

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 24th November, 2016

The House met at 2.30 p.m.

*[The Deputy Speaker
(Hon. (Dr.) Laboso) in the Chair]*

PRAYERS

QUORUM

Hon. Deputy Speaker: Can the Quorum Bell be rung?

(The Quorum Bell was rung)

Hon. Members, can we settle down and start our business?

Hon. Members I have two short Communications to issue.

COMMUNICATION FROM THE CHAIR

THE SEVENTH EALA INTER-PARLIAMENTARY GAMES TOURNAMENT 2016

Hon. Deputy Speaker: Hon. Members, the Parliament of Kenya will be hosting the 7th East African Legislative Assembly (EALA) Inter-Parliamentary Games Tournament between 4th and 10th December 2016 at the Mbaraki Sports Club, Mombasa. The sporting disciplines to be competed include football, netball, volleyball, athletics, golf and tug-of-war. The planned sporting activities will offer Members an opportunity to interact and share experiences while exploring their diverse abilities in the selected disciplines. I will encourage you to participate in the activities of your choice. In this regard, interested Members are called upon to register and confirm attendance with the Office of the Clerk to facilitate preparations.

Hon. Members, it is my hope that we will all find time to engage and actively participate in these activities. I thank you.

(Members walked into the Chamber)

Can you come in so that I can issue the second Communication?

LEADERS RETREAT ON
PEACEFUL ELECTIONS, NATIONAL COHESION AND
UNITY FOR SOCIO-ECONOMIC DEVELOPMENT

Hon. Deputy Speaker: Hon. Members, I wish to bring to your attention that the Kenya Private Sector Alliance and the National Assembly have organised a Leaders' Retreat on Peaceful Elections, National Cohesion and Unity for Socio-Economic Development to be held in Mombasa from 1st to 3rd December, 2016. The said retreat is similar to the one that was held in December 2012, ahead of the 2013 General Elections. Just like the inaugural retreat, this year's retreat takes cognisance of the fact that, if not properly managed, the electioneering process, which is often characterised by intensified campaigns and political tension, may threaten the country's stability and undermine investor confidence in the country. The retreat, therefore, seeks to provide a platform for leaders to follow up on the issues deliberated upon in 2012 during the build-up to the 2013 General Elections and share on strategies for ensuring that the 2017 General Elections are not only peaceful, but also held in a manner that would guarantee national cohesion and unity for socio-economic development.

Hon. Members, participants in this year's retreat are drawn from the Presidency, Cabinet, presidium of both Houses of Parliament, the Chief Justice, all county governors, the Committee of County Executives, the Committee of County Assemblies, development partners represented in the country, business leaders from different sectors, leaders of political parties and all agencies charged with elections, being the Independent Electoral and Boundaries Commission (IEBC), the Registrar of Political Parties, security agencies and Supreme Court Judges, among others.

Hon. Members, there is no doubt that this year's Leaders' Retreat comes at the most opportune time, when Kenya's ease of doing business index has improved from 136 in 2015 to 108 this year, an economic achievement that must be fervently guarded. I, therefore, take this opportunity to invite all the Members to attend this important retreat, which will take place at Leisure Lodge Beach and Golf Resort in Diani, Mombasa. Members and staff of Parliament will depart Nairobi for Mombasa on Thursday, 1st December, 2016 and return on Saturday, 3rd December, 2016.

It is my sincere hope that all Members will find time to attend this important meeting and be part of the collaborative efforts geared towards ensuring peaceful elections for socio-economic and political stability and posterity of our nation.

I thank you.

Hon. Members, we still have a third Communication. Can we settle down, so that I can give that Communication?

THE TENTH INTER-PARLIAMENTARY RELATIONS SEMINAR

Hon. Members, as you may be aware, Members of EALA have been in the country for the Assembly's plenary sittings. Thereafter, the Parliament of Kenya will host the 10th series of Inter-Parliamentary Relations Seminar, also christened 'Nanyuki Ten' from 30th November to 2nd December 2016. Participants in the seminar will be drawn from Members of EALA, 15 Members from each of the national Parliaments of the partner States of the East African Community (EAC), respective Ministries for EAC Affairs, the European Union and EAC Ambassadors accredited to the EAC in Kenya, the EAC Secretariat, AWEPA, the civil society and the academia from the region.

Hon. Members, there is no doubt that the meeting, which is convened under the theme: 'Good Governance and Poverty Reduction in East Africa' will provide a platform for participants to candidly engage in discussions on the earmarked key elements of the objectives, fundamentals and operational principles of the Treaty for the Establishment of the East African

Community. These elements are democracy and good governance, the rule of law and respect for human rights, and peaceful resolution of disputes and conflicts between and within the partner States.

I encourage Members, particularly Chairpersons of House Committees and Members of the Committee on Regional Integration to take the event into consideration and find time to participate in this important seminar. The venue for the Seminar and related logistical arrangements will be communicated to the Members in due course.

I thank you.

Hon. Members, I have a Message from the Senate. There is a lot of communication coming in today. This is a Message on the decision of the Senate on the Parliamentary Service (Senate Monitoring and Evaluation) (Procedures for Management of Funds) Regulations 2016.

MESSAGE

SENATE DECISION ON PARLIAMENTARY SERVICE (SENATE MONITORING AND EVALUATION) (PROCEDURES FOR MANAGEMENT OF FUNDS) REGULATIONS

Hon. Deputy Speaker: Hon. Members, I wish to report to the House that I have received a letter from the Senate dated 23rd November 2016 regarding the decision of the Senate on the Parliamentary Service (Senate Monitoring and Evaluation) (Procedures for Management of Funds) Regulation, 2016.

The letter states that the said Regulations were tabled in the Senate on 4th October, 2016 and committed to the Committee on Delegated Legislation, which in its meeting held on 1st November 2016 considered and resolved that they be acceded to. This implies that the Senate did not object to any provision in the Regulations. Conversely, you will recall that on 17th November, following a Report of the Committee on Delegated Legislation, the National Assembly annulled the Regulations entirely.

Hon. Members, Standing Order No.211(3)(b) provides that if the Assembly fails to agree with a Senate resolution, the resolution shall be referred to a Joint Committee of Parliament under Standing Order No.213 (Appointment of Joint Committees). In this respect, the Committee on Selection is hereby directed to expeditiously nominate 15 Members for appointment to a Joint Committee to consider the said Regulations.

Hon. A.B. Duale: On a point of order, Hon. Deputy Speaker. I want to thank you for your Communication. I want you to use your powers so that if my colleagues on the other side of the House and I form the committee and send the names to your office, this matter can come up for debate on Tuesday morning for it to be dealt with expeditiously.

This is a House that believes in the rule of law. Our objection is based on law. Yesterday, the Senate discussed us for two hours. They spent two hours insulting us. We are telling them in no uncertain terms that this House will stand to be counted in as far as defending procedures and the rule of law is concerned. The only way they can get the money they want is by amending the Public Finance Management Act or talking to the Cabinet Secretary for the National Treasury, just as the 47 County Women Representatives did. I do not think there are ways of circumventing the law and procedure to get Kshs1 billion. This House is responsible for spearheading the budget-making process.

Hon. Deputy Speaker, we will comply with your order and send the list of the 15 Members to the Joint Mediation Committee. I want to ask the bulk of the membership of this House that the 15 Members will come from our colleagues who are in the Delegated Legislation Committee because they know the history of this matter. Hon. Cheptumo and his team will be part of the Committee that will deal with this matter. Some of us have only read the Report, but the shoe wearers on the matter of the Kshs1 billion are the Members of the Delegated Legislation Committee. Therefore, the 15 Members to be appointed to the Joint Mediation Committee will be chosen from among the 29 Members of the Committee on Delegated Legislation.

Thank you.

Hon. Deputy Speaker: Mhe. Mwachugu.

Hon. Mwachugu: Nakushukuru, Mhe. Naibu Spika, kwa mwongozo ambao umetupatia kutokana na ujumbe wa Seneti.

Ninamuunga mkono Mhe. Duale kwa mambo ambayo ameyazungumzia hapa Bungeni. Amesema kwamba Bunge hili haliwezi kupitisha suala lolote bila kufuata sheria na sera zilizoko. Naliheshimu Bunge la Seneti na nitaendelea kuliheshimu, lakini kuna sheria ambazo zinatakiwa kufuatwa. Imebainika wazi kuwa Wanakamati wetu walioliangalia suala hilo hawakuridhika na mambo ambayo yamefanyika. Ndiposa Bunge la Taifa likaonelea kwamba sheria zilizowekwa kuhusu hundi hii haziambatani na utaratibu unaohusu hazina kuu ya taifa. Sheria hizo haziambatani na mkataba uliowekwa kuhusu usimamizi wa fedha za umma. Kwa hivyo, ninamuunga mkono Mhe. Duale. Imebainika wazi kwamba ni lazima tuwachague wenzetu 15 wajiunge na wenzetu kutoka Bunge la Seneti kwenye Kamati ya Pamoja ili walishughulikie jambo hili kikamilifu.

Kwa upande wetu, ninakubaliana na mwenzangu kwamba wanachama wa Kamati ambayo ilishughulikia jambo hili hapo awali wateuliwe wakajiunge na wenzetu kutoka Bunge la Seneti ili waweze kukishughulikia kikohozi hiki. Mimi niko tayari kutoa majina kutoka upande wetu wa Upinzani ili suala hili liweze kufika katika Bunge siku ya Jumanne ili tuweze kulishughulikia haraka iwezekanavyo ndio wenzetu kutoka Bunge la Seneti wasione tunawakanyangia. Ninawaomba Wabunge wenzangu waje tulishughulikie jambo hili.

Asante, Mhe. Naibu wa Spika.

Hon. Deputy Speaker: Hon. Members, let us leave it to the leadership of the House to give us the names quickly, so that we can transact this business.

Next Order!

PETITION

VIOLATION OF LABOUR PRACTICES BY BIDCO (AFRICA) LIMITED

Hon. Deputy Speaker: Hon. Members, Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through Members of Parliament. Therefore, I wish to convey to the House that my office is in receipt of a Petition signed by seven citizens of the Republic of Kenya, on behalf of former employees of BIDCO (Africa) Limited commonly referred as "BIDCO" regarding violation of labour laws.

The petitioners allege that BIDCO (Africa) Limited has continued to violate the labour laws by exercising discrimination in employment, denying employees their right to join workers' unions, failing to offer workmen compensation insurance to its employees as required in law, and

failing to submit statutory deductions to the National Social Security Fund (NSSF) and the National Health Insurance Fund (NHIF).

The petitioners pray that the National Assembly investigates and inquires into the matter and makes recommendations to the relevant agencies to take appropriate action against BIDCO (Africa) Limited.

Hon. Members, I am aware that the Departmental Committee on Labour and Social Welfare is considering a similar petition on alleged violation of labour laws by BIDCO (Africa) Limited presented to this House by the Member for Kiambu County, Hon. Jude Njomo. I urge the Committee to consider this Petition alongside the earlier one and report its findings to the petitioners and the House in accordance with Standing Order No.227(2). Therefore, the Petition stands committed to the Departmental Committee on Labour and Social Welfare.

Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I wish to thank the presenters of this Petition, especially coming so soon after almost a similar petition on violation of labour laws and other laws, particularly obligations of corporate entities with regard to tax payment by the East African Breweries Limited.

As Members of Parliament, it will amount to dereliction of our duty if our people petition us in vain. The National Assembly addresses matters that are of concern to all Kenyans, irrespective of the constituencies they come from. As you commit this Petition to the Departmental Committee on Labour and Social Welfare, I urge that this House must be at the forefront in instituting those measures that will ensure that the dignity of Kenyans is preserved. You will recall, for example, that one of the silent abuses that go on in our country is where foreigners and expatriates take up jobs which should be done by the people of Kenya. I admit that as a country, we cannot exist in a vacuum and we are part of the global community. The laws governing what work foreigners can do in this country are very clear. We are abusing those laws.

Hon. Deputy Speaker, even as we look at these petitions particularly the ones that relate to abuse of Kenyans by foreigners, I am a believer - and you and I are well travelled - that one of the requirements that anybody who comes to work in this country as a foreigner must comply with is to respect the people of Kenya. That is an irreducible minimum. You have gone to many countries and when you go to those countries, the people there have to be respected. We are seeing widespread abuses of our people by foreigners. We are not in any way trying to suggest that we do not want other people to come and work in our country. Kenya too has very many people who work in other countries. What we are saying is that anybody, particularly foreigners who come to work here, must recognise that the dignity of the people of Kenya must be upheld.

One of the ways of ensuring that that dignity is upheld is by paying our people a living wage. Many of our people who work in these companies are doing no more than servitude and it is unacceptable. I would encourage the Committee to look into this matter and ensure that anyone who comes to work here, whether it is a local company or a company that has its origin in another country, upholds the dignity of the people of Kenya and they are paid a living wage.

Hon. Deputy Speaker: Hon. Sunjeev, do you want to contribute on the same?

Hon. (Ms.) Sunjeev: Thank you, Hon. Deputy Speaker. I would like to contribute to the Petition that has been brought by some petitioners who are well within their right to bring petitions to Parliament. I have absolutely nothing against people who feel that their rights have been violated, especially in areas where they have been mistreated.

The previous speaker mentioned people who come from abroad and set up shop here. I would like to mention that in this particular case, specifically as far as BIDCO is concerned, we are all aware that many of these cases are in court. I would just urge the Committee to look into these cases very seriously and make sure that they are not already in court. I have a feeling that somebody has a personal vendetta against BIDCO. But that is just my feeling. I hope they are not out to get some personal interest out of people who contribute a lot to our society.

Hon. Deputy Speaker: Hon. Junet, do you want to contribute on the same? Give him the microphone.

Hon. Oyoo: Thank you very much, Hon. Deputy Speaker. I want to report to the House that I am a Member of the Departmental Committee on Labour and Social Welfare.

Hon. Deputy Speaker: Hon. Koyoo, I called on Hon. Junet. I do not know when you became Hon. Junet. It is Junet that I called. Hold your horses.

Hon. Nuh: Hon. Deputy Speaker, I am sorry, Hon. Koyoo is a sugarcane farmer. I stand to support the petitioners. The matter that the petitioners have raised is very important for this country. These are some of the benefits that Kenyans gained through the new Constitution that they achieved in 2010, where Kenyans can petition Parliament on an issue that is so important to them.

I do not want to discuss the Petition, but I expect the Committee that you have committed this matter to, to deal with the matter expeditiously. I am aware that these matters that the petitioners have raised are of grave importance to them. There are people who have been employed in certain sectors for the last 10 years as casual labourers where 50 per cent of the workers in some of those companies remain perpetual casual labourers, so that they do not gain any rights. This country is very friendly to investors. We would like to attract investments, but we cannot do that at the expense of Kenyans. Kenyans' rights must be safeguarded as enshrined in the Constitution.

So, I take these few minutes to support the petitioners and tell the Committee that BIDCO is a big problem and they need to look at it carefully.

Hon. Deputy Speaker: Hon. K'oyoo, you may have your turn.

Hon. Oyoo: Thank you very much, Hon. Deputy Speaker. I am a Member of the Departmental Committee on Labour and Social Welfare. I am afraid that my Chairman and the Vice-Chairman are not here. I wish to formally report to the House that we have delved into this issue. This morning we had an engagement with the Petitioner and we have charted the way forward.

As a Committee, we intend to use this as a launching pad for massive investigations into various powerful employers who are fond of breaking rules and who do not operate within the law as required by the Constitution of this country.

As a Committee, we will ensure that they are brought to book and are not sympathised with however big or highly connected in the political class they are. We will make sure that they are dealt with properly. We will use the BIDCO case as a launching pad.

I want to assure this House that many of us have relevant experience in requisite labour law and we will ensure that the truth prevails and Kenyans workers, who are, by extension, contributors of the taxes that we enjoy, are treated with dignity as opposed to the stated case. I will personally take this up because in my constituency, there is a sugar miller who has become an influence peddler. He is bringing in raw sugar to ensure that he brings down the entire sugar industry. We will not allow that and we know that he is very highly connected politically. We will not allow this to happen.

Hon. Deputy Speaker: Do not debate and give us other extraneous issues.

Hon. Oyoo: Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: We have reports from the Departmental Committee on Administration and National Security. Hon. Chair, who is presenting the reports of the Departmental Committee on Administration and National Security? You have three reports. I do not know how you can summarise each of them.

STATEMENTS

BUSINESS BEFORE THE COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

Hon. Abongotum: Hon. Deputy Speaker, I will summarise them. I have three petitions.

ALLEGED RE-EMERGENCE OF *MUNGIKI* IN KIAMBU COUNTY

The first Petition is by Hon. Kimani Ichung'wa, the Member of Parliament for Kikuyu Constituency, on behalf of his constituents regarding the alleged re-emergence of militia and *Mungiki* in Kiambu County. Their prayers were as follows:

THAT, the National Assembly, through the Departmental Committee on Administration and National Security:

- (1) Recommends immediate deployment of more security personnel to enforce law and order in Kiambu County;
- (2) Ensures that the petitioners plight is addressed; and,
- (3) Makes any other order or direction that it deems fit in the circumstances of this case.

We met all the relevant stakeholders including the Member, the Cabinet Secretary (CS), Ministry of Interior and Coordination of National Government and other stakeholders. The Committee recommends as follows:

- (i) The issues relating to the unrest at Madaraka Market in Thika Town are pending before the High Court in Petition No.2529 of 2015, Petition No.569 of 2015 and Petition No.42 of 2015. The provisions of the Standing Order No.89 on the issue of *subjudice* rule apply.
- (ii) The Government should urgently investigate the re-emergence of militia groups in the country particularly in Kiambu, Nakuru and Nairobi counties with a view to dealing with this issue firmly and conclusively.
- (iii) The Government should urgently establish a police station in Kagwe, Lari Sub-county and upgrade Juja Farm, Kalimoni, Muigai Inn and Theta Ha-Mundia Police Post into police stations. They should also establish police posts in Kimochu, Athi Zone Tea and Makwa.
- (iv) The National Police Service should urgently deploy more officers to Nazareth and Red Hill Administration Police Posts in Kiambu County.
- (v) The Directorate of Criminal Investigation should ensure that leaders found culpable of funding illegal gangs are investigated and prosecuted to ensure that peace prevails in Kiambu as we approach the 2017 General Election period.
- (vi) The National Police Service should ensure that police officers are engaged in their core functions of protecting citizens and maintaining law and order by limiting

engagement in other subsidiary duties such as cash escorts and guarding private businesses.

- (vii) The Government should allocate a police vehicle to Kibichoi Police Station in Githunguri Sub-county.

DELAYED ISSUANCE OF CITIZENSHIP FOR IMMIGRANTS RESIDING IN KENYA

The second Petition is by the Nominated Member of Parliament, Hon. Sunjeev Kour Birdi, on behalf of concerned immigrants residing in Kenya regarding delayed issuance of citizenship. The prayers to this Committee were as follows:

(i) THAT, the National Assembly recommends that the relevant Government agencies undertake investigation to establish why there is a backlog at the Immigration Department and recommends necessary measures to resolve this matter.

(1) Ensures that the petitioners' plights are addressed forthwith.

(2) Makes any other order or direction that it deems fit in the circumstances of this Petition.

After meeting all the stakeholders, including Hon. (Ms.) Sunjeev, the concerned Kenyans, the Cabinet Secretary (CS) and officers from the Immigration Department, the Committee recommends as follows:

- (i) That the Ministry of Interior and Coordination of National Government digitises the processing of applications for acquisition of citizenships to enable applicants to track the status of their applications and reduce systemic corruption.
- (ii) That the CS, Ministry of Interior and Coordination of National Government should amend the Kenyan Citizenship and Immigration Regulations, 2012 to provide for a timeframe for determination of application for citizenship.
- (iii) That the Ministry for Interior and Coordination of National Government should form a taskforce to assess the number of pending applications for Kenyan citizens and develop mechanisms to fast-track the processing of these applications.
- (iv) The petitioners should submit a comprehensive list of the affected applicants including the particulars of applications to the CS through this Committee to facilitate specific responses on the status of applications for citizenships.

REVOCATION OF APPOINTMENT OF MR. MULATO DONCHE AS CHIEF

The last Petition is by Hon. Col. Rtd. Dido Ali Rasso, the Member for Saku, on behalf of the residents of Dakabaricha Location. This is on the removal and revocation of appointment of Mr. David Mulato Donche as the Chief of Dakabaricha Location, Saku Constituency. The petitioners pray that the National Assembly through the Departmental Committee on Administration and National Security should intervene to cause expeditious resolution of the matter and ensure that the appointment of Mr. David Mulato Donche as Chief of Dakabaricha Location is revoked and a qualified chief is recruited.

Hon. Deputy Speaker, we met all the stakeholders. We contacted the University of Nairobi to confirm the authenticity of a degree that Mr. David Donche had presented to the interviewing panel. The Committee made the following recommendations:

- (i) That the Directorate of Criminal Investigation should within three months investigate the allegations that David Mulato Donche fraudulently secured the position of the

- Chief of Dakabaricha Location by presenting a forged degree certificate to the recruitment panel with a view to prosecuting the officer if found culpable.
- (ii) The Chief presented a Bachelor of Science Degree in Food Nutrition and Dietetics, but the University of Nairobi confirmed that the degree is fake.
 - (iii) The Ethics and Anti-Corruption Commission should pursue the matter of presentation of false documents as a criminal offence with a view to prosecuting the chief.
 - (iv) If found culpable, Mr. David Mulato Donche should be removed from the office of the Chief, Dakabaricha Location, for violating Chapter 6 of the Constitution.
- That is the end of the three petitions.

BUSINESS BEFORE THE COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES

Hon. Deputy Speaker: We have one more Report by the Chairperson of the Departmental Committee on Environment and Natural Resources.

FENCING OF MUKOGODO FOREST

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, I beg to present the Report of the Departmental Committee on Environment and Natural Resources on a petition presented by Hon. Sara Korere, on behalf of residents of Laikipia North Sub-County regarding human-wildlife conflict.

Hon. Deputy Speaker, Hon. Korere tabled the Petition on 27th July 2016. Her prayers were that the National Assembly intervenes to ensure that the Ministry of Environment and Natural Resources expedites the fencing of Mukogodo Forest to keep off elephants from straying into human settlements; ensures that the Kenya Wildlife Service (KWS) compensates victims' families for loss of lives and compensates farmers for destruction of crops and school infrastructure.

Further, the petitioners pray that the National Assembly recommends to the Ministry of Environment and Natural Resources to increase KWS posts in the area for efficient surveillance and quick response to distress calls whenever elephants stray into human settlements.

Hon. Deputy Speaker, the Committee visited Laikipia on 7th October, 2016 and received submissions from the residents. Our responses to the prayers are as follows:

That the KWS should include in its budget funds for fencing Dol Dol, Kiwanja, Ilkinyei and Ol Arjiju Primary Schools and other schools next to Mukogodo Forest:

- (i) That the Ministry of Environment and Natural Resources should compensate all victims of human-wildlife conflict and the schools affected;
- (ii) That the Ministry of Environment and Natural Resources should invest in awareness creation and that it is the compensating agency and not the KWS,
- (iii) That the KWS should establish a sub-station in Dol Dol and engage more community wardens to increase the response rate during incidents of human-wildlife conflict.
- (iv) That the Ministry of Environment and Natural Resources, through the KWS, should immediately map out all blocked historical migratory routes and initiate efforts to reclaim the same; and,
- (v) That the Ministry of Environment and Natural Resources should develop a mechanism of ensuring that community wildlife conservation and compensation

committees are facilitated to have regular meetings so as to hasten the processing of claims for compensation.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, that brings us to the end of that Order. Let us move to the next Order.

PAPERS LAID

Hon. Katoo: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Performance Report of the Independent Policing Oversight Authority (IPOA) for the period from January to June 2016.

(i) The Budget Policy Statement (BPS) for the year 2017.

(ii) The Division of Revenue Draft Bill 2017

(iii) The County Allocation of Revenue Draft Bill 2017

(iv) The Medium-Term Debt Management Strategy 2017

Hon. Deputy Speaker: Let us have Hon. Kamama.

Hon. Abongotum: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Administration and National Security on its consideration of the following Petitions:

(i) The Petition by Hon. (Col) (Rtd.) Dido Ali Rasso, MP, on behalf of residents of Dakabaricha Location regarding removal and revocation of the appointment of Mr. David Mulato as the Chief of Dakabaricha Location, Saku Constituency in Marsabit County.

(ii) The Petition by Hon. Kimani Ichung'wah, MP, on behalf of the residents of Kikuyu Constituency regarding the alleged re-emergence of militia and *Mungiki* in Kiambu County.

(iii) The Petition by Hon. Sunjeev Kour Birdi, MP, on behalf of concerned immigrants residing in Kenya regarding the delayed issuance of citizenship.

Hon. Deputy Speaker: Let us have the Chair of the Departmental Committee on Environmental and Natural Resources.

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment and Natural Resources on the Petition by Hon. Sara Korere, MP, on behalf of residents of Laikipia North Sub-county regarding human-wildlife conflict.

Hon. Deputy Speaker: Let us have Hon. Rege to table a Paper on behalf of the Departmental Committee on Energy, Communication and Information.

Hon. (Eng.) Rege: Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Energy, Communication and Information on its consideration of the Information Communication Technology Practitioners Bill 2016.

Hon. Deputy Speaker: Thank you. That brings us to the end of that Order.

Next Order!

BUSINESS FOR THE WEEK COMMENCING 29TH NOVEMBER TO 1ST DECEMBER, 2016

Hon. Deputy Speaker: Let us have the Majority Whip.

Hon. Katoo: Thank you, Hon. Deputy Speaker. Pursuant to the provisions of Standing Order No.44(2), on behalf of the House Business Committee, I rise to give the following Statement regarding the business appearing---

(Loud consultations)

Hon. Deputy Speaker: Order! Order! Order! There is a *kamukunji* from Meru happening and I think Hon. Cheboi is arbitrating. Can we find another place to hold that *kamukunji*?

Hon. Katoo: Thank you, Hon. Deputy Speaker. Pursuant to the provisions of Standing Order No.44(2), on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding the business appearing before the House for the week beginning Tuesday, 29th November 2016:

The HBC met on Tuesday this week at the rise of the House to prioritise the business for consideration. On Tuesday next week, we shall consider the following Bills at the Committee of the whole House:

- (i) The County Assembly Services Bill (Senate Bill No. 27 of 2014);
- (ii) The Competition (Amendment) Bill 2016;
- (iii) The Contempt of Court Bill 2016; and,
- (iv) The Bribery Bill 2016.

Hon. Deputy Speaker, in the same week, the HBC has also scheduled several Committee Reports for debate as follows:

- (i) The Report of the Departmental Committee on Environment and Natural Resources on the investigation into wildlife poaching in Kenya.
- (ii) The Report of the Departmental Committee on Administration and National Security on the investigation into the Garissa University College terrorist attack.
- (iii) The Report of the Departmental Committee on Transport, Public Works and Housing regarding the inquiry into the procurement of the apron buses by the Kenya Airports Authority.
- (iv) The Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the inquiry into the importation of a consignment of fertilizer by the Ministry of Agriculture, Livestock and Fisheries through the National Cereals and Produce Board.
- (v) The Report of the Departmental Committee on Lands on the inquiry into degazetement of Government land belonging to Chorlim Cooperative Society.

The HBC has also prioritised for consideration the Budget Policy Statement for the Financial Year 2016/2017, which I have just tabled a few minutes ago. Committees are urged to fast-track consideration of the BPS, so as to enable its finalisation before the House proceeds for recess.

Finally, the HBC will reconvene on Tuesday, 29th November, 2016 at the rise of the House to consider business for the coming week.

I now wish to lay the Document on the Table of the House.

STATEMENT

POLICE BRUTALITY IN MUMIAS WEST CONSTITUENCY

Hon. Deputy Speaker: Member for Mumias West.

Hon. Naicca: Thank you, Hon. Deputy Speaker. I wish to give a statement on police brutality taking place in Mumias West Constituency.

Following the raid at Booker Police Post by gangsters yesterday, 23rd November, 2016, a major operation by officers from the General Service Unit (GSU) started this morning at 4.00 a.m., in search of stolen guns and ammunition. The operation caused more harm to the residents of Shivale Estate. The exercise has resulted in atrocities amounting to abuse of human rights, including harassing and use of excessive force against the locals. Sexual harassment of women and young girls also took place as well as robbing the locals of money and other valuables. In this regard, the operation meant to apprehend the culprits ended up causing violation of human rights and untold suffering among the residents.

I wish, therefore, to appeal to the Government, through this House, to withdraw the GSU security operations and instead engage the local leaders in addressing this problem.

Hon. Deputy Speaker: That brings us to the end of that. We now move to the next Order.

Hon. (Eng.) Gumbo: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order?

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I was just wondering if you will allow us to comment on the Statement by the Member for Mumias.

Hon. Deputy Speaker: Maybe just two comments. Hold on. We may need some guidance. Give us a minute. Unfortunately, I did not hear him say that it was a Personal Statement. A Member may explain matters of a personal nature, although there was no Question before the House. That is what I was not sure about, whether it is not a Personal Statement about himself.

Let me use my discretion and allow two comments on it because he did not state that it was personal. I realise it was not about himself.

Hon. Gumbo and Hon. Olago will be sufficient.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I would like to make a small comment on the Statement made by the Member of Mumias West, but before I do that, on the Statement issued by the Leader of the Majority Party, there is a Statement I requested for in February this year with regard to fulfillment of Article 232(1)(h) of the Constitution. There was an attempt more than a month ago by the Cabinet Secretary (CS) for Public Service, Youth and Gender Affairs to respond to that Statement which was basically looking at what extent we have gone in fulfilling the requirements of that Article both before and after this 11th Parliament.

The reason I am asking for your help and that of the Leader of the Majority Party through you, is because when the CS came here, she promised on record that the comprehensive answer that I was looking for, would be given. The answer I was looking for is extremely comprehensive and it is the sort of answer when brought here, will be useful to all Members of this House. She had promised to give it in a month's time. It is now six weeks and the Statement is not here.

Hon. Deputy Speaker: Who was supposed to bring a comprehensive answer?

Hon. (Eng.) Gumbo: It was the CS for Public Service, Youth and Gender Affairs, Madam Sicily Kariuki. She was here and we agreed that the answer she had given was

inadequate and she agreed she would bring a comprehensive answer in a month's time, but it is now six weeks.

Hon. Deputy Speaker: Leader of the Majority Party, do you have a comment on that?

Hon. A.B. Duale: Yes, Hon. Deputy Speaker. The Statement sought by Hon. Gumbo is very comprehensive. It touches on the national Government, county governments and parastatals. The last time the CS came, she said she is going to compile a report. She needs close to a month or more. Part of the information is what I have tabled here. There was a report done by the National Cohesion and Integration Commission on the county governments, the national Government and universities on ethnic composition of staff of the various agencies. But Hon. Gumbo further wanted the names. We told the CS that once she is ready, we will table a report for the whole House.

I am sure if we give her another one month, she will bring that comprehensive answer. I will communicate the information to her.

Hon. (Eng.) Gumbo: Thank you, Hon. Deputy Speaker. I also thank the Leader of the Majority Party. On the Statement read by Hon. Johnson Naicca, as we get into the electioneering period, concerns such as what he has raised, especially breaches in security are issues that need to be taken absolutely seriously. I have been on the Floor of this House and one of the weaknesses I have identified in the current Constitution is the fact that CSs do not sit here. I say this because issues such as the one that has been raised by Hon. Johnson Naicca and you and I had the privilege to sit in the 10th Parliament, were the sort of issues that you would get hold of a Minister and he would give a programme of action and it was dealt with. But be that as it may, we are dealing with a unique circumstance when that is not possible. A way has to be found where security apparatus of this country must up their game particularly as we get to the electioneering period.

You are aware that a Member of this House is trying to launch his gubernatorial bid tomorrow and already the person he is trying to remove has made sure he does not go there by spraying cow dung on the field he was supposed to use. These are symptoms of a major problem in our country. As a House, we must find a way to pronounce ourselves on the need of security organs of this country to up their game particularly with regard to the period we are getting to and protecting lives and property of our people.

Hon. Deputy Speaker: Hon. Olago Aluoch.

(Loud consultations)

Members, the consultations are getting high. I have given the chance to Hon. Aluoch. Hon. Junet, hold your horses.

Hon. Aluoch: Thank you, Hon. Deputy Speaker. The Statement by Hon. Naicca raises very serious issues about training of our police officers and intelligence gathering. When a police station is attacked by members of the public or criminals and the police attack the nearest village and beat up people indiscriminately, it simply means that their level of training is not as high as it should be. What has happened in Mumias West at Booker Police Post is regrettable. As a law abiding citizen, I would say that it should not be supported. But in reiteration, the police should not do what they are doing. It reminds some of us those old days of *majohnies*.

(Loud consultations)

Hon. Deputy Speaker: Order Members, there is another new *kamukunji* forming around Hon. Chepkong'a and Hon. Ng'eno. Hon. Ng'eno, let the Member on the Floor be heard.

Hon. Aluoch: Thank you, Hon. Deputy Speaker. There is a saying where I come from that if someone wants to threaten you with dire consequences, he tells you in Dholuo that you are throwing stones at a police station. It simply means that you are going to get more than you have been bargaining for if you do that. What is happening in Shivale Village in Mumias West is regrettable. It simply means that the police do not know how to gather intelligence properly, so that they can track the attackers. Indiscriminate beating of people simple means that people will not give information. They are going to shy away from the police. This issue is so serious that it goes beyond Mumias West. We must look at how the police are trained. They must know how to gather intelligence in crime prone areas.

Hon. Nuh: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Junet, what is your point of order?

Hon. Nuh: Hon. Deputy Speaker, I wanted to support the Statement. The Statement that was issued by Hon Naicca raises very important matters.

(Hon. Ng'eno consulted loudly)

Hon. Deputy Speaker: Order, Hon. Ng'eno.

Hon. Nuh: Hon. Deputy Speaker, Hon. Ng'eno is the new star in town now through the rallies in Bomet.

Hon. Deputy Speaker: I am aware that you have been making quite a lot of noise out there. Allow us some peace inside the Chamber.

Hon. Nuh: He is almost becoming a party leader. He is excited. On the issue raised by Hon. Naicca, if you look at today's social media, there are despicable photos of people being harassed, maimed and women being tortured. It is true that a police post was attacked the day before yesterday by hooligans, but that is not the way the police should do their work to apprehend them. The only avenue the Member has to raise his matter is through the National Assembly. I would like to request the Leader of the Majority Party, although I do not know whether he is listening to me---

Hon. Deputy Speaker: The Leader of the Majority Party, Hon. Junet is addressing you through me.

Hon. Nuh: The Leader of the Majority Party is very happy. I do not know what is happening. I want to request him if he can come to the help of Hon. Naicca, so that he can stop the police brutality that has been going on in his constituency for the last 24 hours. Let him make a phone call from Parliament to the Executive. The only avenue that is available to the Member is this House. What is happening there is unacceptable and inhuman.

That is not the way to look for the criminals who raided the police station. I would like to congratulate Hon. Naicca for raising that matter in the House. I hope his constituents saw that he made his best effort to make sure that they are safe.

Hon. Deputy Speaker: Hon. Wanyonyi, is it on this matter? That is the last on this.

Hon. F.K. Wanyonyi: Hon. Deputy Speaker, I am a very worried person because Mumias West extends all the way to Trans Nzoia. The mention that guns are in loose hands is a bit saddening. The best the police could do is to go to the ground and try to get information from the people instead of beating them up. The situation is worrying. Hon. Naicca has done the right thing to bring that matter here. At the same time, we request the police to go slow. I know they

are in panic, but they would get information from the elders and the *Nyumba Kumi* representations. That is the best way of going about the whole thing rather than beating up innocent people. It is not humane. I know they are in panic, but the best thing for them to do is to go slow and get information from the *Nyumba Kumi* elders instead of beating up the locals.

Hon. Deputy Speaker: Hon. Members, that brings us to the end of that Order. Next Order, please.

BILL

Second Reading

THE PENAL CODE (AMENDMENT) BILL

(Hon. Sakaja on 22.11.2016)

(Debate concluded on 23.11.2016)

Hon. Deputy Speaker: Hon. Members, this Bill had been sufficiently debated. What was left is putting the Question, which I now proceed to do.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE SENATE'S AMENDMENTS TO THE HEALTH BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Senate's Amendments to the Health Bill (National Assembly Bill No.14 of 2015).

Hon. Deputy Speaker: Debate on this Bill was concluded. What is left is putting the Question.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

*[The Deputy Speaker
(Hon. (Dr.) Laboso) left the Chair]*

IN THE COMMITTEE

[The Temporary Deputy Chairman

(Hon. Cheboi) took the Chair]

THE INSURANCE (AMENDMENT) BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order, Hon. Members! We are now going to deal with the Insurance (Amendment) Bill, (National Assembly Bill No.28 of 2016). We will move pretty quickly. So, Members, you will have to pay attention.

(Clause 2 agreed to)

Clause 3

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 3 of the Bill be amended in the proposed section 19A, by deleting the words “except where the person is exempted in accordance with this Act” appearing in subsection (1).

The import of this is just to align this Bill with the existing law. If you look at Section 181 of the Insurance Act, it gives powers to the Cabinet Secretary to exempt individuals. So, what we are saying is that we do not want to make this law look like it is only favouring the *Takful* insurance. It is to align it.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two more Members an opportunity. Let me start with Hon. M’eruaki.

Hon. M’uthari: Thank you, Hon. Temporary Deputy Chairman. I rise to support this amendment because it is important to be inclusive in law-making so that we do not appear to be supporting one faith.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Let us have Hon. Jackson Rop.

Hon. Rop: Thank you, Hon. Temporary Deputy Chairman. I also want to support this amendment because it is just a question of aligning to the existing law. It is like a clean-up exercise.

I support.

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

(Clause 3 as amended agreed to)

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

Clause 11

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 11 of the Bill be deleted.

Clause 11 was trying to reduce the number of days when a claim can go through, from 90 days to 30 days, but after consultation with relevant authorities, it was found that before an insurance claim is done, investigations and assessment have to be done. If we stick to 30 days only, it might result in many fraudulent claims. So, we decided to revert to the 90 days.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members a chance. Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairman. I wish to plead with the Vice-Chairman of the Committee not to delete this clause. There is a lot of mischief that goes on and families suffer a lot. As I speak, there is a lady from my constituency whose husband died and the claim has not yet been processed. Insurance companies are very quick to take people's money, but when it comes to settling dues, they are slow. A lot of times, these are cases to do with people whose breadwinners have died. The case I am talking about is of a lady whose husband died in a road accident. The insurance companies have so much latitude. I would plead with the Vice-Chairman that this is a good amendment and we should move it from 90 to 30 days.

I oppose.

The Temporary Deputy Chairman (Hon. Cheboi): That is almost water under the bridge, Hon. Gumbo. The proposal for that particular amendment to delete has been already put on the Floor. You have the opportunity to reject it and convince the rest of the membership to reject it. Hon. Nderitu, Member for Ndaragwa.

Hon. Nderitu: Hon. Temporary Deputy Chairman, I would like to support the amendment. I know insurance cases, as Hon. Gaichuhie, the Vice-Chairperson of the Departmental Committee on Finance, Planning and Trade has said, are sometimes very complicated. If the issue of settlement of claims is not well looked into, we might end up getting falsified claims taken to insurance companies. We have seen some insurance companies falling because of false claims. Like medical claims, if proper investigations are not done, there might be a lot of problems.

So, I support the amendment to retain the 90 days as given in the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I was wondering how Hon. Ng'eno can be recognised when I am here.

The Temporary Deputy Chairman (Hon. Cheboi): Well, I noticed he was consulting very loudly and I wanted him to go on record consulting, but he did not.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I want to support this amendment and convince my good friend, Hon. Gumbo, that we had agonised. I was supporting the 30 days, but we are convinced beyond reasonable doubt. Today, for example, if your house gets burnt in Rarieda, by the time an insurance assessor goes there, comes back and all the process is done, 30 days is too short. We have agreed. I think 90 days became more applicable. We supported the 30 days, but we realised that it is not applicable in terms of implementation. We will have a lot of issues.

I support.

(Question, that the words to be left out be left out,

put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gumbo, you do not have to be very loud. That bass was a bit too much. Now, let us proceed.

(Clauses 11 as amended agreed to)

(Clause 12 agreed to)

New Clauses

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, after wider consultation with the National Treasury, which is the originator of the Bill, I withdraw all my amendments.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. It means you withdraw the New Clause 3A and the New Clause 13A? Is that the position Hon. Duale?

Hon. A.B. Duale: Yes.

*(Proposed New Clause 3 and New Clause 13 by
Hon. A.B. Duale dropped)*

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Okay. We will have the Mover to move reporting.

Hon. (Dr.) Shaban: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Insurance (Amendment) Bill (National Assembly Bill No.28 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

Temporary Deputy Chairman (Hon. Cheboi): We will move to the next one, which is the Universities (Amendment) Bill (National Assembly Bill No.66 of 2015). We will also move fairly quickly. It is a fairly lengthy one and we will, therefore, move fast.

THE UNIVERSITIES (AMENDMENT) BILL

Clause 2

The Temporary Deputy Chairman (Hon. Cheboi): I see Hon. Sabina Chege and Hon. Ichung'wah have amendments to this one. Let us start with Hon. Sabina Chege.

Hon. (Ms.) S.W. Chege: I beg to move:

THAT, Clause 2 of the Bill be amended by—

- (a) deleting paragraph (b);
- (b) deleting paragraph (d);
- (c) inserting the following new paragraphs immediately after paragraph (d) —
 - “(e) by deleting the definition of the word “programmes accreditation” and substituting therefor the following new definition—
 - “programme accreditation” means the process by which the Commission formally recognizes an academic programme of a University, including a foreign university”
 - “(f) by deleting the definition of the word “quality assurance” and substituting therefor the following new definition—
 - “quality assurance” means the employment of various measures and mechanisms developed to assess, maintain and enhance standards”
 - “(g) in the definition of the word—
 - (i) “sponsor” by inserting the words “including the government” immediately after the word “person”; and
 - (ii) “technical university” by deleting the words “an institute of”.
- (d) by inserting the following new definitions in proper alphabetical sequence—
 - “academic programme” means the design of learning content which includes the intention, the structure of the content, the delivery mode, academic resources and assessment modes”;
 - “instrument of accreditation” means the Charter or Letter of Interim Authority, accreditation report and proposal establishing the university”

I propose the amendments as they are on the Order Paper, but with further amendments to drop Clause 2(c)(f) and 2(d). This is to delete 2(c)(f) and 2(d).

The Temporary Deputy Chairman (Hon. Cheboi): Are you proposing to delete? Let us look at (d), so that Members can be up to speed with what you are proposing. Are you dropping the entire (d) or part of it? It looks like you want to drop from “instrument of accreditation”.

Hon. (Ms.) S.W. Chege: Yes. If I start with Clause 2(c)(f), which is by deleting the definition of the word “quality assurance” and substituting thereafter with the new definition of “quality assurance”, that is the one I want to delete.

On Clause 2(d), “instrument of accreditation” means the Charter or Letter of Interim Authority. I want to drop that because the Interim Authority cannot be equated with the Charter. That is why I propose to delete.

The Temporary Deputy Chairman (Hon. Cheboi): Yes. Therefore, you are proposing to delete part of Clause 2(d) and not the entire (d).

Hon. (Ms.) S.W. Chege: Yes. Part of (d), not the entire (d).

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give a chance to two Members. Let us have Hon. Millie Odhiambo. I hope you are aware that we are dealing with what is on Page 2202 on the Order Paper. That is the reference; Page 2202. Well, it starts at Page 2201, but the meat is where Hon. Sabina Chege talked about at Page 2202 and not Page 2201. It starts from 2201, anyway.

Hon. (Ms.) Odhiambo-Mabona: *(Off-record)*

The Temporary Deputy Chairman (Hon. Cheboi): There is a microphone behind you. I do not know why somebody decided to put it behind you. It is now coming in front of you. Do it from the seat behind you. I am sure you will be more comfortable there.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. My concern is that if it is Page 2201 where we have amendments by the Chairperson of the Departmental Committee on Education, Research and Technology, if you look at the proposed amendments on the Bill, it appears a little different from what is provided on the Order Paper. So, I just wanted to know if you are going with what is on the Order Paper or what is on the Bill. If that be the case, you notice that it is deleting paragraph (b), a new one in the Bill. The one that is being inserted is okay, but in the Order Paper, I do not see what we are inserting, which is new.

Secondly, where they are proposing deletion of foreign universities, I do not know the import of that. Are we saying that we are not accrediting or we do not want to be involved in accrediting degrees from foreign universities? I know the Bill is long, but for us to follow effectively, you can see there are very many sub-clauses. We would like to go sub-clause by sub-clause otherwise it will be confusing. Thank you Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Well, can we give Hon. Melly a chance?

Hon. Melly: Thank you, Hon. Temporary Deputy Chairman. I support the dropping of that sub-clause on quality assurance.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Melly, the only reason why I am giving you, among others, a chance is so that you can address the concerns of Hon. Millie Odhiambo, because you are the Vice-Chair.

Hon. Melly: Yes, Hon. Temporary Deputy Chairman. I support the dropping of that clause in the sense that the word “quality assurance” is supposed to employ several mechanisms. When you are supposed to qualify and assure, you are supposed to give indicators of those qualities that you are putting in place in a particular university.

I am saying that the definition of “quality assurance” is not necessary because it has been defined. This does not explain the various mechanisms that you use to qualify and assure a particular function.

If you look at “Foreign University,” you will find that we are talking about universities that have been established outside the country that have campuses within this country and must meet the minimum basic requirement of the Commission of University Education (CUE). So, when you have a particular university establishing a campus, it has to meet the requirements of the CUE. That is why that section is not necessary.

The Temporary Deputy Chairman (Hon. Cheboi): I hope it is clear to the Members.

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

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

The Temporary Deputy Chairman (Hon. Cheboi): We will go to Hon. Ichung’wah’s proposed amendment. I am informed, and I have a letter here that gives Hon. Jude Njomo the task of moving the amendments on behalf of Hon. Ichung’wah. So, you have the Floor.

Hon. Njomo: Thank you, Hon. Deputy Chairman. I beg to move:-

THAT, Clause 2 of the Bill be amended by—

(a) deleting paragraph (c);

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

“instrument of accreditation” means the Charter or Letter of Interim Authority establishing a university issued under this Act;

“quality assurance” means the employment by a university of various measures and mechanisms developed by the Commission to assess, maintain and enhance standards of programmes offered by a university.

This amendment seeks to provide parameters under which the Commission can consider approval of any University. Today, whenever the Commission goes to any university---

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Njomo, which clause are you moving? Is it (2) or (3)?

Hon. Njomo: I am moving Clause (2). The amendment seeks to delete the definition of the word “approval of academic programmes” as used in the Bill which is insignificant as the words are self-explanatory and also not used anywhere else in the Bill. Further, the amendment also seeks to redefine the public quality assurance, to provide clarity by specifying what quality assurance is, and the employment of various measures and mechanisms developed by the Commission to access, maintain and enhance academic standards offered by the university. That amendment further seeks to define the words “instruments of accreditation which refers to the charter or the letter of interim authority which is granted to the universities.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members.

Hon. (Ms.) Odhiambo-Mabona: On a point of order.

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order? I cannot even see your intervention. Why do you not sit in the seat where you know it is working? You were somewhere else and that becomes a problem.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman---

The Temporary Deputy Chairman (Hon. Cheboi): It is working but we cannot see anything here and so I cannot recognize your request. Proceed.

Hon. (Ms.) Odhiambo-Mabona: Thank you Hon. Deputy Chairman. I am coming to the same concern that I was raising. If you see the amendments proposed by Hon. Jude Njomo in the definition section which has three different definitions, assuming I want to support one and reject two and then we vote on all of them, It does not make sense because this is not like the Senate Amendments that we then send for mediation. On these ones, we deal with them once and for all. So, I would be suggesting especially on this section on amendments if we could deal with each one of them one by one.

For instance I will indicate that if you see the instrument of accreditation, it almost sounds similar to what the Committee had already proposed. So, I do not know why we are doing the same thing which I do not support because an interim letter cannot qualify for a charter. On the other hand, I may not have a problem on the one quality assurance. So, how would you vote? Whichever way? I request that---

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Chair of the Committee clarify that bit. If we think we are doing well, then we can put the Questions together.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Chairman. What I mentioned when I was dropping my amendment was to say that we wanted to adopt the proposal by Hon. Ichung’wah then, now Hon. Jude Njomo. They have just made a further clarification. If I go back to the instruments of accreditation and what Hon. Millie Odhambo has raised, I realise that you can have the charter or letter of interim authority which can be reviewed. So, I support the proposed amendment by Hon. Jude Njomo, just to clean up because that is what we initially had as a Committee. We would like to adopt the new definition by Hon. Jude Njomo.

The Temporary Deputy Chairman (Hon. Cheboi): It looks convincing and so it is up to the membership to make a decision.

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

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

(Clause 2 as amended agreed to)

Clause 3

The Temporary Deputy Chairman (Hon. Cheboi): I can see we also have a proposed amendment from Hon. Ichung’wah.

Hon. Njomo: Thank you, Hon. Temporary Deputy Chairman. I noticed that Hon. Ichung’wah is back. However, I beg to move:

THAT, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause—

Amendment of
section 5 of No. 42
of 2012.

3. Section 5 of the principal Act is amended—

(a) in subsection (1) by deleting the word “accredit” appearing in paragraph (1) and substituting therefor the word “approve”;

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

“(2B).(1) The Commission shall, in approving and inspecting university academic programmes—

(a) analyse and consider the following factors —

(i) learning content of a programme;

(ii) purpose and objectives of a programme;

(iii) structure of a programme;

(iv) delivery mode of a programme;

(v) availability of academic resources to implement a programme;

(vi) mode of assessment of the programme;

(vii) learning environment of a university;

(viii) learning facilities of a university;
and

(ix) extra-curricular activities offered by a university.

(b) ensure openness, maintain objectivity and consistency in arriving at its decision.

(2) Despite subsection (1), the Commission may consider any other factor as it may deem fit and may rank each factor assessed to indicate the level of compliance.

This amendment seeks to provide for parameters that the Commission shall consider in approving and inspecting of universities. You notice that today whenever this Commission goes to inspect universities and other institutions, they do not have a marking scheme. This is the case and yet this is something which they use on every university. They may use different parameters on different universities.

This amendment defines exactly what the Commission will be looking for in every university. It includes the learning content, the purpose and the objective of the programme, the structure and the delivery mode. It is a detailed list showing the steps that the inspection will go through.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, as I give the Floor to the Members who are going to speak, I would like you to understand that the effect of passing Hon. Ichung'wah's proposed amendment is that the amendment by the Committee will stand dropped. We have started with Hon. Ichung'wah's amendment. If it is carried, the Committee's amendment will be dropped. Hon. Ichung'wah has proposed a deletion and a replacement. I will give three Members opportunity to contribute. I will start with the Committee Chairperson.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Chairman. I agree. As a Committee, we had an amendment to Clause 3. Therefore, we will drop our amendment and adopt what has been proposed by Hon. Ichung'wah. The Member has clearly given the things that are going to be looked at by the Commission. His is a more expanded new clause. Therefore, we drop our amendment and adopt what Hon. Ichung'wah had proposed.

Thank you.

(Proposed amendment by Hon. S.W. Chege dropped)

The Temporary Deputy Chairman (Hon. Cheboi): I now give this opportunity to the Member for Subukia.

Hon. Gaichuhie: Thank you, Hon. Temporary Deputy Chairman. It is always good to have parameters when going to inspect institutions. The amendment by Hon. Ichung'wah is trying to set parameters that will be used. All the universities will be very clear on what is going to be checked and they will be ready for inspection.

The Temporary Deputy Chairman (Hon. Cheboi): The Member for Rangwe, you have the Floor.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairman. Having a marking scheme that enables objective evaluation of programmes is important. I support the amendment by Hon. Ichung'wah because the principal Act is vague on what the Commission is supposed to do in accrediting and inspecting university programmes. Moving from one university to another would

call for different standards probably motivated by other factors and not for purposes of ensuring quality education in the universities.

I support.

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

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

(Clause 3 as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): We now have Hon. Ichung'wah. Even if Hon. Jude Njomo is going to continue, I confirm that in the letter that Hon. Ichung'wah wrote, he had made a request. I want to read it aloud so that other Members can know that they do not have to keep writing letters asking other Members to move their amendments for flimsy reasons. Hon. Ichung'wa's letter reads as follows:

"I have requested Hon. Jude Njomo to move amendments to the Universities Bill on my behalf should I be late from a function I am attending today, 24th November 2016".

This means he is perfectly in order if he wants to start moving his amendments from this moment. I will have a problem with Hon. Jude Njomo continuing to move your amendments since you are now here. Therefore, this letter is now null and void. It was working before you arrived. If you are not prepared you might have to deal with it differently.

You will start moving your amendments now that you have arrived. You were late and I gave the opportunity to Hon. Njomo to move the amendments on your behalf. Now that you are here, you may proceed.

Hon. Ichung'wah: Hon. Temporary Deputy Chairman, I thank you for your indulgence. I was, indeed, at a function in Gatundu with the Deputy President. I am also late in sipping my bottle of water. Therefore, I seek your indulgence for Hon. Jude Njomo to move the next amendment and then I will take over thereafter.

The Temporary Deputy Chairman (Hon. Cheboi): Luckily, you can make an oral application for him to do that but I would have asked you for a second letter to say that you want to sip your water and, therefore, you want Hon. Jude Njomo to proceed in the meantime.

Hon. Ichung'wah: Let him just move the amendment, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Proceed, Hon. Njomo.

Clause 4

Hon. Njomo: Hon. Temporary Deputy Chairman, I beg to move:

Amendment of section 6 of No. 42 of 2012. 4. The principal Act is amended by deleting section 6 and substituting therefor the following new section—

*Establishment
of the
Commission.*

6. (1) The Commission shall consist of—
- (a) chairperson appointed by the President;
 - (b) the Principal Secretary in the Ministry for the time being responsible for university education;
 - (c) the Principal Secretary in the Ministry for the time being responsible for national treasury;
 - (d) one person appointed by the Cabinet Secretary who is a distinguished academic scholar with at least ten years' experience in university education;
 - (e) one person nominated by the Federation of Kenya Employers and appointed by the Cabinet Secretary;
 - (f) one person nominated by chairpersons Councils of public universities in a forum of chairpersons of the Councils of public universities convened by the Cabinet Secretary for that purpose;
 - (g) one person nominated by chairpersons Councils of private universities in a forum of chairpersons of the Councils of private universities convened by the Cabinet Secretary for that purpose;
 - (h) the Commission secretary who shall be an ex-officio member.

(2) A person who was serving as a member of the Commission prior to the commencement of this section shall continue to serve as a member for the remainder of his or her unexpired term or for a period not exceeding ninety days after commencement of this section whichever is earlier after which new commissioners shall be appointed in accordance with this section.

Hon. Temporary Deputy Chairman, this particular amendment defines the Members of the Commission. They include the Chairperson of the Commission, who will be appointed by the President; the Principal Secretary (PS) in the Ministry for the time being responsible for university education; the PS for the time being responsible for the national Treasury; one person appointed by the Cabinet Secretary, who is a distinguished academic scholar with at least 10 years' experience in university education; one person nominated by the Federation of Kenya Employers and appointed by the CS; one person appointed by the Chairman Council of Public Universities in a forum of chairpersons of councils of public universities convened by the Cabinet Secretary for that purpose; one person nominated by the chairperson Council of private universities in a forum of chairpersons of councils of private university convened by the Cabinet

Secretary for that purpose; and the Commission Secretary, who shall be an ex-official member of the Commission.

This clearly defines who forms the Commission just to make sure that there is no ambiguity or tug of war. The amendment also seeks to provide a transition clause. It says that those people who are serving in the Commission for now will continue serving until the expiry of their terms. This will avert a situation where the Commissioners will feel like their terms have been cut short.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Before I propose the Question, let us look at paragraph (d) of the amendment. You have indicated that you want one person appointed by the CS, who is a distinguished academic scholar with at least 10 years' experience in university education. This is something you probably need to clarify so that if it is an issue of drafting it can be dealt with. Reading from where I am, I do not know who will have experience of 10 years in education unless you mean somebody who has repeated severally in the course of his study at the university.

Hon. Ichung'wah: (*Off-record*)

The Temporary Deputy Chairman (Hon. Cheboi): No, you are not going to help yourself now. You can actually pass it to him. This is the only thing we need to look at clearly. For example, I do not know if it was experience in management of university education. Let us look at it in that manner so that it is clear to all of us.

Hon. Njomo: Hon. Temporary Deputy Chairman, this is not experience based on the number of times one has repeated classes at the university. It is experience in management of university.

The Temporary Deputy Chairman (Hon. Cheboi): That goes on record now.

Hon. Gaichuhie: (*Off-record*)

Hon. Njomo: Hon. Temporary Deputy Chairman, I do not know why my colleague here is shouting "Babu Owino". I am talking about 10 years' experience in management of university education.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I now give this opportunity to Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, the intention of this amendment is good but I wonder the objective it hopes to achieve. One of the biggest problems we have had in this country is the mandate of the Commission for University Education (CUE) *vis-a-vis* the role of regulatory bodies. That comes from the fact that while universities and institutions of higher learning provide academic experience, they are very weak with regard to practical experience.

With all due respect, I plead with my good friend, Hon. Ichung'wah, that he cannot have a board of such a commission completely not providing space for professional representatives or professional bodies in this country. It is definitely going to cause a problem. There must be some sort of accommodation. Even if you just take the umbrella body or whatever it is, at least find accommodation for the composition of the Commission. Without that we will get into problems where people look at the same thing but see different things.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give an opportunity to Hon. Ichung'wah.

Hon. Ichung'wah: Hon. Temporary Deputy Chairman, I appreciate the input by Hon. (Eng.) Gumbo. Being an engineer, I think he really knows what he is talking about. In the community I come from, we say that he has jumped before the person hitting the drum has hit it.

The amendment to Clause 5 addresses the concern that Hon. Gumbo is speaking about of incorporating professional bodies. When we get to that, the Hon. Member will see that it has been adequately addressed.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Cecilia Ngetich.

Hon. (Ms.) Ngetich: Thank you, Hon. Temporary Deputy Chairman. I agree and disagree.

The Temporary Deputy Chairman (Hon. Cheboi): That will be very unparliamentary. You have to make a decision. You know the way we make laws here. You are a seasoned Member now. You either oppose or support the amendment.

Hon. (Ms.) Ngetich: Hon. Temporary Deputy Chairman, I oppose the amendment because it had requested to have two members appointed. I now see a whole list of members and that is why I asked the Chair to look at the principal Act to see whether other members existed and they were only adding two more. If they are adding all these members, that council will be bloated. That is why we must look at the numbers. What is the maximum number? I oppose the large number being proposed.

The Temporary Deputy Chairman (Hon. Cheboi): Probably we will give an opportunity to the Chair of the Committee, Hon. Chege.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Chairman. I need to clarify that I saw what was in the initial Act. There were too many members which included five members who were appointed in accordance with Sub-section 2. What Hon. Jude has done is to clean up and leave a team of only seven members.

The Commission had a very large membership. Hon. Jude has just reduced the membership. The provision about five members who would be appointed in accordance with Sub-section 2 has already been deleted. I hope Hon. Jude and Hon. Kimani Ichung'wah will take care of the other sections that follow because there was a selection panel. That means that if the five members are appointed again, then we should clean up what follows after that. Once you make the team leaner, you also need to clean-up from Sub-sections 2 all the way to 9.

The Temporary Deputy Chairman (Hon. Cheboi): In other words, you support the amendment?

Hon. (Ms.) S.W. Chege: Yes, I do. I support the amendment, Hon. Temporary Deputy Chairman.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Millie Odhiambo, I am not going to give you the Floor. I will not do that because there is no indication at all on what you are requesting. You were not here. If you wanted to speak at that time, I will not give you the opportunity now.

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

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

(Hon. (Ms.) Odhiambo-Mabona spoke off the microphone)

The Temporary Deputy Chairman (Hon. Cheboi): I will assume that I did not hear anything at all that the lady from Suba has said. I did not hear anything. Let us proceed, Hon. Members.

The second amendment will be dropped because the first one was carried.

(Proposed amendment by Ms. S.W. Chege dropped)

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairman (Hon. Cheboi): There is an amendment by Hon. Bowen. There is no indication as to--- His amendment is dropped.

(Proposed amendment by Hon. Bowen dropped)

I will give an opportunity to Hon. Ichung'wah.

Hon. Ichung'wah: Hon. Temporary Deputy Chairman, I beg to move:

THAT Clause 5 of the Bill be amended—

(a) by deleting the proposed sub-section(2) of the proposed new section 5A and substituting therefor the following new subsection(2) —

(2) Despite the provisions of any other law, the recognition, licensing, student indexing, approval or accreditation of any academic programme including postgraduate degrees, honorary degrees, diplomas including postgraduate diplomas and other academic certificates offered at a university shall be the exclusive mandate of the Commission to be exercised in accordance with this section at the exclusion of any other person or body.

(b) by deleting the word “shall” appearing in the proposed subsection (3) of the proposed new section 5A and substituting therefor the word “may”.

(c) by inserting the following new subsections immediately after the proposed subsection (3) of the proposed new section 5A—

“(4) Pursuant to section 5(2), the Commission may engage -

(a) professional bodies and associations to carry out inspection of universities on its behalf;

(b) the Auditor-General to offer the Commission professional opinion on management and financial positions of a particular university”

“(5) A person who without the authority of the Commission under this Act purports to license, accredit, recognise, audit, inspect, index students or collect a fee or a charge from a university or a student commits an offence and shall be

liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years or to both.”

The amendment seeks to do three things. One is to confer the exclusive mandate to the Commission to recognise, license, approve or accredit any academic programmes including postgraduate degrees, honorary degrees, diplomas including postgraduate diplomas and other academic certificates offered at the university level.

The second intention is to basically address what Eng. Gumbo was alluding to, namely, to provide that the Commission engages professional bodies and associations to carry out inspection of universities on its behalf. That is a point that has been of major concerns especially to professional bodies. You find universities and institutions of higher education that are offering training in engineering and others in accounting and yet they do not have the requisite people inspecting how well these trainings are being done.

We are now incorporating these professional bodies such as the Engineers Board of Kenya to help inspect universities that are offering degree programmes and postgraduate diplomas on matters to do with engineering. If they are programmes to do with accounting, we have the Institute of Certified Public Accountants of Kenya (ICPAK). We should also incorporate lawyers and all other professional bodies.

The third intention of this amendment is to make it an offence for any person, who without the authority of the Commission purports to license, accredit, recognise, audit, inspect, index students or collect a fee or a charge from a university or a student. This is just to outlaw other busybodies across the country from purporting to collect fees and levies from universities and leave that exclusive mandate to the Commission.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give an opportunity to two Members. I will start with Hon. Melly. Do you want to speak to this one?

Hon. Melly: Thank you, Hon. Temporary Deputy Chairman. I support the proposal by Hon. Ichung’wah.

As stipulated currently, offering degrees, diplomas and certificates has been a problem because there is no proper legislation or regulation. This one is very clear. Currently, we have a number of students in various universities and colleges who are undertaking certificate, diploma and degree courses. If this Bill is not brought to fruition, those students will not have a future. This Bill is supposed to protect them and ensure that universities give training that is recognised by all.

The Temporary Deputy Chairman (Hon. Cheboi): I will give an opportunity to Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, the proposed amendment is good, but I wonder whether it is good enough. You know as we speak today, there are professional bodies, which in law, are also authorised to offer provisions like accreditation programmes at the universities. I wish Hon. Ichung’wah would be alive to that fact and make a statement in this amendment which either makes this provision supersede those provisions.

Accreditation of engineering courses in universities is still in the Engineers Act. We passed that law here. If we do not insert a superseding clause, we will have a clash. While the Hon. Member has attempted to cure my request – that the Commission has incorporated

professionals – the fact that he has made it discretionary is worrying. He says “pursuant to Section 5(2), the Commission may---”

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gumbo, what you expect of Hon. Ichung’wah has already been catered for under Sub-clause 2 of the Bill.

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

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

(Clause 5 as amended agreed to)

(Clause 6 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Duale, I hope you are aware that this is your Bill.

Hon. (Ms.) Ng’etich: What about my amendment to Clause 7?

The Temporary Deputy Chairman (Hon. Cheboi): We will come back to it when we get to the new clauses. Hon. (Ms.) S.W. Chege, please move your amendment.

Clause 7

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 7 be deleted and substituted with the following new clause—

Amendment of section
20 of No. 42 of 2012.

7. Section 20 of the principal Act is amended—

(a) in subsection (1) by deleting paragraph (c) and substituting therefor the following new paragraph (c) —

“(c) may develop its new academic programmes for approval by the Commission in accordance with this Act”;

(b) in subsection (1) by deleting paragraph (e) and substituting therefor the following new paragraph (e) —

“(e) may only award degrees, including postgraduate degrees and honorary degrees”.

(c) by inserting the following new subsection immediately after subsection (3) —

“(4) A Letter of Interim Authority under section 16 shall apply mutatis mutandis to institutions established under subsection (3)”

This is because a Letter of Interim Authority cannot be equated to a charter.

*[The Temporary Deputy Chairman
(Hon. Cheboi) left the Chair]*

*[The Temporary Deputy Chairlady
(Hon. (Ms.) Shebesh) took the Chair]*

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale, let me first propose the Question.

(Question of the amendment proposed)

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, Hon. (Ms.) Chege has not explained the import of her amendment. I would like to request her to explain the import of her amendment because Hon. Ichung'wah wants to delete Clause 7. What happens if her amendment is carried?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. (Ms.) Chege, please move each paragraph.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairman, Clause 7 seeks to amend Section 20 of the principal Act in Sub-Section (1) by deleting paragraph (c) and substituting therefor the following new paragraph (c)—

“(c) may develop its new academic programmes for approval by the Commission in accordance with this Act”;

The justification for this amendment is that the Commission approves academic programmes pursuant to its functions under this Act.

Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale, have you understood the import of Clause 7(a)?

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, Clause 7 says:

“Section 20 of this principal Act is amended in Sub-section (1) by deleting paragraph (c) and substituting therefor the following new paragraph (c)—

“(c) may develop its new academic programmes for approval by the Commission in accordance with this Act”.

What is she doing?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. (Ms.) Chege.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I do not know whether the Leader of the Majority Party is referring to the amendments he had proposed or to the principal Act. My proposed amendment is to the principal Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Under Clause 7(a), you are seeking to delete Paragraph (c) which says:

“(c) may develop its new academic programmes for approval by the Commission in accordance with this Act”.

You want to delete that provision. What is the value of doing so? You should just drop it because it is already in the Bill.

Hon. Gumbo, what do you think?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, the Chairperson of the Departmental Committee should look at the provisions of Section (c) of the principal Act. She is proposing to delete that provision and replace it with a new provision.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. (Ms.) Sabina Chege, can you clarify that?

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, we had to include it as part of the Committees' deliberations. I want to drop Clause 7(a).

(Proposed amendment to Clause 7(a) by Hon. S.W. Chege dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Please, move Clause 7(b).

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, we are amending Clause 7(b) in Sub-section (1) by deleting paragraph (e) and substituting therefor the following new paragraph (e)—

“(e) may only award degrees, including postgraduate degrees and honorary degrees”.

This is to limit universities to offer only degrees, including postgraduate and honorary degrees and shift the focus of universities from engaging in short-term courses of diplomas and certificates that should be offered by TIVET institutions. That is why we recommend this.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Leader of the Majority Party and Hon. Kimani Ichung'wah, please, listen because we had already passed something by the Member for Kikuyu. The Committee Chairperson, we have already passed an amendment on Clause 5 by the Member for Kikuyu that talks about the accreditation of academic programmes, including postgraduate degrees, honorary degrees and diplomas, including postgraduate diplomas.

Technically, your amendment is dropped because we had already passed the issue of diplomas under Clause 5. Technically, the amendment you have moved is in futility because we have already done the amendment by the Member for Kikuyu and passed it. It is actually a technical thing.

Hon. (Ms.) S.W. Chege: I stand guided, Hon. Temporary Deputy Chairlady. So, I drop it. So, then we drop the other amendment.

(Proposed amendment to Clause 7(b) by Hon. (Ms.) S.W. Chege dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, we have no amendment to Clause 7.

Hon. (Ms.) Ngetich: I have an amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Is it on the Order Paper?

Hon. (Ms.) Ngetich: Yes, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Bomet County Women Representative, go ahead.

Hon. (Ms.) Ngetich: Hon. Temporary Deputy Chairlady, I beg to move:

THAT Clause 7 be deleted and substituted with the following new clause

7—

Amendment of section 20 of No. 42 of 2012.

7. Section 20 of the principal Act is amended—

(a) in subsection (1) by deleting paragraph (c) and substituting therefor the following new paragraph (c) —

“(c) may develop and mount its new academic programmes subject to review and approval by the Commission in accordance with the provisions of this Act”.

(b) by inserting the following new subsection immediately after

the subsection (1)—

“(1A) Despite subsection(1) the Commission shall accredit and approve programmes leading to an award of a diploma, including a postgraduate diploma, using the standards and guidelines adopted by the Technical and Vocational Education and Training Authority under the Technical and Vocational Education and Training Act.

No.29 of 2013

What we were discussing was Sub-section (a), which was carried. One reason for the amendment in Sub-section (b) is universities do offer diplomas and certificates that are internal and they are varied.

One university may offer a diploma of one-and-a-half years and another one of two years. So, if we standardise and have them refer to what regulates other tertiary institutions, then we have no problem because the Kenya National Qualification Framework will even have a way of equating these certificates and diplomas.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, we have a conflict in terms of, again, procedure. Clause 5 that was amended by the Member for Kikuyu gives that authority to the Commission. You are now suggesting that we give that authority to the Commission and TIVET. So, how does it sit with Clause 5 that we have already passed? Do you want to engage us a bit?

Hon. (Ms.) Ngetich: Of course, I stand guided. It can be an addition. I have no problem. It is still talking about the CUE but emphasises on making reference to the TIVET Act because all these diplomas and certificates are regulated by the TIVET Authority. By law, all tertiary institutions that offer diplomas and certificates are regulated by the TIVET Authority.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, let us debate this amendment a bit because we have the numbers that allow us to do that. If you are given a certificate by a Commission, you cannot be given another certificate by another organisation. The question is giving authority to two different bodies to do the same job. However, I am open to listen to members so that we can engage.

Let us have the Vice-Chair of the Departmental Committee on Education, Research and Technology.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. I rise to oppose the proposal by the Bomet County Women Representative in the sense that this is the Universities (Amendment) Bill. We have the TIVET Authority that is supposed to deal with issues concerning tertiary institutions. In my consideration, this amendment is actually not supposed to be here. It should be placed in the tertiary institutions because we cannot use legislation for universities to cover the TIVET Authority.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I think the Vice-Chair has said it very well. This Bill from Government is called “the Universities (Amendment) Bill”. TIVET institutions are under a different ball game. I want to make my sister, Hon. Cecilia very comfortable. I want to read the amendment by the Member for Kikuyu, which I think covers her fears. It says:

“Despite the provisions of any other law, the recognition, licensing, student indexing, approval or accreditation of any academic programme including postgraduate degrees, honorary degrees, diplomas including postgraduate

diplomas and other academic certificates offered at a university shall be the exclusive mandate of the Commission to be exercised in accordance with this section at the exclusion of any other person or body.”

So, I think anybody doing a diploma or a postgraduate diploma in any university is covered. For the guys who are in technical institutions, their law cannot be amended here.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Bomet County Women Representative, I think we are almost ready to put the Question. I can also give you the opportunity to think whether you would like to drop your amendment or we put it to vote.

Hon. (Ms.) Ngetich: Well, I do not wish to drop it. I do not know whether I am communicating. For example, we have given mandate to the Kenya National Qualification Framework---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I am actually not guiding you well. Let me guide you better. Because of Clause 5, technically, your amendment is in conflict with what we have already passed. So, we cannot pass another clause for it to be in conflict with a clause we have already passed. So, the same reason that I made earlier about the technicality is the same reason that we have to drop your amendment. Hon. Ngetich, we have to drop it because of the technicality of contradicting what we have already passed.

Hon. (Ms.) Ngetich: That is okay.

(Proposed amendment to Clause 7 by Hon. (Ms.) Ngetich dropped)

Hon. Njomo: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is your point of order?

Hon. Njomo: Hon. Temporary Deputy Chairlady, mine is to give a word of solace and encouragement to my sister, the Bomet County Women Representative, and tell her that we can have two bodies which are competent. I understand where she comes from. She would like us to have a standard system of education for all the certificates that are of equal standing.

I believe we can have KASNEB, the Kenya National Examinations Council (KNEC) and other organisations, which examine and those certificates are of equal strengths. We can also have two bodies which will regulate the TIVET institutions and the universities and our academic standing will remain high. I think her point has been overtaken by events.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you, Hon. Jude.

(Clause 7 agreed to)

Hon. Members, again, let me have your attention because we are not many. From the Table where we sit, we have noted that honorary degrees are included for accreditation, but by practice, they do not need accreditation. So, I put it on record that the Clerk's Office will re-look at the words "honorary degrees" in terms of accreditation and remove them so that it is in line with what the practise is.

Do I get concurrence from the Chair?

Hon. (Ms.) S.W. Chege: Yes, we concur.

Clause 8

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sabina Chege's and Hon. Kimani Ichungw'ah's proposed amendments are both on deletions. Let us start with the Chair.

Hon. (Ms.) S. W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 8 of the Bill be deleted.

The proposed amendment was enacted in pursuant to the Statute Law (Miscellaneous Amendments) Act of 2015, and we did not find it necessary. So, we propose it be deleted.

(Question of the amendment proposed)

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): It is a bit straightforward. What do you want? It is being deleted because it is already enacted.

Hon. A.B. Duale: But---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sabina, please explain to the Leader of the Majority Party.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I would require the Leader of the Majority Party to pay a bit of attention here. I saw what he was doing when I was moving the proposed amendment. He was bending and speaking to somebody.

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, "bending" is a serious term in my community. What was I doing when I was bending? I was not.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sabina, do you want to explain quickly why the proposed deletion?

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, it has already been enacted into law through the Statute Law (Miscellaneous Amendments) Act, 2015. I want to say the same thing for Clauses 9 and 10 for the purpose of saving time.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): For Clauses 8, 9 and 10?

Hon. (Ms.) S. W. Chege: Yes, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): No, we have to go one by one, but we can be very quick.

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

(Clause 8 deleted)

Clause 9

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Sabina Chege.

Hon. (Ms.) S. W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 9 of the Bill be deleted.

I propose it be deleted for the same reason.

(Question of the amendment proposed)

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

(Clause 9 deleted)

Clause 10

Hon. (Ms) S. W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 10 be amended by deleting paragraph (b).

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh: What are you deleting?

Hon. (Ms.) S.W. Chege: Paragraph (b), Hon. Temporary Deputy Chairlady. This is a statute developed for internal governance of universities. Hence, for autonomy purposes of universities, they do not need to seek the approval of the Cabinet Secretary (CS) in order to make statutes and regulations. In any case, once made, they are forwarded to the CS for gazettelement as provided for under the Act.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, if you look at Clause 10, the paragraph (b) that she intends to delete is under Sub-section (2) of Section 23. Sub-section (2) of Section 23 talks about---

Hon. A.B. Duale: *(Off record)*

Hon. (Eng.) Gumbo: That is where we are and, please, stop bending so that you can understand. We are on Clause 10 and it is to be amended by deleting paragraph (b). Paragraph (b) of Clause 10 talks about deleting Sub-section (2) of Section 23 of the principal Act. If you look at Section 23 of the principal Act--- Incidentally, it is not even here.

An Hon. Member: *(Off record)*

Hon. (Eng.) Gumbo: This is what the Order Paper says. So, it is wrong.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, you are doing well. Go ahead. I am following you. You are on course.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, my question is if she is deleting, are we getting back to where we are or is she proposing something to replace the deletion because that is normally the trend?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sabina, that is a fair question.

Hon. (Ms.) S. W. Chege: The principal Act says:

“A university Council shall, as soon as is practicable and in any event not later than three months after making a statute or regulation under this Section, submit it to the Cabinet Secretary for publication in the Gazette.”

We are saying we need that to be deleted because statutes are instruments developed for internal governance of a university hence for autonomy purposes, universities need not seek the approval of the CS in order to make statutes and regulations. In any case, once they are made,

they are forwarded to the CS for gazettelement as provided for under the principal Act. So, it was not necessary.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, have you followed why she is proposing the deletion? Hon. Gumbo, do you need the principal Act so that it becomes clearer?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, the principal Act is supposed to be at the back of the Bill but that section is not there. That is what I was complaining about. Maybe, she is carrying it there. Anyway, she has used very many words, probably, to describe something very simple. I wish she could just make it smart, simple and to the point. She is being very verbose on a matter which ought to be straightforward. All I am asking is, if she is deleting, are we getting back to where we are or what is she replacing?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, I can answer that. She is going back to the principal Act. That is why I wanted you to see it. It is here. I will give you a copy so that you can look at it where it is marked red. See whether it covers your fears or not.

Hon. (Eng.) Gumbo: Thank you very much, Hon. Temporary Deputy Speaker. This now makes sense because it says:

“A university Council shall, as soon as practicable and in any event not later than three months after making of a statutory regulation under the Section, submit to the Cabinet Secretary for publication in the Gazette.”

This makes sense. I agree.

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

(Clause 10 as amended agreed to)

(Clauses 11 and 12 agreed to)

Clause 13

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 13 be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) by inserting the following new subsections immediately after subsection (1)

(1A) A students’ association shall be governed by a students’ council comprising of –

- (a) a Chairperson;
- (b) a Vice Chairperson who shall be of opposite gender with the Chairperson;
- (c) a Treasurer;
- (d) a Secretary-General who shall be the secretary to the Council; and
- (e) three other members to represent special interests of students.

(1B) Every students' council shall be elected in accordance with this Act and its membership shall—

(a) reflect national diversity; and

(b) have not more than two-thirds of its members being of the same gender.

(1C) For purposes of conducting the election of the members of the student council referred to in subsection (1A), the students' association shall constitute itself into electoral colleges based on either academic departments, schools or faculties, as may be appropriate.

(1D) The students of each electoral college constituted under subsection (1C) shall elect three representatives—

(a) from amongst persons who are not candidates under subsection (1A); and

(b) of whom not more than two-thirds shall be of the same gender.

(1E) The representatives of each electoral college shall elect the members of the student council within thirty days of the election under subsection (1C).

(1F) A member of the student council shall hold office for a term of one year and may be eligible for re-election for one final term.

(1G) A person who has held office as a member of the student council of a University for two terms is disqualified from election as a member of the student council of any other University or constituent college in Kenya.

(1H) Every students' association shall, in consultation with the University, formulate and enact rules to govern the conduct of elections including regulation of campaigns, election financing, offences and penalties.

(1I) An election conducted pursuant to this section shall comply with the general principles of the Kenyan electoral system under Article 81 of the Constitution and the rules governing the election of members of the student council.

The purpose of this is just to make sure that we have clean elections of the student council. Of course, we have experienced some problems but we will not experience them again.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, I think that is very clear.

(Question of the amendment proposed)

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I know Hon. Ichung'wah is a busy man but the House has to continue especially at this hour. I support the Chairperson. At least for once, those people who have been in leadership for 30 or 50 years; the likes of Babu Owino and Karl Marx if they are hearing us this afternoon, can only serve for one term and an extra term.

I am wondering why we are legislating and yet this House has not finished the gender principle law. It is unconstitutional. You cannot do a subsidiary legislation when a principle law has not been passed. Why do you say a vice-chairperson shall be of the opposite gender with the chairperson? We should not do unconstitutional things. I am not against the women of Kenya but this is in bad faith. Let us just leave it as the chairperson and vice-chairperson.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party, two-thirds gender principle is enshrined in the Constitution. It is the business of all bodies to implement and actualise the principle of two-thirds principle which is enshrined in the Constitution. So, just because we have been unable to pass the two-thirds rule here in National Assembly does not mean that other institutions cannot actualise the Constitution.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, in elective positions! I want to go on record. In elective positions, it has not yet been implemented into law. I agree that the Judiciary and the Executive can do it but in elective positions where voting takes places, they have to be counted. I know you are a proponent of this matter.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Very much and with no apologies.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, you are an interested party. Tell me where we have legislated in this country on the matter of elective position and amended the law where you tell the university students, for example, in the University of Nairobi where I have a son, that if they want to vie for the position of a Vice-Chairperson, they are denied technically based on law. That is wrong!

Hon. Ichung'wah: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Ichung'wah.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I agree with you that, indeed, the Leader of the Majority Party is misleading the House. What he is purporting to be unconstitutional is, indeed, very constitutional.

The two-thirds gender rule is actually anchored in the Constitution, and it is this House that has failed to provide legislation to actualise the provisions of the Constitution. There is nothing harmful in this country achieving that two-thirds gender rule by starting to train our young ladies at the university level.

I will say this as a father of three very beautiful girls, who I would one day want to see stand as leaders in this country. We can only do this by preparing them at the university level. Therefore, this provision is harmless to anyone. We should just pass the Bill as it is. If anybody wants to go to court, he or she is at liberty to go court and we will be there to defend our daughters.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, you have the Floor.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, thank you for the opportunity. I want to agree with the Leader of the Majority Party that if these positions are elective, first of all, how are you going to realise this principle?

The Temporary Deputy Chairlady (**Hon. (Ms.) Shebesh**): Hon. Gumbo, let me first clarify something with the Leader of the Majority Party. The Leader of the Majority Party, this Bill is yours.

On the third last sentence under Clause 13 (1B) you say:

“The school or faculty in the university shall elect three representatives of whom, at least, one must be of opposite gender from amongst persons who are not candidates under section 1A.”

So, the Member is already implementing the constitutional provision when he talks about the election of the faculty members.

Hon. A.B. Duale: Yes, we agreed. This is a Bill from the Government. The Committee is the one that met the stakeholders. The Committee, in fact, was supposed to amend anywhere

there is elective position. I have nothing against this Bill but let us not--- Unless and until we pass the two-thirds gender principle law in this House, this law will not be valid. If we say that for you to become the Vice-Chair of the Students University Organisation of Nairobi University (SONU), you must be--- We have no problem if the Chair, the Vice-Chair and all the officials of one gender are elected. As of now---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party, let me also remind you that after the elections of the Speaker, this House resolved that the Deputy Speaker's position will be a woman. That is how we were able to get a woman as the Deputy Speaker. Hon. Duale, I 100 per cent know your commitment to the two-thirds gender rule.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, that is a wrong example. It was the Jubilee Coalition. In the previous Parliament, which you and I served, both the Speaker and Deputy Speaker were of one gender.

In the 12th Parliament, it can be the same. The CORD Coalition, in fact, presented a man. So, the man just lost because of the tyranny of numbers.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Jubilee Coalition is the Government.

Hon. A.B. Duale: No, the Jubilee Coalition on that day happened to have a candidature of the opposite gender of the Speaker. Our colleagues from CORD had a candidate by the name of Hon. Abdikadir of Balambala. So, it was a competition.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chairperson of the Departmental Committee on Education, Research and Technology. I will come back to you, Hon. Duale.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendments by the Chairlady that the Vice-Chairperson shall be of opposite gender. I oppose the Leader of the Majority Party in the sense that we want to ensure that the gender rule is implemented as soon as possible. I want to say this because we cannot allow a whole or almost half of the university population not be represented in the students' union.

Two, I want to put this very clearly. This House has set precedents. Our Speaker and Deputy Speaker are of opposite gender and the leaders of committees are also of opposite gender. I am saying that because we are supposed to set a precedent as a nation. If we are to value our girls, daughters and women, we should start from the universities.

Thank you. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Dennitah Ghata and then the Siaya County Women Representative.

(Hon. A.B. Duale consulted Hon. (Ms.) S.W. Chege)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Leader of the Majority Party, please let us hear everybody's side because we will go to vote at the end of the day.

Hon. (Ms.) Ghata: Allow me to express my concern with the Leader of the Majority Party. I am very surprised to hear the Leader of the Majority Party, who most Kenyans know and look up to, talk about the issue of gender like that.

Recently, we had the Chief Justice (CJ) and then the Deputy Chief Justice (DCJ) who is a woman. What is wrong with this? I am not sure what the Leader of the Majority Party is up to. Look at our own House, our Speaker and the Deputy Speaker are from opposite gender. The

Leader of the Majority Party has talked about SONU and Babu Owino. Babu Owino is the Chairman of SONU. I do not know what problem he has with Babu Owino. If the university fraternity can elect Babu Owino--- It is normal for elections. I am surprised that despite the numerous efforts we are making to ensure women get in, our own Leader of the Majority Party is talking against it. In fact, it should not even be an issue. That is how we get socialisation wrong.

I am disappointed.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have the Siaya County Women Representative.

Hon. (Ms.) Ombaka: Thank you, Hon. Temporary Deputy Chairlady.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Cheboi): Please, let everybody have their chance.

Hon. (Ms.) Ombaka: My contribution is that this is not the two-thirds gender rule we are applying here. We are only considering a section that allows women to be there. So, it is not a harmful idea at all. It is simply giving an opportunity to some women to be in the students' unions. Therefore, it is not harmful; it is really supporting the two-thirds gender rule. Even if we come up with a law here, we will not go back to do elections for the students. We might as well go ahead now and allow the women to be part and parcel of this. This is a practise in many places today. It is no longer an issue.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you. The Member for Bondo, Hon. Ochanda, you have the Floor.

(Hon. Gaichuhie gestured)

I will come back to you. I will give everybody a chance because you are not many. Just be to the point.

Hon. Ogolla: Thank you. In one election---

(Hon. A.B. Duale consulted Hon. Melly)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, if you have an opposite view--- The Leader of the Majority Party and the Vice-Chairperson of the Committee, people are debating so that you hear.

Hon. Ogolla: *Mhe.* Duale, I want to support you if you could listen to this. In one election, you cannot predetermine which gender takes which position. It is not very easy but when it comes to appointive positions, it is easy.

Our memory is also failing us here. In the Senate, the Speaker and the Deputy Speaker are all male.

An Hon. Member: On a point of order!

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will give members a chance to speak. I will not take points of order. Please, let members just give their views.

Hon. Ogolla: Hon. Temporary Deputy Speaker, where all the chairpersons, the vice-chairpersons and all these positions are elective, it is not very easy to predetermine, as much as you want, the gender issue. We must get a different way. That is exactly why, even when we are

doing the nominations of female members to county assemblies, it is after the elections are done that we balance the genders.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, you have been heard. Hon. Kathuri, I am coming to you.

Hon. Murungi: Thank you, Hon. Temporary Deputy Chairlady.

I think Hon. Duale makes a lot of sense in this because what we should be considering is whether the whole association is adhering to the two-thirds gender rule and not one position for the vice-chairperson. The whole association should have the two-thirds gender rule. I think that is the best way to legislate and not one position because ---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Your point is made. Let us have Hon. Kamama.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I oppose this proviso. I agree with the Leader of the Majority Party and the Member of Parliament for Bondo, my friend from the other side that this is micromanaging elections; you predetermine. Let democracy prevail. When it comes to selecting members of the secretariat and other staff, the two-thirds gender rule can apply. This can apply especially when it comes to administration.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Your point is made. Hon. Duale, those in contestation with what the Chairlady of the Committee has proposed have to bring a further amendment to part (b) so that we are able to discuss that further amendment and vote on it so that we do not have to affect the entire process.

Hon. Chairlady of the Committee, you can say something as we are preparing the further amendment.

Hon. (Ms.) S.W. Chege: On the whole debate about the vice-chairperson being of an opposite gender, first and foremost, I want to tell the men here that they should not just assume we are fighting for women rights; it is for either gender. We can have a lady who is the chair. When we go to the issues of how the elections are done, we will first do the election of the chair so that the deputy can then come from the opposite gender.

I also want to be on record that we met various groups and this is the spirit that is even within the councils of university students. It is very sad to see that university students are ahead of us. This is a House that is supposed to set the pace. I am very disturbed when I see Hon. Members not going with the spirit of what the students of universities would actually wish to happen to them.

If we agree that we can, first, hold the elections for the chair, whether it is a lady or a man, the other person will be of opposite gender--- If we go to a country like Belgium where women were not even allowed to vote, we will find that today their Parliament has over 45 per cent women.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, let me make it easy for you.

Hon. Duale will have an amendment. Also to put it on record, the universities are already not only in agreement but this is how elections at the universities are done. So, whether we put it in law or not, they already have that as the practice. All they were asking is that what they have been doing as the practice be entrenched in the law. But because the Leader of the Majority Party has a very strong opinion, please give us that further amendment.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Clause be further amended by deleting the words “who shall be of opposite gender with the Chairperson”.

I want you to give me only one minute. I have no problem with this amendment but, what we are dealing with is subsidiary legislation.

The Constitution of 2010 asked Parliament to implement the two-thirds gender principle. This afternoon, we had a meeting with the stakeholders on how to bring back the Bill that we lost. We cannot do that same law on any elective position in this country through the back door or a subsidiary legislation.

I beg to move and ask the Hon. Member for Bondo to second.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You do not need a Seconder. I want to put the Question.

(Question of the further amendment proposed)

Do you understand how you are voting? I just want to repeat it and no comments. I just want you to know what you are doing. Hon. Members I want decorum, I have given enough latitude on this and we are now going to the vote.

(Question of the further amendment that the words to be left out be left out, put and negatived)

Let us dispose of the first amendment to Clause 13.

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

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

(Clause 13 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Member.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, you need to guide on whether this amendment that has just passed is in tandem with the provisions of the Constitution in as far as --- You know you are just a junior, and I am a ranking member. I was in this House---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): She is the Chair of the Departmental Committee on Education, Research and Technology.

Hon. A.B. Duale: She is but I am a ranking Member. You know, she is a Form One and I am in Form Two. You can continue but, I want to go on record in the HANSARD asking whether the amendment we have passed this afternoon is in tandem with the provisions of the Constitution because that amendment is a piece of an amendment in a subsidiary legislation which is inferior to the Constitution, in as far as elections are concerned. If we do this, I will say that the women of Kenya are very lucky because now there must be a two-third gender rule in this House, in the 12th Parliament. We do not need to have Hon. Chepkong'as Bill or Hon. Duale's two Bills. We have already done it. Somebody must be clear. I want that stopped. I further ask the Chair to clarify to me whether what we have done is in tandem with the Constitution. This is a House that makes laws. It is not a *mitumba* market and there must be consistency.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I can answer you. Hon. Leader of the Majority Party, I am the Chair and you have asked me if what we have done is constitutional. I will tell you, it is very constitutional and what we are doing is our legislative mandate to ensure the Constitution in letter and spirit is implemented. It is exactly what we have done. So, it is constitutional.

Clause 14

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Kimani Ichung’wah you have an amendment. You want to delete Clause 14.

Hon. Ichung’wah: Hon. Temporary Deputy Speaker, I beg to move:

THAT, Clause 14 of the Bill be deleted.

The amendment seeks to delete the provision barring a private university granted a charter from entering into a financial arrangement with any person or institution upon such terms and conditions as may be set out in such financial arrangements, for purposes of financing objectives for which such a university is established. The principal objective is just to allow private universities also to access finances from whatever institution they can get finances from to advance the very business that they are licensed by the Commission.

(Question of the amendment proposed)

Hon. (Ms.) S.W. Chege: I have no objection.

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

(Clause 14 as amended agreed to)

Clause 15

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Kimani Ichung’wah we start with your deletion.

Hon. Ichung’wah: Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 15 of the Bill be amended by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) by deleting the words “public universities, establish” appearing in paragraph (d) and substituting therefor the words “Chairpersons of Councils of public universities, propose and establish for approval by the Cabinet Secretary and the Auditor-General”;

This amendment seeks to clarify the provisions relating to the funding of public universities and the issuance of conditional grants to private universities. I propose that Members support the amendment as contained in the Order Paper.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair of the Committee. Give her the microphone.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chair, I have no objection.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair you also have an amendment on Clause 15. You can only move paragraph (c)

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 15 be amended –

(a) In paragraph (b) by deleting the words “issuance of” and substitute therefor the word “issue”

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

“(c) by inserting the words “for approval by the Cabinet Secretary” immediately after the word “offered” in paragraph (d)

(c) by inserting the following new paragraph immediately after paragraph (c) –

“(d) by deleting subsection (6); and

“(e) by deleting subsection (7)”.

I think I should move part (a) also because the first one was grammatical. On part (b) I dropped it in favour of Kimani Ichung’wah’s amendment, but I also move the amendment on part (c) which we are deleting subsections (6) and (7).

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have just told us what you are deleting. Give us the import of deletion of (c).

Hon. (Ms.) S.W. Chege: We have a new clause that we have proposed. I know we are first dealing with the whole clause but it will come in the new clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have a new clause?

Hon. (Ms.) S.W. Chege: Yes, New Clause 15 (A).

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair, you cannot be part of the people who are not saying “Aye” or “Nay”. You have to know what your work is here, do your work and let the Hon. Leader of the Majority Party do his work.

(Clause 15 as amended agreed to)

Clause 16

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Kimani Ichung'wah, you have an amendment to delete the entire clause. Give us the import.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 16 of the Bill be deleted.

My amendment seeks to delete the clause to avoid creating ambiguity in the placement by respective universities or colleges of the Government sponsored students to the existing universities. The clause seems to confer the role concurrently to both the Commission and the universities. You will appreciate that beginning this year the Jubilee Administration has done the students of this country a lot of good service by enabling many who would not have been able to access university education, to be placed to private universities under sponsorship by the Government. That is just the ambiguity that I want to clear with that deletion.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think that is clear.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will start with the Chair of the Committee.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I agree with the first part, but he has proposed that we delete the whole clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, we are deleting the whole clause.

Hon. (Ms.) S.W. Chege: As a Committee, we had already done further amendments where we had proposed the first one. I do not know whether I should just---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): No. We gave preference to him because he was deleting the whole clause. If it is carried, yours is dropped automatically. I know it puts you in an awkward position.

Hon. (Ms.) S.W. Chege: Yes, it puts me in a very awkward position because the issue he raised earlier about the public universities, we had proposed that we delete the first proposed amendment so that we can cater for both public and private universities as per the Jubilee Government's agenda.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What you should be saying, Chair, is that you oppose then we will move to your amendment. Because you are not agreeing with the deletion of the clause, just say you oppose that particular one then we can move to yours.

Hon. (Ms.) S.W. Chege: Okay. Let me oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Member for Bomet.

Hon. (Ms.) Ngetich: Hon. Temporary Deputy Chairlady, I seek guidance or clarification. Where we have amendments by the Committee and by a Member, which ones carry the day? I thought the Committee should be given the opportunity to move their amendment and if there is any Member, then he or she can come in later. It is like undoing the entire process that the Committee considered, including public participation.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Again, Hon. (Ms.) Ngetich, I will just advise you like I did to the Chair. Oppose the amendment by the Member. Let me give you clarification in one minute. I think from how she spoke, she is opposing. I am looking at the Standing Order that---

Hon. (Ms.) Ngetich: I am only seeking clarification.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member for Bomet, I want to give you the sequence as per the Standing Orders so that you understand why we have to go the way we are going.

The Leader of the Majority Party, do you want to speak on this?

Hon. A.B. Duale: What Hon. Ichung'wah is trying to say is that by deleting we are making it clearer. We are removing ambiguity in as far as placement of students in respective universities is concerned, particularly Government sponsored to existing institutions. We need to dispose of that amendment.

I think the procedure of the House is that it is good to consult with the Chair of the Committee for concurrence, but the Chairs of Committees do not have absolute authority over an amendment of another Member of Parliament.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I just want to read Standing Order 54. The Chair and the Member or Bomet, I am answering you. Standing Order 54(5) says:

“Upon any amendment to leave out words and insert or add other words instead, a question shall first be proposed “That, the words proposed to be left out be left out of the question”, and if that question is agreed to, the question shall then be proposed, “That, the words [of the amendment] be therein inserted” (or “added”), but if the first question is negatived, no further amendment may be proposed to the words, which it has been decided shall not be left out.”

I wish you had your Standing Orders because it is a bit complicated. In simple English it means that you must start with deletions before you go to any other amendment. That is the simple way of saying. It is a procedure in the Standing Orders.

Members, if you do not agree with Hon. Kimani Ichung'wah's amendment to delete because you want to do further amendment as the Chair, then we just go to the vote and you lobby. Can I now put the Question?

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

(Clause 16 deleted)

Hon. (Ms.) Ngetich: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, the Member for Bomet.

Hon. (Ms.) Ngetich: Hon. Temporary Deputy Chairlady, if I listened to your guidance earlier, you said that if we must have our amendments then we must agree to first delete and then we put in our amendment. But that does not work.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You did not listen. You have said the opposite of what I said. I will show you another way these things are done. Hon. Ichung'wah's amendment, you should have seen it as a Committee, realise that he wants to delete the whole clause and lobby him. Your amending may be the reason why he is deleting.

One of the reasons could be part of what you want to do further amendment on. Are we together in terms of procedure?

Thank you.

Clause 17

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Again, Hon. Kimani Ichung'wah. Chair, make sure you know what Hon. Kimani Ichung'wah wants to do.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Chairman. I am sure the Chair of the Committee has gone through the amendment and she is aware.

I beg to move:

THAT, Clause 17 of the Bill be amended by deleting the words “university or” and substituting therefore the words “senate of a university granted a charter or by”.

This amendment seeks to create clarity on the transitional provisions by providing that the Act shall not apply to an academic programme previously approved or accredited by the senate of a university granted a charter or the commission prior to the coming into force of this Act. I am sure the Chair of the Committee concurs, since she had read.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair of Committee, are you in agreement with it?

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

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

(Clause 17 as amended agreed to)

New Clause 5A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Chair of the Committee, Hon. Sabina Chege. We are now on the new clauses. On the Order Paper, you will find them on page 2203.

Hon. (Ms.) S. W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the following clause be inserted immediately after Clause 5—

Amendment of section
8 of No. 42 of 2012.

5A. Section 8 of the principal Act is amended in subsection 1 by inserting the following new paragraph immediately after paragraph (a)—

“(aa) is absent from three consecutive meetings of the Commission without the permission of the Chairperson, or, in the case of the Chairperson, the permission of the Cabinet Secretary.”

(Question of the new clause proposed)

(New clause read the First Time)

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

We are amending Section 8. Hon. Ichung'wah's amendment, just for clarification, never touched Section 8. This is to provide that a vacancy may arise in the Commission in case of absence from three consecutive meetings without permission, in harmony with the State Corporations Act and the Presidential Order No. 7 of 2015 which is known as *Mwongozo*.

Thank you, Hon. Temporary Deputy Chairlady. I hope you were listening to me.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I was listening.

Hon. (Ms.) S.W. Chege: This is per *Mwongozo* which is the State Corporations Act and Presidential Order No. 7 of 2015.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I do not see any interest in that because it is straightforward.

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

(The new clause was read a Second Time)

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

New Clauses 5B and 5C

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ichung'wah, we are taking New Clauses 5B and 5C at the same time.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after clause 5A-

Amendment of section 7 of No. 42 of 2012. 5B. Section 7 of the principal Act is amended—

(a) in subsection (1) —

(i) by inserting the words “and has at least fifteen years’ experience in matters relating to university education” immediately after the words “in Kenya” appearing in paragraph (a);

(ii) by deleting the words “section 6(d), holds a masters degree from a university recognized in Kenya, and at least five years’ experience in leadership, management or academia” appearing in paragraph (b) and substituting therefor the words “section 6(e), (f) and (g) holds a masters degree from a university recognized in Kenya and has at least ten years’ experience in university education”.

(b) by deleting subsection (5).

Amendment of section 11 of No. 42 of 2012. 5C. Section 11 of the principal Act is amended in subsection (1) by deleting the words “a doctorate degree” appearing in paragraph (a) and substituting therefor the words “a masters degree”.

Clause 5B, as we had alluded to earlier, maybe the clerks could amend “the matters relating to university education” to be “15 years’ experience in matters relating to university education management” as a typographical correction.

The amendment seeks to provide that a person shall be qualified for appointment as a Chairperson of the Commission, if that person holds a doctorate degree from a university recognised in Kenya and has at least 15 years’ experience in matters relating to management of university education.

It further seeks to provide that a person shall be qualified for appointment as a member of the Commission referred to under Section 6(e), (f) and (g) if the person holds a master’s degree from a university recognised in Kenya and has at least 10 years’ experience in management of university education, not in matters relating to university education. The Chair had earlier alluded to that; not to mean people who have experience in hanging around universities like Babu Owino and the rest.

The amendment also seeks to provide that a person shall be qualified for appointment to the Commission only if that person holds a master’s degree from a university recognised in Kenya to ensure that the people we are putting in the Commission are people who are well educated and have the requisite experience in management of universities.

I beg that we support the new clauses.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair of the Committee, are you okay with the new Clauses 5B and 5C? Therefore, I put the Question.

(Question of the new clauses proposed)

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

(The new clauses were read a Second Time)

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

New Clauses 6A and 6B

Hon. (Ms.) S. W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the following new clause be inserted immediately after clause 6—

Amendment of section 13 of No. 42 of 2012. 6A. Section 13 of the principal Act is amended in subsection (1) by inserting the words “or a Letter of Interim Authority” immediately after the word “Charter”.

Hon. Temporary Deputy Chairlady, initially I thought I would drop that, but a Letter of Interim Authority for a university is currently also considered as an instrument of accreditation. Therefore, I need to open that for debate. When we say only the charter--- I would like to read the principal Act. Section 13(1) says:

“Every university in Kenya shall be established by a charter in accordance with this Act.”

We know that there are universities which already exist with interim letter of authority before they are fully given a charter. I would beg to move that amendment so that we have a Letter of Interim Authority or a charter.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is New Clause 6A. Move New Clause 6B so that I put the Question for both New Clauses 6A and 6B.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:-

Amendment of section 15 of No. 42 of 2012. THAT, the following new clause be inserted immediately after clause 6—
6B. Section 15 of the principal Act is amended in subsection (2) by deleting the words “commence or” appearing in paragraphs (b) and (c).

Hon. Temporary Deputy Chairlady, the justification is that the Commission does not grant a Letter of Interim Authority to an institution unless it has established that the institution has adequate academic and infrastructural resources. As such, an institution with a Letter of Interim Authority cannot commence but continue to develop and assemble resources.

(Question of the new clauses proposed)

(The new clauses read the First Time)

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

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

(The new clauses were read a Second Time)

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

Hon. Ichung’wah: Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 6—

Amendment of section 20 of No. 42 of 2012. **6A.**Section 20 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—
(2A) Despite the provisions of Section (1)(d), a public university shall not establish a campus or a college in a foreign country

without the approval of the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to finance.

Hon. Temporary Deputy Chairlady, this is a matter that is very dear to me more so from my experiences as the Vice-Chairman of the Public Investments Committee (PIC), where we have been providing oversight to the public universities. I will give the House a classic example of two public universities which have set up universities in Arusha and Rwanda. The Jomo Kenyatta University of Science and Technology (JKUAT) and Kenyatta University (KU) some years back used public resources to buy buildings in Kigali, Rwanda, and set up universities before they got accreditation and approval from the Ministry of Education and the Commission for Higher Education. About Kshs300 billion was invested in Kigali. Not only is the procurement process of the purchased building questionable but even the person who was acting Director of that university has since disappeared with a handsome amount of taxpayers' money. The same case happened with KU.

The two universities were notorious in competing to set up university campuses outside this country. One wonders whether by the time the two universities proceeded to establish campus outside this country, they had established university campuses across our own country. I am not saying that we should not encourage foreign students to attend our universities but let us encourage those foreign students to come and attend our universities in our countries. That way, we will also be creating employment and promoting investment for people who build hostels around our universities. This amendment is informed by this experience.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ichung'wah, your explanation is very clear.

Hon. Ichung'wah: I am sorry for being passionate about this amendment but it is because of the pain of losing money in foreign countries.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have made your point.

Hon. Ichung'wah: All I am seeking to do through this amendment is to ensure that by the time our universities seek to establish campuses outside this country, they have the concurrence of the relevant authorities.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You are saying it for the second time. I am saying you had already done so at the beginning.

Hon. Ichung'wah: Two, and most importantly, from the Treasury---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will stop you, Hon. Ichung'wah. You have made such a clear and valid point.

(Question of the new clause proposed)

(The new clause was read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Departmental Committee Chair, do you have comments on the amendment? We need to move faster, otherwise we will not finish this Bill today.

Hon. (Ms.) S.W. Chege: Hon. Temporary Chairlady, I support the amendment. I understand why Hon. Ichung'wah is very passionate about it.

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

(The new clause was read a Second Time)

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

New Clause 10A

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the following new clause be inserted immediately after clause

10—

Amendment of section 34 of No. 42 of 2012 10A. Section 34 of the principal Act is amended by inserting the words “or Letter of Interim Authority” after the word “Charter”.

Hon. Temporary Chairlady, Section 34 says “subject to the provisions of this Chapter, a university shall be governed in accordance with the provisions of the Charter granted under this Act and statutes made by its Council.” I guess I am still going back to what I had amended earlier. We wanted to insert the words “or Letter of Interim Authority” after the word “Charter”. This is because of what I explained earlier.

(Question of the new clause proposed)

(The new clause was read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Departmental Committee Chair, you explained it well earlier on. Let us move faster.

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

(The new clause was read a Second Time)

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

New Clauses 11A and 11B

Hon. (Ms.) S.W. Chege: Hon. Temporary Chairlady, I beg to move:

THAT, the following new clauses be inserted immediately after clause

11—

Amendment of
section 36 of No. 42
of 2012

11A. Section 36 of the principal Act is amended —

- (a) in subsection (1) by inserting the words “in such a manner as may be prescribed in guidelines issued by the Cabinet Secretary” immediately after the word “process” in paragraph (d);
- (b) by inserting the following new subsections immediately after section (2)—

“(3) In making appointments under this section the appointing authority shall have regard to the objectives of the development of university education, ensuring that there are balanced competencies, gender equity, and the inclusion of stakeholders, persons with disabilities, the marginalized and other minority groups”

“(4) The provisions of section (8) relating to the vacancy of office of the chairperson and members of the Commission shall apply with necessary modifications to the chairperson and members appointed under subsection (1) (a) and (d)”

“(5) The members of the Council appointed under section 36(1) shall at their first meeting after appointment determine by lot which two of their number shall vacate office after a period of three and four years respectively to ensure continuity in the activities of the Council”

“(6) The provisions of the First Schedule shall apply with necessary modifications, to the conduct of the business and affairs of the Council”

Amendment of
section 38 of No. 42
of 2012.

11B. Section 38 of the principal Act is amended in subsection (5) by inserting the words “for a period not exceeding three months” immediately after the word “Council”.

Hon. Temporary Chairlady, we are seeking to provide for alignment in matters to do with appointment of members of the Council of Public Universities, filling up of vacancies in the Office of the Chairperson as well as conduct of the affairs of the council and legal requirements.

(Question of the new clauses proposed)

(The new clauses were read the First Time)

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

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

(The new clauses were read a Second Time)

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

New Clause 13A

Hon. (Ms.) S.W. Chege: Hon. Temporary Chairlady, I beg to move:

THAT, the following new clause be inserted immediately after clause

13—

Amendment of
section 51 of No. 42
of 2012.

13A. Section 51 of the principal Act is amended in section (2) (f)
by —

- (a) after inserting the words “or audit” immediately after the word “accreditation; and
- (b) deleting the word “state” appearing immediately the words “financial obligations”.

Hon. Temporary Chairlady, this amendment is for the purpose of ensuring that the Commission is able to audit private universities to see if they meet set international standards.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairs, approach the Clerks Table.

(Hon. Ichung’wah and Hon. (Ms.) S.W. Chege approached the Clerks Table)

We are just doing consultations because the amendments by Hon. Ichung’wah and that of the Chair do not contradict.

Hon. (Ms.) S.W. Chege: I will move the amendment to New Clause 13A as proposed in part (a) and drop the amendment as proposed in part (b) because I understand Hon. Kimani Ichung’wah has a similar amendment and I would like to support his amendment.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Kimani Ichung’wah.

Hon. Ichung’wah: Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 13 –

Amendment of section
51 of No. 42 of 2012.

13A. Section 51 of the principal Act is amended in subsection (2) (f) by deleting the words “state which shall not be published without the prior consent of the university concerned” and substituting therefor the words “which shall be published upon the Commission issuing notice to the university concerned”.

Thank you, Hon. Temporary Deputy Chairlady. This amendment is just to give clarity to the fact that the financial obligations of the university shall be published by the Commission upon the Commission issuing notice to the university concerned, as was previously provided for. There had to be concurrence or consent from the university.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clauses 15A and 15B

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT the following new clauses be inserted immediately after clause

15—

Insertion of new
sections into No.
42 of 2012.

15A. The principal Act is amended by inserting the following new sections immediately after section 54—

Director of
the Fund.

54A. (1) There shall be a Director who shall be the chief executive officer of the Fund, appointed by the Cabinet Secretary on recommendation of the Board of Trustees of the Fund following a competitive recruitment process, and who shall serve for a term of five years, which may be renewed for one further term.

(2) The Director of the Fund shall be responsible for the day to day management of the affairs of the Fund.

(3) A person shall be qualified for appointment as a Director if such person—

(a) is a Kenyan citizen;

(b) holds a degree or its equivalent from a university

recognized in Kenya in the field of banking, education, law, finance, economics or management;

(c) has at least ten years' relevant professional experience in the management of a public or private institution; and

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Staff of the Fund.

54B. (1) The Fund may employ such other officers and staff as it may deem necessary for the performance of its functions under this Act.

(2) All appointments under this section shall take into account gender equity, ethnic and regional balance in accordance with the Constitution.

Financial provisions

54C. The provisions relating to the finances of the Commission as set out in sections 31, 32 and 33 shall apply, *mutatis mutandis* to the finances of the Fund.

Insertion of new sections into No. 42 of 2012

15B. The principal Act is amended by inserting the following new sections immediately before section 55—

Meaning of the word "college" No. 29 of 2013

54D. In this Part "college" means an institution established under the Technical and Vocational Education and Training Act, or any other public training institution of higher learning established under an Act of Parliament".

The office of the Director as the Chief Executive Officer (CEO) of the fund is proposed as well as the staff of the fund as it is in Section 54(5). It is not comprehensive and merely borrows from the provision relating to the Commission to apply, with the necessary modifications, to the board of trustees. Therefore, the provisions are now proposed substantively as per the amendment. This ensures alignment with *Mwongozo* and the State Corporations Act, 2015.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

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

(The new clauses were read a Second Time)

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

New Clauses 16A, 16B, 16C and 16D

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Bill be amended by inserting the following new clauses immediately after clause 15—

Amendment of section 61 of No. 42 of 2012. 16A. Section 61 of the principal Act is amended in subsection (1) by inserting the words “in all its colleges and campuses” immediately after the words “its premises”.

Insertion of a new section into No. 42 of 2012. Form of Instrument of accreditation. 16B. The instruments of accreditation shall be in the form prescribed in the Third Schedule to this Act.

Amendment of section 69 of No. 42 of 2012. 16C. Section 69 of the principal Act is amended in subsection (2) by deleting the words “five hundred thousand” and substituting therefor the words “one million”.

Amendment of section 84 of No. 42 of 2012. 16D. The principal Act is amended by deleting section 84.

This is to ask that all accredited universities conspicuously display their accreditation papers in all their campuses and colleges. Members will appreciate the delusions that students have had in this country. You remember the case of the Nairobi Aviation College and many other colleges where students attend colleges without knowing whether those institutions are accredited.

The second thing is to increase the penalty for not displaying this accreditation from what was provided for earlier from Kshs500,000 to Kshs1,000,000. The new clause also seeks to realign the Bill with the amendment we made in Clause 4 on the transition clause.

*(The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh)
consulted with the Clerks-at-the-table)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members we have reordered the numbering to be New Clauses 16A, 16B, 16C, and 16D on page 2214 of the Order Paper. Let us be clear about the numbering. Just give us a second.

Hon. Kimani Ichung'wah, I want you to understand the numbering. I want us to agree. What you initially moved were New Clauses 15A, 15B, 15C and 15D. That was what it was initially. Are you clear Hon. Ichung'wah? What is shown on the Order Paper as New Clauses 15A, 15B, 15C and 15D are now New Clauses 16A, 16B, 16C and 16D. Are you clear on that? Hon. Kimani Ichung'wah, are you clear on that?

Hon. Ichung'wah: Yes.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

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

(The new clauses were read a Second Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, there is an amendment by the Chair of the Committee.

Hon. (Ms.) S. W. Chege: Hon. Temporary Deputy Chairlady, I beg to move:

THAT the following new clauses be inserted immediately after clause 16—

Insertion of new section 69A into No. 42 of 2012. 16A. The principal Act is amended by inserting the following new section immediately after section 69—

Commission may issue a notice to comply

69A. (1) The Commission may, by notice in writing, require an institution in default of any provision under this Act, regulation, standards and guidelines to comply therewith within a prescribed time and in a prescribed manner.

(2) If any institution served with a notice under sub-section (1) fails to comply therewith, the Commission may close the institution either permanently or until the notice is complied with.

(3) Any person aggrieved by the decision of the Commission under subsection (2) may appeal to the Cabinet Secretary within thirty days of the decision.

Amendment of section 70 of No. 42 of 2012. 16B. Section 70 of the Principal Act is amended in—

(a) subsection (1) by inserting the words “with relevant stakeholders” immediately after the word “consultation”;

(b) subsection (2) by deleting the expression “foreign” appearing in paragraph (a)

Amendment of the First Schedule 16D. The principal Act is amended in the First Schedule by deleting paragraph 4 and substituting therefor the following new paragraph 4—

“(4) The quorum for a meeting of the Commission shall be five members.”

This confines the function of the Kenya Universities and Colleges Central Placement Service (KUCCPS) to placement of Government-sponsored students to public universities and colleges and also to private universities as per the new development.

(Question of the new clauses proposed)

(New clauses read the First Time)

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

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

(The new clauses were read a Second Time)

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

New Clauses 17A and 17B

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ichung'wah, on the Order Paper, your amendment appears as 7 but it is supposed to be 17. There is a typographical error.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 17—

Amendment of the
First schedule of No.
42 of 2012.

7A The First Schedule to the principal Act is amended in paragraph (4) by deleting the words “seven members, who shall include five appointed members” and substituting therefor the words “the chairperson and three other members”.

Insertion of new
schedule into No. 42
of 2012.

7B The principal Act is amended by inserting the following new schedule immediately after the second schedule—

THIRD SCHEDULE

(s. 15B)

LETTER OF INTERIM AUTHORITY

Pursuant to section 14 of the Universities Act No. 42 of 2012, this.....day of.....20.....the Cabinet Secretary has granted(name of university) a Letter of Interim Authority authorising the university to operate in accordance with the provisions of sections 15, 16 and 17 of this Act.

Signed

Cabinet Secretary.

CHARTER

Pursuant to section 13 of the Universities Act No. 42 of 2012, this day of.....20.....the Commission accredits

.....(name of university) to be established as a university in accordance with the provisions of this Act.

Signed

Chairperson of the Commission

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ichung'wah, the issue of quorum has already been approved and carried. We are on the Chairperson's amendment. You can only move New Clause 17B because New Clause 17A contradicts what has already been moved by the Chairperson and passed by the House.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I withdraw New Clause 17A and move New Clause 17B.

Hon. Temporary Deputy Chairlady, the signatory to the Letter of Interim Authority is the Cabinet Secretary while the signatory for the Charter is the Chairperson of the Commission. In order for them to have interim authority of operation, the Chairperson of the Commission must give an approval.

(Proposed New Clause 17A by Hon. Ichung'wah withdrawn)

(Question of the new schedule proposed)

(New schedule was read the First Time)

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

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Chairlady, I wanted the Mover to explain something to me. Why do we have the Cabinet Secretary signing the Letter of Interim Authority and the Charter is signed by the Chairperson of the Commission? I would like to have that clarification or a further amendment so that both of them, whether it is Letter of Interim Authority or the Charter, are signed by the Chair of the Commission.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Kimani, are you ready to respond to that?

Hon. Ichung'wah: Yes, Hon. Temporary Deputy Chairlady. I concur with her further amendment that even the Letter of Interim Authority should be signed by the Chair of the Commission and the Cabinet Secretary (CS) since the Commission is the one accrediting all these people so that we do not look like we are taking away work that belongs to the Commission to the Cabinet Secretary. So, both of them can sign the Letter of Interim Authority.

So, I want to move that we add a further amendment on the Schedule to add the Chairperson of the Commission also as a signatory.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Do you have the principal Act? Hon. Ichung'wah and Chair of Committee, so that we are clear, let me read what is on the principal Act.

The principal Act says:

“The Cabinet Secretary may grant a letter of interim authority to an institution under sub-section (1) if satisfied that such institution shall, once established, contribute to the development of university education in Kenya.”

What are we amending there? Hon. Ichung’wah, what are we doing in terms of the Schedule?

Hon. Ichung’wah: Hon. Temporary Deputy Chairlady, all we wanted to do is have a prescribed form of the instruments of accreditation and what the prescribed form shall be. In view of what you have just read out in the principal Act and the fact that the Commission has a mandate in the accreditation process, there is no harm in having both of them signing as the Chair of the Committee has proposed. We can have the Chair of the Commission sign and also the Cabinet Secretary or the Chairperson can sign once there is concurrence from the Cabinet Secretary.

Hon. (Ms.) S.W. Chege: After consultations, the Chair of the Commission will give a Letter of Interim Authority having approved it and then forward it to the Cabinet Secretary for signatory. Therefore, I propose that it is amended so that both the Letter of Interim Authority and the Charter be signed by the Cabinet Secretary. That is my proposal.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Does it conflict with what Hon. Ichung’wah wants?

Hon. (Ms.) S.W. Chege: No.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gichigi, do you want to say something?

Hon. Gichigi: Hon. Temporary Deputy Chairlady, I think, obviously, the Schedules should concur with what is in the section itself. Therefore, there should not be any contradiction at all.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I said I will give another Member a chance before giving some guidance.

Hon. Ochanda.

Hon. Ogolla: Thank you. I think for purposes of records, the Chair of the Committee needs to be clear. This is because initially she had proposed that both the Letter of Interim Authority and the main Charter be signed by the Chair of the Commission. After your reading of the principal Act, it is clear that both now need to be signed by the Cabinet Secretary. Therefore, that means that there is a further amendment which could be correcting the Chair’s amendment. You are further amending the Schedule as was indicated by Hon. Ichung’wah. Rather than have two different persons signing two different things, we now have one person in the name of the Cabinet Secretary signing both. I think that is the further amendment that the Committee Chair needed to have brought.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I will go back to the principal Act. Chair of Committee and Hon. Kimani, we are talking about the Letter of Interim Authority, is it not?

On the Letter of Interim Authority, in the principal Act right now, the Commission shall consider every application submitted to it under Section 13 and inspect and assess the resources of the applicant and where the Commission is satisfied that the applicant meets the requirement of this Act, it shall recommend to the Cabinet Secretary the issuance of a Letter of Interim Authority to the applicant.

Section (2) says that the Cabinet Secretary may grant a Letter of Interim Authority to an institution under Section I, if satisfied. So, the parent Act mentions the Cabinet Secretary, but Hon. Kimani Ichungw'ah is proposing both the Commission and Cabinet Secretary. So, Hon. Kimani, from what we have now clarified and your proposal---

Hon. Ichungw'ah: Hon. Temporary Deputy Chairlady, I stand guided in view of what is provided for in the principal Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Is it clear?

Hon. Ichungw'ah: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Can you withdraw your amendment?

Hon. Ichungw'ah: I withdraw the amendment and go in line with what is provided for in the principal Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Excellent, Hon. Member.

(Proposed further amendment by Hon. Ichungw'ah withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we also had a new Third Schedule by Hon. Bowen who I do not see in the House. I am sure nobody was to hold brief for him. So, we drop it.

(Proposed amendment by Hon. Bowen dropped)

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

(The new schedule was read a Second Time)

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

(Title agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Jude Njomo, we will be done in five minutes. You have been very patient. Why do we not finish this journey together?

Hon. Ichungw'ah: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is out of order, Hon. Ichungw'ah?

Hon. Ichungw'ah: Hon. Temporary Deputy Chairlady, on a very serious point of order. I have just alluded to fact that we were in a rush to finish so that we visit the "small rooms" because the ones behind here are in a deplorable state. There is no water in them. Is it in order for Hon. Gaichuhie, Member for Subiukia to be giving me a bottle to do?

Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ichungw'ah, your concerns are noted. I am sure.

Hon. Ichungw'ah: Hon. Temporary Deputy Chairlady, I beseech you to find Hon. Gaichuhie out of order for giving me a bottle.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ichungw'ah, what you said earlier was serious unless it was a joke.

Hon. Ichungw'ah: It is serious, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): On record, Serjeant-at-Arms, please, take the concern of Members to the relevant authority. We need to have our facilities clean and functional at all times.

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Mover, Hon. Melly.

Hon. Melly: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House in consideration of the Universities (Amendment) Bill, National Assembly Bill No.66 of 2015 and its approval thereof with amendments.

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. (Ms.) Shebesh) in the Chair]*

REPORTS

THE INSURANCE (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We will start with the Insurance (Amendment) Bill. Who is reporting?

Hon. Gaichuhie: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Insurance (Amendment) Bill (National Assembly Bill No. 28 of 2016) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Mover!

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Speaker, I beg to move that the Committee does agree with the Committee on the said Report.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We will put that Question at the appropriate time.

(Putting of the Question deferred)

We will now go to the Universities (Amendment) Bill. Again, I call upon the Chairperson.

THE UNIVERSITIES (AMENDMENT) BILL

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Universities (Amendment) Bill (National Assembly Bill No. 66 of 2015) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Mover of the Bill! Yes, Hon. Gaichuhie.

Hon. Gaichuhie: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with Committee on the said Report. I request Hon. Kimani Ichung'wah to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Ichung'wah seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We will be putting the Question at the right time.

Hon. Ichung'wah: For obvious reasons.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Yes, Hon. Ichung'wah. It is for obvious reasons.

(Putting of the Question deferred)

Hon. Members, we are now going to the next Order but before we do so, let me congratulate the Chairperson of the Departmental Committee on Education, Research and Technology and also the Vice-Chairperson of the Departmental Committee on Finance, Planning and Trade for good work and commitment, and Kimani Ichung'wah for being very active with regard to the Universities (Amendment) Bill.

Next Order.

BILLS

Second Readings

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, Order No.11 should be moved by the Leader of the Majority Party but, he is not in the House. So we postpone it to the next Sitting.

(Bill deferred)

THE NATIONAL HONOURS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): That is under the Chairman of the Departmental Committee on Administration and National Security, Hon. Kamama. We have 10 minutes. I think the Chairman of the Committee can use that time to move.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I beg to move that the National Honours (Amendment) Bill (Senate Bill No. 16 of 2014) be now read a Second Time.

These are very short amendments. The object of this Bill is to amend Section 6 of the National Honours Act, No.11 of 2013. It is to include the Senate's Leader of the Majority Party and the Senate's Leader of the Minority Party Bill in the membership of Parliamentary Honours Advisory Committee so as to ensure equitable representation of both Houses of Parliament in the Committee.

The Bill neither delegates legislative powers nor limits fundamental rights and freedoms. So, I call upon Members to support this amendment because the Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

The inclusion of the Senate's leadership in the membership of the Committee has a direct bearing on the powers, functions and status of the Senate as it performs its functions under the new Constitution. It is not a money Bill within the meaning of Article 114 of the Constitution. So, I call upon Members to support this because it ensures that, according to a Report by our Committee, both sides of the aisle are included when it comes to selection of people who deserve to be honoured in this country.

I want to call upon hon. Members to support this so that Section 6 of the National Honours Act is amended in sub-section 1 by deleting paragraph (h) and (i) and substituting thereof the following new paragraph:

(h) The Leaders of the Majority Parties in the National Assembly and the Senate; and,

(i) The Leaders of the Minority Parties in the National Assembly and the Senate.

So, both sides of the Houses are included. This is a fair way of doing business. Because it is a short one and not controversial, I think I will give it to Hon. Gichigi from Nyandarua to second.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you Chairman. Hon. Gichigi, do the seconding.

Hon. Gichigi: Thank you, Hon. Temporary Deputy Speaker.

I wish to second this Bill.

As the Chairman has indicated, we are just putting things in order. Under the Constitution, Parliament means both Senate and the National Assembly. In view of the fact that we now have the national Government and county governments, there are very many heroes and villains. The House that interacts with the Executive and other stakeholders at the county level is the Senate. It is only fair that they also be given a chance to participate in the recognition, vetting and identification of people to be awarded these honours. For a long time there have been complaints that the Senate does not have a lot to do. As we keep improving and updating our laws, they will be acquiring functions so that they also become relevant. As we move on, it will be good for us to correct the relationship between the National Assembly and the Senate. This is so that we can work in harmony for the development and the good of this country.

The issue of honours is a very serious issue because we are making history. People who get recognized in this country will go into the annals of history as people who contributed something significant towards the good of this country. Looking at the current law, the only thing I can ask Members of that Committee is that they should not simply give awards to people who are merely leaders. The Committee needs to look at what these people have tackled in their

careers and their contributions towards the development and good of this country. In the past, people used to get these awards because they were sycophants. Let us look at what one has done to change the lives of the people in this country.

With those few remarks I second

(Question proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Mbui, you have two minutes, but you do not have to finish because you can have an extra eight minutes in the next sitting.

Hon. Mbui: Thank you, Hon Temporary Deputy Speaker. I may not even need the two minutes. I support this amendment Bill, because Senate is a fairly important House that needs to be recognised in the Constitution. Therefore, if there is anything that is happening in the National Assembly, it is also fair that we do the same at the Senate. It is also important to note that the constitutional offices that are recognized by the Constitution are those of the Leader of the Majority Party and the Leader of the Minority Party in the National Assembly.

I do not know if the positions of Leader of the Majority Party and Leader of Minority Party in the Senate are constitutional offices. So, as we discuss this it is important that we address ourselves to that fact. This is so that we do not create a position of honouring positions that have just been created for convenience or the other House has replicated. Otherwise I support.

ADJOURNMENT

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, the time being 6.30 p.m. this House stands adjourned until Tuesday, 29th November, 2016 at 2.30 p.m.

The House rose at 6.30 pm.