated under Article 13 that it is only with the approval of the Cabinet Secretary (CS). That is dangerous. We are leaving the CS to be deciding on transfers. I think it should be the CS, but with the approval of the council. We should bring those amendments in the Third Reading.

The Bill also gives, as indicated, an opportunity for people to make appeals. Sometimes, it could be malice being directed to a business person. But now, this Bill gives an opportunity for them to move to another step or level where they can make an appeal and have a genuine case listened to. As I was reading, I saw somewhere on the forfeiture of scrap metal. This is forfeiture where a person is not known. But assuming we find somebody with road furniture, electricity poles and others, what happens? So, we should not leave stolen property with the business people. That is because what has been indicated here on forfeiture of scrap metal has been found, to state where, maybe, the owner is not known.

Last but not least, is about export. Yes, it has been indicated that the CS and the Council can review and give consent to the exportation of scrap metal. This is a little bit dangerous and I want to concur with my colleagues. We should not allow the exportation of even a kilogram of scrap metal. That is because if we open a window where the CS and the Council can agree, then, maybe, we will be opening windows of encouraging corruption. I believe this country requires more scrap metal with what we are seeing on development and especially in the building industry. We do not have excess scrap metal for export. So, I want to believe that on that Section, as we are saying, we are going to bring some amendments through the Committee.

The last thing which I have not read well to understand is what happens to E-waste. That is because it has some scrap metal which we need to dispose off. This has become a nightmare in this country. We get so many computers from donors and they know that after a month or two, they are going to crash. We also need to think as we bring in computers on E-waste from abroad to this country. We also need to ask ourselves what we need to do about it. That is because most of those computers do not last long. They “go dead” and we should start thinking of how to dispose the E-waste.

With those few remarks, I support the Bill. Of course, we will be bringing some amendments to make some adjustments.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright, the County Women Representative for Turkana.

Hon. (Ms.) Emanikor: Thank you, hon. Temporary Deputy Speaker, for giving me this chance. I rise to support the Bill and the establishment of the Scrap Metal Council for many reasons. The issue of vandalism and theft of utility infrastructure is common and affects all of us and as such, this Bill is very important. The Bill criminalizes destruction and removal of scrap metal from government infrastructure; the roads, pipelines, telecommunication, energy equipment and others. As my previous colleagues have said, this is very common and we have seen the destruction on our roads.

I hope in the spirit of protecting public interests from vandalism, the Bill will also protect remains of vehicles involved in road accidents and those broken down that are usually towed to police stations from vandalism even within the presence of the stations,

which is also very common. The Bill also creates and devises mechanisms of dispensing and/or exposing excess and unwanted scrap metal---

The Temporary Deputy Speaker (Hon. Kajwang’): There is a caucus of Members near the Bar. Can you break that caucus? On your right and left, there is space in which Members can recede and talk as much as they want, but not to stand on the gangway.

Hon. (Ms.) Emanikor: Thank you, hon. Temporary Deputy Speaker. This Bill devices mechanism of dispensing excess scrap metal from dealers and I hope in the same spirit, mechanisms will be devised of getting rid of scrap metal that has littered our towns and urban areas and have become a big nuisance.

Finally, this Bill regulates the industry; it tames unscrupulous traders, through the licensing regime and penalties. Although as the previous speaker has said, I think the Kshs10 million and Kshs20 million penalties for first and second offenders to me is high and, in the Third reading, this amendment is welcome. Otherwise, the Bill brings order and integrity to the trade, from a superficial observation of ordinary citizens, who usually view those people who deal with scrap metal, and particularly those who collect and transport as weird people, who do not know what they are doing. This Bill dignifies the scrap metal traders and, as such, it deserves all the support. I support. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Thank you very much. The Member for Moyale.

Hon. Duba: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. Mine will be very brief. Reasons why this Bill is to be supported are many and valid and have all been ably debated and presented by individual Members. Speaker after speaker has given reasons why it is really necessary for this Bill to sail through. For me, I share with what another hon. Member has said; that it is long overdue. It is something that we should have done long time ago. We have suffered in this country openly. Things are happening in front of our eyes and noses, which we know are wrong. We know something is being ferried on the streets and it is stolen and there is nothing we can do. We have been absolutely helpless. The Legislature, Executive and everyone else and, perhaps, the Judiciary for lack of better laws, could not do much. So, the reasons are many and valid.

The only thing we need to scrutinize in further reading of the Bill is just to take care that it does not stifle recycling innovation. There are many things that the *Jua Kali* industry extracts from scrap metal. It may, if we are not careful, put the entire business in the hands of big business empires and put it out of the reach of the locals. That could be an area that we need to be very careful about. It may have very discouraging effects on innovation by the *Jua Kali* local industries. Those penalties may appear for now to be a little bit high. It may also be a factor that may facilitate corruption in the course of enforcement. I do not know how we will strike a balance, but we should not be oblivious of the fact that when scrap metal is stolen, it is very valuable.

A car is completely vandalised and it becomes scrap metal. That is a car worth, perhaps, Kshs10 million to Kshs14 million. So, when somebody is actually fined or penalised to the tune of Kshs20 million, it is not much in terms of what is at stake. So, my plea to hon. Members is that we make sure that we strike a balance. We may have to look

at some few provisions which I have just been looking at, so that we do not have a counter-productive effect in terms of stifling investment in the *Jua Kali* sector.

Thank you very much, hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. Kajwang): Thank you. The Member for Shinyalu.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker. I really want to support this Bill. This Bill is very important. Scrap metal business brings about recycling of material and this is good so that we do not have wastage and have a lot of metal thrown all over. It helps to keep the environment clean. However, there is need for us to have regulation of that business.

That business, which is good, does not call for experienced and specially trained people to deal with it, especially at the first instance of collection. So, it is an opportunity for young people to participate in some useful activity of collecting. But there is the danger of vandalism and theft which happens every now and again and you find people's doors have been removed. There are no sign posts on the roads. The rails that support pass ways have been removed so that people can excel in that business. So, there is need for regulation of that business as a way of restoring the dignity of the participants.

Hon. Temporary Deputy Speaker, at the same time, it is important that the licensing of that business should not be discriminatory. It applies to all other businesses. We should make it possible for Kenyans to obtain licenses to do business. So, it should not take too long for someone to get a licence to do the business. That is a business that can be undertaken by all and sundry and so, we should use it as an opportunity for Kenyans to get their way into gainful business.

The issue of theft should be dealt with seriously and I am happy with the establishment of the Council. That is because it will have an inclusive set of people who will be able to advise the Cabinet Secretary on what to do with the people participating in the business. We should also be interested in what kind of business those scrap metal dealers are involved in and in the Kenyan situation, it will be important for the Council to widen its scope and even encourage development of artifacts like we see around. From the airport, you are able to see elephants and other wildlife developed from that and that promotes tourism. They can open exhibitions and display art works that are produced from scrap metal. They can pass messages that will enhance our situation of cohesiveness and integration.

We have a lot of challenges as a society and we need to use this opportunity of scrap metal not just to do metal work, but also to take care of social integration amongst the people of this country. There is need to indulge the public so that everybody appreciates the importance of metal so that we do not have waste metal thrown all over.

Hon. Temporary Deputy Speaker, but one area which is also very important - and I wish it was addressed here - is the movement of scrap metal. That is because every now and again, you find vehicles and trucks carrying scrap metal and the metal is falling off. I have witnessed an incident where a falling metal caused an accident and crushed the windscreen of a motorist. So, there should also be regulation on how that metal should be moved around. In that way, we will do clean business.

I am very happy with this Bill. It is useful. It is going to ascertain order in the business of scrap metal and so, I support.

The Temporary Deputy Speaker (Hon. Kajwang): Thank you. The Member for Ugenya.

Hon. Ochieng: Thank you very much, hon. Temporary Deputy Speaker. I want to speak to this Bill in this way: You realise that this Bill is being sponsored by the Cabinet Secretary for Industrialisation. Where countries know the role of steel, metal and where countries know the place of metallurgy in their economies, they do not bring scrap metal Bills. They do not do that. They look at the industry holistically and make laws that ensure that the whole system of promoting the use of metal products in production is included.

Hon. Temporary Deputy Speaker, if you go to America, the amount of money spent in developing and maintaining the steel industry and in ensuring that this survives is large. If you go to Europe, the kind of money spent in developing that industry to ensure that it survives is large. The reason that Germany and America make cars and Kenya does not make cars is that they have taken the metallurgy and steel industry to be of paramount importance and so, what they do is to put aside resources to develop that industry. I thought this country would do better if we developed a holistic policy on how we want to deal with those kinds of matters so that this becomes an appendix regulation and a footnote on how we will deal with the by-products of steel.

Hon. Temporary Deputy Speaker, I am ashamed that in this time and age, a country is making a law with an aim of singularly regulating scrap metal. It is a shame! This Parliament gave a very good budget this year and last year to the Ministry of Industrialization and Enterprise on how we want to spur growth and build the industry. We want to ensure that this country moves from the Third World to a First World. One of the things that I want to see the Ministry of Industrialization and Enterprise doing is to tell us how they want to build our Kenyan steel industry. How are they working with the mining industry? Are we working with the Mining Ministry? Are we seeing that we are able to even discover iron ore and whatever it is that could be used to develop this industry? We should be talking about things we produce; not by-products. We are talking about by-products---

Hon. Temporary Deputy Speaker, we are talking about the by-products. Kenya does not produce any cars or anything and, therefore, we are amending a law to regulate things which are being produced elsewhere. Why do we not talk about making a law about things we are producing here and how we will manage the by-products?

Why do we not develop the metal industry in the country first and then those scrap metals becomes by-products? We are talking about cutting down on bureaucracy, public institutions and the wage bill? We do not need a council for this matter, but a committee comprising hon. Members from the various Ministries. We do not need a council. You know a council comes with so many things. Some of the issues referred in this Bill are about the council; how members will be appointed, how they will leave office; *etcetera*. We just need a committee comprising of an officer from Kenya Revenue Authority (KRA), another one from KEBs and KAM. They will advise the Cabinet Secretary on how to work on this and the rest are criminal offences. This Bill is intended to create criminal offences and then we could easily rule on it in the Penal Code.

Hon. Temporary Deputy Speaker, I have heard my colleagues talk about the guard rails on our roads and the cars. The guard rails are being removed because of lack of

enforcement on the part of the Ministry of Transport and Infrastructure. That is anybody's business. Every year, when we budget here, we give the Ministry of Transport and infrastructure money for road maintenance. Why are we coming back to parliament with laws that are duplicating what does not exist? Laws that criminalize and proscribe removal of guard rails and road rails are there in this country. Why are we re-inventing the wheel? Why are we getting new offences?

The problem in this country is the enforcement of the law. Every time we have an issue with the enforcement of the law, some of us think of another law. We do not think about strengthening or enforcement of our laws. If I was in the Government; if I was hon. A.B. Duale - I want him to listen to this; I would not propose a framework, I would propose means of strengthening and enforcing mechanisms so that we are able to strengthen the way we enforce our laws.

Hon. Temporary Deputy Speaker, I am so shocked that with a law like this! You can imagine that, at this point in time in our lives, Kenyans are allowed to export scrap metal. Something is also shocking in my life--- I used to advise Kenya and East African Countries on International Trade. You would be shocked if you looked at our trade figures. Kenya is listed to be exporting cars. If you did not know, we export cars. Kenya is listed to be exporting so many things that are made from metal. But if you go and check what there are; we are exporting scrap metal. If you go there, our trade balances are based on those kinds of things. Kenya exports metals, cars, automobiles and even plane parts - I am talking about something that I know. We even export plane and helicopter parts. Our country does not produce anything metal, but if you look at our figures, you will see in our trade balances, we export those kinds of products. Therefore, you wonder where they come from. There are plenty and they will tell you, we export scrap metal out of the wing of the plane that fell in the forest. This is what we are exporting and we are proud of it.

Hon. Temporary Deputy Speaker, we cannot allow anybody to export metals. If you have any metal or steel in this country, we need it here so that we can develop our industry. I want to repeat that we have voted in so much money into the Ministry of Industrialization and Enterprise in order to develop our industry. We need the metal in this country and no one should be allowed to export any metal, whether scrap or full. That is because we need it here. Our industry needs it. If you look at how much metal we import in terms of steel and other metals just to produce basic things, it can disturb your nerves. Therefore, why should the Cabinet Secretary allow anybody to export what we do not produce?

Hon. Temporary Deputy Speaker, countries that are developed - like Singapore and Malaysia - were very clear in their policies where they wanted their countries to go to. They will never allow you to export what you do not produce. They will never allow you to be a conduit.

Therefore, I oppose any idea that we can export scrap metal.

Hon. Temporary Deputy Speaker, e-waste is a very important matter. We run a very big risk as nation in what we do. We have very well done environmental laws in this country. I thought we could fit the ideas to do with e-waste and how we can dispose scrap metals within those laws. They are actually better off.

Hon. Temporary Deputy Speaker, we have an environmental tribunal and environmental council in this country, which is better placed to deal with this kind of this issue. So, the idea that every small problem can only be solved through these institutions in this country is wrong. We should try to look at the laws we have and try to see what can fit where so that we are able to do a law that can lead the people.

Hon. Temporary Deputy Speaker, with regard to licensing scrap metal dealers, I agree that they need to be licensed and regulated. But we are living in times when we have said that we want to delegate some things to be done by the counties. Most things are now being licensed at the counties. Small businesses are being licensed by the counties and such kind of things. Can we allow the counties to license scrap metal dealers? If you allow the counties to license scrap metal dealers, you would have sorted out the need of the council. You do not have to create a new body. We are allowing the counties to license any business people and my colleague who has just spoken - hon. Roba - knows this. That is because he worked at the Nairobi City Council.

We have devolved so many things and one of them would have been done – and I hope hon. A. B. Duale is listening. We will allow the counties to license that because they know how best they will go about it. But if you have a single apex body, would you regulate how scrap metal trade is being done in Siaya County where I come from or in Kisumu County? These are matters that are better dealt with by the county governments. I would propose that licensing of scrap metal should not be done by a council, which I think is wrongly created here, but by the county governments.

Hon. Temporary Deputy Speaker, I have just seen a section that says: - “A person shall not remove, deface or destroy any scrap metal from infrastructure.” This is a law that we already have. You just need to enforce it. Therefore, I will oppose this Bill. I will bring amendments to talk about what I think should be done and, hopefully, the Ministry of industrialization and Enterprise will bring a policy and a law that---

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. I appreciate. That was very refreshing. Let us hear from the hon. Member from Kirinyaga County.

Hon. (Ms.) W.K. Njuguna: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to join my colleagues and hon. Members and contribute to this very important Bill. I feel it would have come a long time ago because we have really suffered and it is a business which has been done by everybody. We have seen that in most cases, even school children just leave school and go where there are metals lying around at garages and even from peoples’ fences and they uproot them just to start a business. That results to children dropping out of school. Therefore, this is a business which has been there without order or even policies. It is time we controlled it so that it is not done by everybody. We have seen in most cases, even the rails on bridges are removed and sold.

Therefore, we need to control this one and we need that council. Let us have something or a body which will control that type of business so that it can be improved as we go on. Therefore, I want to say that this one should be done very fast so that we ensure that useful metals are protected. Scrap metal is always collected by lazy people who do not want to work. But they go collecting the metals and uproot anything that is metal. Even the very important road signs which are very important to the road users are

uprooted. You cannot know what is ahead of the road because the road signs has been uprooted and sold as scrap metal.

Hon. Temporary Deputy Speaker, this has been like a black market. We do not know who are buying the scrap metal. They do not care what they are buying. They can even buy parts of a car which have been removed from peoples' cars. They just buy to re-sell them. Therefore, I think we need the council to come up with regulations and policies so that, at least, we can have order in the scrap metal business.

I would like to suggest that this is done at the county level. We should have plants to recycle scrap metal in every county. In every county, everybody is responsible. If a part of your car has been stolen, it is still within the county and you can follow up and get the person who has stolen it. So, this is good and it is going to help the country. This is also going to create employment. If we establish a plant in every county, people will be employed there and there will be order in that business. I want to support this Bill. Again, the Council should be there. Then we can improve and bring order. There should be policies that scrap metal is not thrown anywhere. Sometimes, scrap metal is thrown in pits near homes, which pollutes the ground. This endangers the people and we need to have somewhere where we can take the scrap metal.

I support the Bill. It is a good move to bring order in that business.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. There being no Member who wishes to speak on the Bill, I now ask the Mover to reply. You have less than eight minutes to do this so that we can keep time, unless you want to go to the next day. But take the eight minutes.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I will do less than that. From the outset, I want to thank my colleagues who have contributed so immensely on this Bill and saw the need for this Bill to the country and our economy.

The primary purpose of this proposed legislation is to provide for regulation and monitoring of any dealings in scrap metal and further, to establish and provide the functions of the Scrap Metal Council that is envisaged in this Bill. If we regulate that industry, monitor and license, that is an industry that has business figures to the tune of Kshs4 billion annually. So, if it is regulated, we anticipate that the scrap metal industry can generate substantial income to the county and to the economy. World over, the trade in scrap metals is regulated, both in terms of exports and imports. If we bring sanity to this industry and we export in a free, transparent and regulated manner, that export is going to give us more revenue which will be added to the revenue that we get from tea, coffee and the other products that we export as a country.

I am sure my colleagues will bring a raft of amendments and that is why there is a procedure in Parliament that this Bill goes to the Third Reading and the Committee of the whole House, so that we can further improve on this piece of legislation, which is the first of its kind since Independence. We have never had a particular condensed piece of legislation that governs this industry. I also want to further say that the enactment of this Bill will not occasion any additional expenditure of public funds.

Finally, Part V of this Bill contains miscellaneous provisions in Clause 33, which empowers the Cabinet Secretary, and Clause 34 that repeals the existing Scrap Metal Act, Cap.503. There are schedules in this Bill which provide for the forms to be used in the administration of the Act. The First Schedule gives provisions relating to the conduct of

the business and the Second Schedule talks about the formatting of the license or the renewal of that license to a dealer in scrap metal. We have the Third Schedule which is the license to deal in scrap metal and the Fourth Schedule, which is the record book of scrap metal in the possession of any dealer, so that there is a traceability element. That scrap metal can be traced to road furniture along the Thika Super Highway. We have the Fifth Schedule, which is the register of scrap metal. We have the Sixth Schedule and the Seventh Schedule, which is notice of seizure, that when the Council or the Inspector seize scrap metal believed to have been vandalized from an infrastructure project, then they can give a seizure notice. Finally, the Sixth Schedule is about the variation of the license to deal with scrap metal.

I am happy that, as I conclude and reply, this Bill attracted quite very interesting attention from the Members on various issues pertaining to it and I sure we are now prepared both in terms of our own amendments and the amendments from the Committee and other stakeholders that will be considered at the final and Third Stage.

With those many remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. I, therefore, order that this Bill appears tomorrow in the afternoon for a vote upon the Second Reading.

ADJOURNMENT

Members, time being 6.30 p.m., this House stands adjourned until tomorrow Wednesday, 16th July, 2014, at 9.30 a.m.

The House rose at 6.30 p.m.