

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 15th November 2018

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: We can commence business.

COMMUNICATIONS FROM THE CHAIR

DELEGATION FROM THE REPUBLIC OF MALAWI IN THE SPEAKER'S ROW

Hon. Speaker: Members, make your way in.

Hon. Members, I wish to introduce to you a delegation from the Republic of Malawi. The delegation, seated in the Speaker's Row, comprises of a Commissioner of the Parliamentary Service Commission of Malawi, Members and staff of Parliament, representatives of the Executive of the Republic of Malawi and development partners. They are:

1. Hon. Ralph Jooma - MP, Commissioner, Parliamentary Service Commission of Malawi and Leader of Delegation;
2. Hon. Lingison Belekanyama - MP, Chairperson, Public Appointments Committee and Member, Legal Affairs Committee;
3. Hon. Patricia Mkanda - MP, Chairperson of Privileges Committee;
4. Hon. Maxwell Thyolera - MP, Chairperson, Legal Affairs Committee;
5. Hon. (Dr.) Allan Chiyembekeza - MP, Member of Legal Affairs Committee;
6. Hon. Martha Lunji - MP, Member of Legal Affairs Committee;
7. Hon. Bonface Kadzamira - MP, Member of Legal Affairs Committee;
8. Mr. Lucius Chipendo - Ministry of Finance;
9. Mr. Richard San the - Ministry of Justice;
10. Mr. Chikondi Kachinjika - Financial Controller;
11. Mr. Lovemore Nyongo - Controller of Planning;
12. Mr. Martin Phiri - Programme Manager for the African Institute for Development Policy (AFIDEP);
13. Dr. Ronald Manani – Consultant;
14. Mr. Jefferey Mwenyeheli - Assistant Clerk of Parliament, Table Office and Clerk of Legal Affairs Committee;
15. Mr. Fredrick Kamwani, Clerk to Privileges Committee; and
16. Mrs. Tilly Likommwa - Assistant Clerk of Parliament, Legal Services Division

The delegation is in the country on a benchmarking visit to the National Assembly and other Government offices to learn the best practices in attaining parliamentary operational autonomy.

On my own behalf and that of the House, I welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

CONSOLIDATED NATIONAL GOVERNMENT
INVESTMENT REPORT FOR THE 2017/2018 FY

Hon. Speaker: Hon. Members, I wish to make the following Communication regarding the Consolidated National Government Investment Report for the 2017/2018 Financial Year.

Section 89 of the Public Finance Management Act of 2012 provides that:

“The Cabinet Secretary responsible for matters relating to public investments shall prepare and submit to the National Assembly, not later than four months after the end of each financial year, a consolidated report summarising the extent of national Government involvement or investment in, or funding of, all State corporations and Government-linked corporations for that financial year.”

In this regard, by a letter dated 31st October, 2018, the Cabinet Secretary for the National Treasury submitted the Consolidated National Government Investment Report for the 2017/2018 Financial Year. The information that ought to be contained in such a Report is stipulated in the Act and includes, *inter alia*, national Government loans and guarantees to State corporations, grants and subsidies as well as revenues that State corporations made during the financial year. I urge the House to pay particular attention to the Report because it also relates to the percentage of Government shareholding and equity in State corporations.

I will, therefore, allow the Leader of the Majority Party to Table the said Report under Order No.5, after which it shall stand committed to the Departmental Committee on Finance and National Planning for consideration.

Whereas I do not expect the Public Investments Committee to make any report to the House on this matter, it is important for the Committee to note the contents of the Report. This will guide them as they prioritise examination of audited accounts of State corporations. I have taken the liberty to give this Communication so as to emphasise the importance of this particular Report to the House and its Committees.

INVITATION TO THE SPEAKER’S KAMUKUNJI

Hon. Speaker: Finally, I wish to invite you to a Speaker’s *Kamukunji* to be held on Tuesday, this coming week - that is on 20th November 2018 - at the National Assembly Chamber at 9.30 a.m. The agenda of the said *Kamukunji* will be circulated during the meeting. The meeting is generally intended to provide opportunity for briefing on Members’ services and facilities by the Parliamentary Service Commission (PSC). All hon. Members are requested to attend and be on time as it is a sitting day.

PETITIONS

Hon. Speaker: Let us have the Member for Lang’ata.

NOTICE FOR DEMOLITION OF SEEFAR APARTMENTS

Hon. Nixon Korir (Lang'ata, JP): Thank you, Hon. Speaker.

I, the undersigned, on behalf of the home owners of Seefar Apartments in Nyayo Highrise, Langata Constituency, draw the attention of the House to the following:

THAT, Seefar Apartments registered under LR. No.209/12108 consisting of a development that comprises of 288 residential apartments is located within Nyayo Highrise Estate along Mbagathi Road and was constructed by Erdemann Property Limited in 2011.

THAT, the said apartments have a total population of 1,000 people with approximately 60 per cent of the persons working and residing there being women and children.

THAT, 40 per cent of homeowners of Seefar Apartments acquired mortgages with various financial institutions and are still servicing the said loans.

THAT, the said apartments have been earmarked for demolition by the National Environment Management Authority (NEMA) under the Improvement Notice (NEMA/5/4/Vol. II) and the Water Resources Management Authority (WARMA) Order Serial Number 30366.

THAT, the development of the apartments was approved by NEMA vide letter Ref. No. PR/8208 dated 29th June 2011 and WARMA's letter Ref. No. WRMA/NRB/RIPARIAN/1(56) dated 17th April 2015.

THAT, NEMA and WARMA, contrary to the initial approvals, now allege that Seefar Apartments have been constructed on riparian land that is along the Nairobi Dam and Ngong River yet the two water bodies are man-made and their management falls squarely within their management.

THAT, when the matter was taken before enforcement officers to establish the said allegations, officers from NEMA and WARMA who had conducted the feasibility study failed to verify the allegations as they only conducted a visual inspection tour.

THAT, on 12th October 2018, inspectors from NEMA visited the apartment and issued an improvement notice requiring Erdemann Property Limited to demolish the structure within 14 days contrary to its earlier admission that the same was not on the riparian reserve vide a Stop Order Ref. No. WRMA/NRB/RIPARIAN/1/ (55) dated 25th July 2011.

THAT, the notice and order issued did not specify the provisions breached either in the Environmental Management and Coordination Authority (EMCA Cap. 387) Act or the Water Act.

THAT, the impending demolition is against the spirit of the Government's Big Four Agenda which aims at ensuring affordable housing for all Kenyans and will affect the individual home owners who innocently and wilfully bought the said houses as investment and never anticipated uncertainties.

THAT, facts presented indicate that a number of properties are located within close proximity to the dam and the same have not been implicated like Seefar Apartments raising questions on the formula used by NEMA and WARMA in arriving at the decision to demolish the apartment.

THAT, efforts to resolve this matter with the relevant bodies have been futile; and

THAT, issues in respect of which this Petition is made are not pending before any court of law or constitutional or statutory body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

- (i) intervenes and causes stay of the earmarked demolition pending conclusive investigations; and
 - (ii) makes any other order or direction that it deems fit in the circumstance of the matter.
- And your Petitioners will ever pray.

Hon. Speaker: Let us have the Member for Lamu. Please, proceed, Hon. Captain Ruweida Obo.

CASES OF INSECURITY IN LAMU COUNTY

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Thank you, Hon. Speaker.

I, the undersigned on behalf of residents of Lamu County, draw the attention of the House to the following:

THAT, for many years now, residents of Lamu County have been afflicted by cases of insecurity leading to destruction of key community infrastructure, displacement of people and loss of lives and property;

THAT, the insecurity is attributed to terrorism;

THAT, over 100 people have been killed by *Al Shabaab* militants and property worth millions destroyed in Mpeketoni, Hindi, Kibaoni, Witu, Baure, Mangayi, Kiunga and Basuba areas of Lamu County;

THAT, as a result of the insecurity, many schools have been closed, operated intermittently and also occasioned relocation of students to safer zones. All these have contributed to low school attendance and increased rate of school dropout among the students;

THAT, these raids have destabilised community sources of livelihood and contribute to increased poverty, underdevelopment in the affected areas and critical economic activities such as tourism, trade and farming have been interfered with;

THAT, despite the deployment and presence of the Kenya Defense Forces (KDF) and other security agencies in Boni Forest, the militia have continued executing attacks on innocent residents;

THAT, much has been done by local leaders and relevant Government agencies to address the matter but to date, some areas continue to remain insecure; and

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or statutory body.

Therefore, your humble Petitioner prays that the National Assembly through the Departmental Committee of Administration and National Security:

- (i) Calls deployment of more security personnel in the area and establishes security patrol bases in the area prone to militia attacks.
- (ii) Recommends recruitment of more and well equipped national police reservists among the local people to assist with security.
- (iii) Recommends for allocation of funds for construction of access roads to facilitate easy movement of security personnel in the area and for compensation of the affected families with regards to lost lives and property destroyed as a result of terrorist attacks and makes any other order or direction that deems fit in the circumstance of the matter.

And your Petitioner will ever pray.

Hon. Speaker: Hon. Members, I will allow limited comments on the two Petitions. I am saying limited because Petitions upon presentation are not for debate. That is why under Standing Order No.226 they are only allocated a limited period of 30 minutes. If you look at the

Standing Orders, it is coached in a way to suggest that such comments are at the discretion of the Speaker. In sympathy with the presenters I will allow some limited comments.

Hon. Members, before we do so, allow me to recognise Members from St. Kiadumo Church, Gichugu Constituency, and Kirinyaga County who are in the Speaker's Gallery. Also recognise a delegation from the County Assembly of Kitui, specifically from the Committee on Selection, together with staff seated in the Speaker's Gallery. They are all welcome to observe proceedings of the National Assembly, this afternoon. Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Speaker for giving me an opportunity to comment on the Petition by Hon. Nixon Korir, the Member for Lang'ata pertaining to the Seefar Apartments. I had raised a Question about the same but unfortunately during that particular time I got held up at the burial of the late Prof. Wanjala.

The Jubilee's Big Four Agenda highlight the importance of housing. I am aware of the Seefar Apartments which were developed by Edermann Properties. I know quite a number of owners who come from my constituency. Some of them used proceeds from loans and others pension to purchase those apartments. Looking at the definition of "riparian", it is the interface between the land and a stream. According to National Environment Management Authority (NEMA), riparian land is within a width of 30 meters.

The said apartments upon evaluation it was realised they are outside riparian land. When questions were asked to NEMA and the Water Resources Management Authority (WARMA) so that we could know who gave the notice of demolition, both Chief Executive Officers (CEOs) said they did not know about it because it was issued by their juniors. It has reached a level where people are taking advantage of the word 'riparian'. I think it is high time people are stopped from destroying property other people have struggled to put up. So, I am requesting the Committee to move with speed.

Hon. Speaker: You may be called upon to give evidence before the Committee. Member for Murang'a.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Speaker. I also rise to support the Petition by Hon. Korir. When I was listening to the Petitioner I heard around 1,000 households are affected and 60 per cent of the affected are women and children. I rise to ask one question to the same bodies that approved in 2011, what changed in 2018 that they are now saying these houses have to be demolished?

As the Government gives directions as to whether the apartments are on riparian land or not, they should consider the safety of children, women and investors. These apartments were constructed by a developer who sold them and people took loans to buy them. As we look at the Four Agenda items of His Excellency the President, some people out there may be bent to frustrate the Agenda on housing. How can we demolish these apartments that are housing over 1,000 people and then start acquiring...What is the plan for compensation because these are innocent Kenyans who bought these apartments that were already approved and now they are being told to vacate? To vacate and go where? We need to be sensitive to human life and Kenyans who have invested in these apartments.

Hon. Speaker, I support.

Hon. Speaker: You have said people must be sensitive to the safety of children and women. I am wondering whether singling out only those two helps knowing about the debate which is to come next week. I think you may be alienating yourself.

Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to comment on the Petition by the Member for Lang'ata. I want to support it and state that this idea of demolishing houses has become quite common with the excuse of riparian ownership which is defined by law. A lot of time has also lapsed since these buildings were constructed. There was no effort immediately or when the approvals were made to stop construction.

However, after many years, somebody came up with an afterthought. As it has been stated this is an area we are familiar with and many Kenyans are likely to suffer, property destroyed and many people will end up being homeless. I think it is high time Parliament stood firm to make sure that the law is upheld and Kenyans will not be frustrated unnecessarily. Somebody should not use this to financially exploit these people.

Thank you, Hon. Speaker. I support and I will be joining the Committee to ensure the truth is known.

Hon. Speaker: Nominee 001.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Speaker. For sure we are using the idea of riparian area not only to scare away investors, but to settle some political scores. What is the issue with riparian area? Fort Jesus sits zero meters from the Indian Ocean. The headquarters of the United Nation (UN) in New York sits zero meters from river Amazon. As we talk about riparian areas, when Governor Waititu talked about moving a river a bit, people said he studied in Panjabi and did know what he was saying.

Let me assure Members of this House that Egypt 100 years ago had to connect two seas using Suez Canal. They connected the Red sea and Mediterranean Sea. What about the issue of moving a river a little bit so that people can get somewhere to live? We are talking about aqua life and animals. We have let all the animals which live in Maasai Mara to live in Mau Forest. How can you tell us to migrate from Nairobi City and leave it to animals? We should be like other developed nations. In fact, Holland is reclaimed from the sea. Some people are using maps to say a particular land belongs to a certain school. Let us go back and use the map of 1901 and see the whole of Nairobi belonged to the Maasai. So, it is also our grazing area. We can as well destroy all these areas and get back our grazing area.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, there were two petitions. Anyway, let us have the Member for Mwingi Central.

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): Thank you, Hon. Speaker. I rise to support the Petition by the Member for Lang'ata on Seefar Apartments. As an authority in the building industry, any building constructed within the city must be approved and from what I have heard, all the approvals were got. What I know from my practice is that when a building is under construction within the city, there are regular inspections by the city authorities. So, when this building was under construction, there were people visiting it and they knew very well it was on riparian land. I do not support the idea that buildings be built on riparian land. Unless somebody constructs a building over a river, then I do not see an issue.

Therefore, if all these approvals were got, the people who were responsible for approving this building must be arrested because it is corruption. The owners of that building should not be punished for a mistake which is not theirs. I support the Petition.

Thank you, Hon. Speaker.

Hon. Speaker: Finally, let us have the Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker for giving me this opportunity to address these two petitions. First, I support the Petition on insecurity from my sister, the Woman Representative from Lamu. The Government is spending a lot of money on security matters but the results are minimal. It is high time these things were looked into critically. Those people who are sent to man crime prone areas must be vigilant so that we can see the results of the beefing up of security. If we keep on losing people and property and still the Government is deploying personnel in those areas, then that is quite an unfortunate situation.

On the part of this demolition of Houses, I think it is high time the Government thought otherwise and looked at the mistakes which were done by officers in the past and try to bring up laws which can conserve or maintain the remaining riparian lands. We cannot go back and say we can claim all the riparian land in this country. It will mean we demolish all the houses in this country. We have houses in Maua which are sitting on mash land. If we decide to remove those houses, there will be no town called Maua. So, this is the Petition to address this issue of demolishing houses. Let us not use it as some form of punishment for some people. There are many people who would get impoverished because of the mistakes of others. At the end of the day, once this matter has settled, the land will revert to other people in another dubious way. I support the two Petitions.

Hon. Speaker: The two Petitions are referred to the relevant committees for consideration within...

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): On a point of information, Hon. Speaker.

Hon. Speaker: The Member for Homa Bay. You are now treading on very dangerous grounds. You are likely to see yourself at the door. There is no information. Who are you giving information? The Member has already finished making his comments.

The Committees should prioritise the Petitions within 60 days as already communicated earlier after which the Committee ceases to be seized of the matters.

Next Order!

PAPERS LAID

Hon. Speaker: Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Consolidated National Government Investment Report for the Financial Year 2017/2018.

Quarterly Economic and Budgetary Review Report for the period ending 30th September 2018 from the National Treasury.

Annual Report and Financial Statement of the Capital Markets Authority for the Financial Year 2018/2018.

The Report of the Auditor-General and Financial Statements of the Ethics and Anti-Corruption Commission Staff House Mortgage and Car Loan Scheme for the year ended 30th June 2018 and the certificate therein.

The Report of the Auditor-General and Financial Statements of Kibwezi East Constituency for the financial year ended 30th June 2017 and the certificate therein.

Hon. Speaker: Next is the Chairperson of the Departmental Committee on Health.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Departmental Committee on Health on:

1. The 73rd Session of the United Nations General Assembly held in New York, USA from 20th – 30th September, 2018; and,
2. A Petition regarding fraudulent medical bill issued by MP Shah Hospital on account of treatment of the late Matilda Anyango.

Hon. Speaker: Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. William Cheptumo (Baringo North, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Parliamentary Service Bill, 2018 (National Assembly Bill No. 6 of 2018).

Let me request Members to obtain copies of the Report from the Table Office so that they are able to go through it in preparation of the debate in Second Reading.

Hon. Speaker: Very well, Hon. Cheptumo. I think it should be in the interest of every Member to get a copy of that Report to familiarise themselves with what the Committee has done. It is important that every Member, before a Bill is prioritised for debate, reads through the Report of the Departmental Committee on Justice and Legal Affairs.

Hon. Nyikal, you wanted to make a comment?

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Speaker for giving me the opportunity to make a statement in relation to the report on the cost of care at MP Shah Hospital. The report notes that the fee was extremely high – Kshs800,000 within two days of being in hospital – and that the fee guidelines that were provided, and which the Committee looked at, were themselves so high. Actually, it turned out that the hospital and the professionals that looked after the patient acted within the fee guidelines. I rise to sort of clear my name because last week, the Chair made a comment on the Floor indicating that the fee guidelines are out of touch with our Universal Health Care (UHC) agenda. I do concur.

Hon. Pukose and many people thereafter commented indicating that I had initiated the fee guidelines. The examples they were giving were obviously extremely high. I want to state that what I initiated was the concept that we should have fee guidelines, which I believe is something that this country needs if we are going to contain the cost of healthcare.

However, what I recommended at the time, in 2006, were far much lower fees than what was stated here on the Floor. I want to give a few examples to see the difference within 10 years. Our Chair indicated the cost of repair of fistula. I mention this issue of fistula because it is a big problem for women. The guideline that was on the Floor that day was Kshs.180,000 to Kshs.420,000. What I had recommended in the guideline that started off was Kshs20,000 to Kshs80,000. When a uterus ruptures during labour, my recommendation was Kshs 30,000 to Kshs90,000. What was indicated here is Kshs.180,000 to Kshs. 420,000. There was a lot of interest on circumcision. I had indicated Kshs5,000 to 10,000, but what was indicated here was Kshs18,000 to Kshs36,000. For kidney transplant, what I recommended was kshs50,000 to Kshs100,000. What the Chair read here was Kshs240,000 to Kshs.360,000. I concur that these fees are extremely high. I rose to clear that it was not my intention that we should have such high fees.

What we have recommended in the Committee is that those new fee guidelines must be looked at immediately and revised downwards. I believe if we are going to have universal

healthcare, we must have reasonable fee guidelines. It is not only the doctor's fee guideline as was put here that is important, but we must also have all the players like the doctors, hospital managers, pharmaceutical industry and drug manufactures. We must put all these regulatory authorities together and look at what is the reasonable cost of care in this country. That is the only way we will achieve universal healthcare.

Thank you, Hon. Speaker. I know you have extraordinarily given me time to contribute. Perhaps, you used Standing Order No. 1. I am most grateful for that.

Hon. Speaker: Very well, Hon. Nyikal. It is not for debate. Hon. Members, we will go to the next Order on Questions.

Member for Muhoroni.

QUESTIONS

Question 167/2018

STATUS OF DISBURSEMENT OF SUGAR DEVELOPMENT LEVY TO MILLERS

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you very much, Hon. Speaker for giving me the opportunity. I wish to obtain a Statement from the Cabinet Secretary for Agriculture, Livestock and Fisheries on the disbursement of the Sugar Development Levy that has been given to millers since its inception and when it was suspended. Each time a sugarcane farmer took his product to the factory, it attracted some tax called the Sugar Development Levy.

Hon. Speaker: Read the Questions without debating. You are doing your second term and you do not know what a Question is.

Hon. Onyango Oyoo (Muhoroni, ODM):

(b) Given the recently implemented duty-free sugar imports into the country, I would like to obtain a Statement from the Cabinet Secretary on the exact quantity of sugar that is in the country today. Let him tell us how much sugar was imported and how much we have here presently.

Hon. Speaker: Question 3.

Hon. Onyango Oyoo (Muhoroni, ODM): I wish to ask the Cabinet Secretary for Agriculture, Livestock and Fisheries the following Question:

- a) What is the status of disbursement of the Sugar Development Levy to millers with regard to the amount awarded to each beneficiary?
- b) Given the recently implemented duty-free sugar imports into the country, what is the approximated amount of sugar in the country as at now?
- c) How much sugar is currently allowed as monthly imports?

Hon. Speaker: Very well. I have the Question here. Those other things that you are saying are not part of the Question. Hon. Oyoo, when you talk about sugar, it excites you a bit. The Question is referred to the Departmental Committee on Agriculture and Livestock to prioritise.

Member for Konoin.

Question 168/2018

STATUS REPORT ON IMPORTED CONTAMINATED SUGAR

Hon. Leonard Yegon (Konoin, JP): Thank you very much, Hon. Speaker. I am asking a Question to the Cabinet Secretary for Trade, Industrialisation and Cooperatives.

a) Is the Cabinet Secretary aware that sugar imported into the country between May and October 2017 was confirmed by the Government Chemist to contain mercury, copper and other heavy metals, therefore not fit for human consumption?

b) What is the status of the said sugar and under whose custody is it under currently?

c) Could the Cabinet Secretary provide a list of all the individuals and companies involved in the importation of the said contaminated sugar and state what legal action has been taken against them?

Thank you, Hon. Speaker.

Hon. Speaker: That is referred to the Departmental Committee on Trade, Industry and Cooperatives. They will prioritise.

Member for Lamu County, Hon. Ruweida.

Question 169/2018

CONSTRUCTION OF MTANGAWANDA-KIZINGITINI ROAD

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Thank you, Hon. Speaker for giving me this opportunity to ask Question No. 169/2018 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

a) Why was Mtangawanda - Kizingitini road constructed without the necessary National Environment Management Authority's approvals?

b) Were the owners of the private land where the road was constructed compensated? If so, could he provide a list of the beneficiaries and amount of money paid to each individual?

Thank you.

Hon. Speaker: These Questions are referred to the Departmental Committee on Transport, Public works and Housing. The next Question is by the Member for Mumias East.

Question 173/2018

PLANS TO PAY BENEFICIARIES OF CASH TRANSFER THROUGH ELECTRONIC TRANSFER

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker. I rise to ask Question No. 173/2018 to the Cabinet Secretary for Labour and Social Protection.

a) Is the Cabinet Secretary aware that the beneficiaries of the Cash Transfer for the Older Persons undergo untold sufferings and frustrations while accessing the funds?

b) Are there plans to ensure that payments to the beneficiaries are made through electronic and mobile money transfers?

c) Can the Cabinet Secretary ensure a corruption-free provision of regular and predictable cash transfers to these vulnerable older persons across the country?

I thank you, Hon. Speaker.

Hon. Speaker: The Questions are referred to the Departmental Committee on Labour and Social Welfare. The next Question is by Member for Kanduyi.

Question 174/2018

STATUS OF IMPLEMENTATION OF RESOLUTION ON REGIONAL YOUTH FORUM SECRETARIAT

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Speaker. I wish to ask Question No. 174 of 2018 to the Cabinet Secretary for Foreign Affairs and International Trade.

a) Is the Cabinet Secretary aware that the Government, in 2014, during the special summit of heads of State and Government of the International Conference on the Great Lakes Region (ICGLR) on Youth Unemployment held in Nairobi, undertook to host the Regional Youth Forum Secretariat of the ICGLR in Kenya, and further provide an initial USD2million to set up and run the secretariat for the first two years (2014 to 2016)?

b) What is the status of implementation of this resolution and how many members of staff have been employed to the said secretariat?

c) How has the Government assisted the youth on the issue of unemployment through implementing the resolutions of the said Summit?

d) What was the budgetary allocation made to the secretariat, if any, for the financial years 2017/2018 and 2018/2019?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Defence and Foreign Relations.

The Next Question is by Nominated Member Halima Mucheke.

Question No. 177/2018

PROGRESS MADE IN PAYMENT OF VILLAGE ELDERS

Hon. (Ms) Halima Mucheke (Nominated, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(a) How many village elders are there in the country?

(b) In 2016, during a meeting at the Kerugoya Catholic Church Grounds in Kirinyaga County, the Ministry, through the then Principal Secretary stated that Kshs1.2 billion had been set aside for payment of village elders across the country. Could the Cabinet Secretary explain the progress in the payments to the village elders?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security.

Finally, let us have the Member for Butere Constituency, Tindi Mwale.

Question No. 118/2018

INSECURITY IN BUTERE SUB-COUNTY

Hon. Nicholas Mwale (Butere, ANC): Hon. Speaker, I beg to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(a) Is the Cabinet Secretary aware that there have been frequent cases of insecurity in Butere Sub-County and its environs and in particular the existence of a criminal gang named 42 brothers who molest and kill their victims and even rape women?

(b) If aware, what measures has the Ministry taken to ensure security is restored?

(c) What is the number of police posts in Butere Sub-County, and what is the number of officers stationed at each of post?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security.

Hon. Members, we are through with that Order. Let us go to Statements.

Leader of the Majority Party.

STATEMENT

BUSINESS FOR WEEK COMMENCING 20TH TO 22ND NOVEMBER 2018

Hon Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Orders, I rise to give the following Statement on behalf of the House Business Committee that met on Tuesday this week at the rise of the House:

On Tuesday next week, the House Business Committee has prioritised consideration of the Warehouse Receipt Systems Bill (Senate Bill No.10 of 2017) in the Committee of the whole House and the Second Reading of the following Bills: the Constitution of Kenya (Amendment) Bill (National Assembly Bill No.4 of 2018), the Parliamentary Service Bill (National Assembly Bill No.6 of 2018), the Government Contracts Bill (National Assembly Bill No.9 of 2018), the Assumption of Office of County Governors Bill (Senate Bill No.1 of 2018).

Other business scheduled for consideration include the Twenty Second Report of the Public Investments Committee on State corporations; Report of the Departmental Committee on Health on Kenyatta University Referral Hospital, and the Protocol to eliminate illicit trade in tobacco products; Report of the Public Accounts Committee on the audited financial statements for the national Government for Financial Year 2014/2015, and Report of the Select Committee of Delegated Legislation on the Judiciary Fund Regulations.

At this juncture, I commend the Departmental Committee on Health for tabling the protocol to eliminate illicit trade in tobacco products this week. I urge other Committees with treaties and agreements and protocols before them to expedite their consideration and table their reports.

In accordance with the provisions of Standing Order No. 42A (5) relating to Questions, I wish to convey that, having consulted with the Chairperson of the Departmental Committee on Lands, Departmental Committee on Labour and Social Welfare, Public Service, Youth and Gender Affairs, and the Departmental Committee on Defence and Foreign Relations, the following Questions are scheduled for reply by specific Cabinet Secretaries:

1. The Cabinet Secretary for Lands and Physical Planning will appear before the Departmental Committee on Lands on Tuesday, 20th November 2018 to answer Question No. 057/2017 from Hon. Zuleika Hassan, MP.
2. The Cabinet Secretary for Labour and Social Protection will appear before the Departmental Committee on Labour and Social Welfare on Tuesday 20th November 2018 to answer Question No. 101//2018 from Hon. Dennitah Ghati, MP.

3. The Cabinet Secretary for Public Service, Youth and Gender Affairs will appear before the Departmental Committee on Labour and Social Welfare on Tuesday, 20th November 2018 to answer Question No. 110/2018 from Hon. Danson Mwashako, MP.
4. The Cabinet Secretary for Defence will appear before the Departmental Committee on Defence and Foreign Relations on Thursday, 22nd November 2018 to answer Question No. 026/2018 from Hon. Peter Francis Masara, MP.

Hon. Speaker, may I reiterate your direction to Chairpersons to ensure that Questions by Members are sufficiently answered by the Cabinet Secretaries when they appear before them.

Finally, the House Business Committee will reconvene on Tuesday, 20th November 2018 at the rise of the House to consider business for the coming weeks.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

PROCEDURAL MOTION

EXTENSION OF SITTING OF THE HOUSE

Hon Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House resolves to extend its afternoon sitting today, until conclusion of business appearing as Order No. 9, being Committee of the whole House on the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 12 of 2018).

Yesterday afternoon, we spent the whole sitting dealing this Bill. This morning we did very well until we ran into some headwinds on children's affairs. We are now back from lunch break and we want to start dealing with children's affairs.

Hon. Speaker, I am sure you were watching. Hon. Sankok made a serious statement, which he should not repeat. He said that it is better for our children to be sold by the Government and not children's homes. Because we still have another 30 statutes, we want to start early enough. We will remain until we conclude this business so that come next Tuesday, the Chair of the Public Investments Committee, Hon. Abdullswamad, will move his important Report. Hon. Wandayi also has a very important Report on audited accounts that will help the National Government Constituencies Development Fund (NG-CDF), the county governments and all of us. I am sure the Chair will help us to direct the Office of the Clerk that until we conclude business, because some people are old and others are diabetic, the kitchen will open and food will be cooked. We do not know the time we will be leaving here. It might be at midnight. At midnight, it will be a second day.

I urge colleague Members that we stay, move fast until we finish. I am sure by 8.00 p.m. or 9.00. p.m. we will be through, if not early.

I beg to move and ask Hon. Chris Wamalwa to second.

Hon. Speaker: Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Hon. Speaker, I beg to second the Procedural Motion.

I thank the many Members who have shown commitment. I also wish to thank Hon. Duale. He has been here all through. Though the leadership on our side is not around, we are

here representing them. This Statute Law (Miscellaneous Amendments) Bill is very complex. As he has clearly put it, matters that touch on children are serious. I know many Members here also want to touch on Employment Act, NSSF Act, Witness Protection Act and so many others. Mine is to request Members to try and stay because the core business of legislation is in the Committee of the whole House. When we are in the Committee of the whole House, we are very few. Because today we are likely to go up to around midnight, if you could order, after 7.00 p.m., that tea be provided to the Members who will be around to rejuvenate themselves, it will be good. It is very hectic. This is where the core of legislation is.

I thank you and I second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Hon. Members, I believe the Clerk has heard the pleas of the Members. I want to confirm what Hon. Chris Wamalwa has just said. Indeed, the real business of legislation is what you do in the Committee of the whole House. Because almost all of you looked for votes others got nominated to come to the House, the key functions of any legislature is to legislate, represent and oversee. In this case, you are doing the first. Indeed, I would expect that this should be a full House. As you rightly stated, this particular Bill has got very many statutes that it proposes to make amendments to, some of which are to be aligned with certain realities brought about by the new Constitution and others to just update.

Indeed, I must commend those Members like I saw last evening; who stayed on until 7.00 p.m. I know that the last time we were dealing with the Health Laws (Amendment) Bill, a few Members sat up to 9.30 p.m. That is commendable. I know that even those who were not present must have gone home during the short recess to say we passed a very serious law. If you asked them which particular clause they passed, they would say.

I noticed this morning that there was a lot of interest. It is commendable. Not everybody will see and acknowledge that particular aspect and the real engagement that has been shown by Members. It is commendable. We will make arrangements that something be made available but not in the Chamber. Those of you who have amendments would be making sure that they can walk out to go and sip something.

I saw Hon. T.J. Kajwang' nodding, it is not that kind of stuff. It is just to take some tea.

(Laughter)

Water is available here. It is just to take some tea to rejuvenate, not something else. I agree with Hon. Francis Kinyua. It is just some tea and possibly have some bite for those who have other deficiencies. People have many deficiencies.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Speaker (Hon. Justin Muturi) left the Chair]

IN THE COMMITTEE

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

STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Resumption of consideration in
Committee interrupted today)*

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Members! We are in the Committee of the whole House to consider the Statute Law (Miscellaneous Amendments) Bill (National Assembly No.12 of 2018). We were at provisions on the Children Act. That is where we are picking from.

THE CHILDREN ACT, NO. 8 OF 2001

The Children Act, No. 8 of 2001, Section 155

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is an amendment on Section 155. Hon. Members, there was an official communication that Hon. Nyikal will do the amendments on behalf of Hon. Millie Odhiambo.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act No. 8 of 2001 by deleting—

(f) the proposed amendment to section 155;

The amendment seeks to delete the amendment on the Bill which says the Committee may, with the approval of the Cabinet Secretary, co-opt into its membership not more than two persons whose knowledge and experience it considers necessary for the better performance of its functions under this Act. This amendment is not necessary because the provision of section 155 already gives the provision to get a committee. That committee is fully established. Why again are we amending the Act by getting another provision of putting two more Members who are co-opted by the Committee? So, the essence is that the Act as it is, is adequate and there is no need to put this co-option phrase.

So, that is the essence of that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

Hon. Leader of the Majority Party.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): I oppose that amendment. I thought Hon. Nyikal is an expert. You are a paediatrician. The only thing this amendment is asking is whether the committee may, with the approval of committee, co-opt not more than two persons who have

knowledge and experience that is considered to better the performance of this thing. We have become so sadist. This is just an added advantage. The amendment is not offensive.

So, I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, you are aware of the Motion you have passed. We do not want to be here for three days or sittings. So, we limit the amount of debate. Yes, Hon. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): I want to support and congratulate Hon. Nyikal for this amendment. In the text by which this thing appears, the amendment in the Bill seeks to bring two persons whose knowledge and experience it considers necessary. The *Muongozo* arrangement now has moved from the big discretion to Cabinet Secretaries. It were better if the Cabinet Secretary was circumscribed to certain merits, skills or experiences that a person may have to be able to perform the functions we are talking about. To the extent that it is so general and open, I think it is an amendment which can easily be abused. What we need to tell Members is that we do not have to win or lose when we legislate here. We need to state the position as it is. Ours is to go on record as having said it. One day, somebody will look at the HANSARD and say what it was that we stood for.

So, I support the amendment by Hon. Nyikal.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Ndaragwa Constituency.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairperson. This is just to ask whether we can get a clarification from the Committee so that we do not just vote. Let us hear why they think it is necessary to have two members.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I want to give the last chance so that he can clarify to the Members who will have interest on this. Hon. Member for Homa Bay County because you are on intervention.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): No.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, do you have anything to say? I want to give chance to Hon. Wario so that he can confirm anything that Members want. Member for Bura then I put the Question.

Hon. Ali Wario (Bura, JP): Thank you, Hon. Temporary Deputy Chairperson.

As the Leader of Majority Party put it, this is co-option on need basis. It is not correct for those who are waiting for things to happen in 100 years to come. Even if you will check the records of Parliament in 100 years to come, this co-opting is on need basis. It will harm nobody.

So, I oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, I now put the Question.

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

(Section 155 agreed to)

The Children Act, No. 8 of 2001, Section 156(1)

Hon. (Dr.) James Nyikal (Seme, ODM): Before I move this, I want to make a statement that I made earlier in the morning that as much as I am putting this for Hon. Millie, Section

156(1) had a similar amendments. I am saying that because some motives were imputed in the morning, that some people have interests. I want to declare here that I do not run any children's home. I want that to be very clear. I saw it in principle.

I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act No. 8 of 2001 by deleting -

(g) the proposed amendment to section 156(1);

The purpose of this has been argued earlier. When we take one organisation to be the national adoption society, I was opposed to that and I am still opposed to it. What this proposed amendment does is to make Section 156 say "A Registered Adoption Society" instead of "A National Adoption Society". I object that. Therefore, I propose the deletion of that amendment in the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

Hon. Wario!

Hon. Ali Wario (Bura, JP): Thank you, Hon. Temporary Deputy Chairperson. You can have a million adoption centres in this country. What we are proposing in this Act is to want a National Adoption Centre for the Kenyan children. So, this amendment is misplaced. I oppose it. We need a National Adoption Centre for the country.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for North Horr!

Hon. Chachu Ganya (North Horr, FAP): I support the position of the Committee. It is time we had a national and focused approach to this issue. Having a National Adoption Centre for our children might be the best way to go. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Emuhaya. Hon. Kajwang', we also need to allow other Members.

Hon. Omboko Milemba (Emuhaya, ANC): I have no comment on this one.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Then I see no other interest apart from Hon. Kajwang' then I put the Question.

Hon. T.J. Kajwang' (Ruaraka, ODM): The Chair makes a lot of sense. But, just look at what he is saying so that I can convince him that whereas he started out to look for a good law, he ended up drafting a law which will hurt him; it will hit him on the foot. The Bill proposes to delete the words "a Registered Adoption Society". In other words, in the parent Act, we had one particular definition which is "a Registered Adoption Society". The Chair is right that we need a national adoption society. What are you now bringing? It is that you delete that and substitute therefore the words "the National Adoption Society or any other Registered Adoption Society".

Other than the fact of what we complained about in the morning which is mainstreaming the agency we had called "the Children Society" and giving it some form of monopoly over adoption rights, we now have any other adoption society. If we were going to identify or define one national society, the Chair would perhaps have put a full stop after "the National Adoption Society" so that you give total monopoly to the agency we have been talking about since morning.

To that extent, this phraseology is vague and I support the amendment to delete it.

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

(Section 156 (1) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, if you look at your Order Paper, we had an amendment by Hon. Nyikal.

The Children Act, No. 8 of 2001, Section 157 (1)

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act No. 8 of 2001 by deleting—

(h) The proposed amendment to section 157(1);

This is not just Millie's amendment; I also had a similar amendment on Section 157.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party what is your concern?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this is a House of procedure and we want to be on record in the HANSARD. You are either moving your amendment or you are moving the amendment of Millie Odhiambo. You cannot say this is Millie's amendment but you also had it. That is not parliamentary in the Committee of the whole House. You either say it is your amendment and we look at the Order Paper or it is not. There is nowhere in this procedure where you and Millie can be shareholders in an amendment. You can only be shareholders in children's homes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The amendment is by Hon. Millie Odhiambo but Hon. Nyikal is moving on her behalf.

Hon. (Dr.) James Nyikal (Seme, ODM): I am moving this amendment and the reason is very clear and I will keep repeating. My reason has actually been vindicated. The insinuation that we have shareholding anywhere, I want to repeat, I do not run a children's home. That must be repeated. It is in the same principle that it is not right that we have just one children adoption society to take precedence over all others. You find the same wording as Hon. Kajwang' was saying - a registered adoption society in Kenya. We are deleting that and saying "the National Adoption Society and any other registered society". That is not correct in the circumstances they have indicated. Therefore, I move that that be deleted as proposed by Hon. Millie.

(Question of the amendment proposed)

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

(Section 157(1) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal you also had your other amendment.

The Children Act, No. 8 of 2001, Section 163 (1) (f)

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act No. 8 of 2001 by deleting—

(i) The proposed amendment to section 163(1) (f);

Again, it is exactly on the same principle and the same wording. If you see what is running across, it is that wherever there was a word “a registered adoption society”, the amendments in the Bill is proposing we delete and replace with “the National Adoption society.” It is exactly in the same principle.

(Question of the amendment proposed)

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

(Section 163(1)(f) agreed to)

The Children Act, No. 8 of 2001, Section 177(1)

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act No. 8 of 2001 by deleting—

(j)The proposed amendment to section 177(1);

This is indicating who shall do adoptions. After that we come to a registered adoption society. That is amended by bringing in the National Adoption Society. I still insist that it should be removed. That is the essence of that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Same principle and same spirit. I believe it is the mood of the House.

(Question of the amendment proposed)

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

(Section 177(1) agreed to)

The Children Act, No. 8 of 2001, Section 179 (2)

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act No. 8 of 2001 by deleting—

(k) The proposed amendment to section 179(2);

This amendment is by Hon. Millie and her essence is that we have the adoption committee that has been set up. What this amendment is seeking to do, is to have the Cabinet Secretary directing the same committee on what to do. The concern of Hon. Millie is that we are putting institutions but we are usurping the powers and handing most of the powers to the Cabinet Secretary. That is the essence of that amendment.

(Question of the amendment proposed)

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): What the Bill by the Leader of the Majority Party is proposing is to delete paragraph (b), (c) (d) and (e) of Section 179 of the Bill. That is the most important part. We are now making people liable for charging people money for adoptions. I do not think Hon. Nyikal can oppose something like this. The reason why our children are being sold left, right and center, is because people are making money through adoptions. What the committee is doing is to make people liable for charge, if you charge money to adopt a child or to facilitate an adoption process. I am taken aback by the fact that you want to delete this section. It is most outrageous. I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): A time comes when you want to go by what the law says. I want to talk to my learned friend, Hon. Nyikal. He is very learned because he has gone to school longer than me. I think the Member for Suba North did not look through to see the exact portion of the amendment.

As has been said by the Member for Homa Bay, in some way, we are pushed by other considerations and not the law. Just allow me because this is the first time I am agreeing with the Leader of the Majority Party.

On what the Act says, I have used my good gadgets here, which a few of us can use. If you can flip through and get the Act then you will see subsection 2 is like a disclaimer to subsection 1. That, any payment made by or on behalf of an adoption society in respect of maintenance of a child who has been placed in the disposition of the society... To me this is good law because it means that it will be an offence if you make payment to the adoption society. I think (c) and (d) say the same thing. In fact (d) speaks about an advocate who acts for a party and so on. I am an advocate and here I am saying making it an offence. In this case I want to go with the Committee which is to make the amendments as proposed in the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, let us try to be brief before I put the Question, Hon. Nyikal looks like he has something to say.

Hon. (Dr.) Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Chairlady. I am persuaded on this one by Hon. Wanga. To me, it is important who persuades me. On this one I agree with the Committee. The exchange of money in the process of adoptions. I drop my amendment.

(Proposed amendment) by Hon. (Ms.) Odhiambo-Mabona dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is on record that the amendment to section 179(2) by Hon. Nyikal is dropped.

(Proposed amendment by Hon. (Dr.) Nyikal dropped)

(Section 179 (2) agreed to)

The Children Act, No. 8 of 2001, New Section 183A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): I also drop this one. In fact, I intend to drop the remaining two.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona dropped)

(Section 183A agreed to)

The Children Act, No. 8 of 2001, New Section 197A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): New Section 197A is also dropped.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona dropped)

(Section 197A agreed to)

The Children Act, No. 8 of 2001, New Section 20A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Mover to move Second Reading because it is a new Section.

Hon. Gladys Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act, No. 8 of 2001 by –

- (i) inserting the following new amendments in their proper numerical sequence—

PROVISION AMENDMENT

- New. Insert the following new section immediately after section 20—
 Application of 20A (1) The provisions of section 4 of the Counter-
 No 8 of 2010 Trafficking in Persons Act, 2010, shall apply with regard to
 offences involving trafficking in children.
 (2) Any person convicted of an offence of trafficking in
 children shall be liable for punishment in accordance with the
 penalties imposed under section 4 of the Counter-Trafficking
 in Persons Act, 2010.

I am moving this on behalf of the Committee and the Chair. By the time we were receiving some Petitions and views the Committee had concluded its Report. This is on page 1670 of the Order Paper. The import of this particular section is to state in no uncertain terms or

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for avoidance of doubt that section 4 of the Counter-Trafficking in Persons Act of 2010 shall also apply with regard to offences in trafficking of children. If you traffic a children whether they are one or two days old, the laws in the Counter-Trafficking in Persons Act will also apply. This new section is for avoidance of doubt.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me finish with New Section 20A.

(Question of the new section proposed)

(New Section read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): To get a child is a serious business. Those out there who do not have children must be very careful. This law is very good because the Counter-Trafficking in Persons Act of 2010 which we passed in the 10th Parliament has serious penalties. I am happy and I want to thank Hon. Wanga and the Chair for, at least, importing that section of that law. I am sure men and women in this House will tell you that to get children is not a walk in the park. You have to work hard.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kitui Central.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. Let me support this amendment because I think it is important because of the current problem of child trafficking. We have to put punitive measures to stop it.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Ol Jorok.

Hon. Michael Muchira (Ol Jorok, JP): Thank you, Hon. Temporary Deputy Chairlady. I stand to support the amendments by Hon. Wanga because what we are doing is to import the penalties for child trafficking into this section.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one Hon. Nyikal. Hon. Members, let us use one and a half minutes maximum for our debate.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Chairlady. When good intentions are there I support. Trafficking children is terrible. My only worry was having one body being giving everything.

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

(The new section was read a Second Time)

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

The Children Act, No. 8 of 2001, New Section 156 (4A)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Wanga to move Second Reading. Give her the microphone.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act, No. 8 of 2001 by –

- (i) inserting the following new amendments in their proper numerical sequence -
- s.156 Insert the following new subsection immediately after subsection 4-
 “(4A) Notwithstanding any other provision of this Part, the moratorium issued before the enactment of subsection (4) shall be deemed to have been issued under this section.”

Hon. Temporary Deputy Chairlady, again in the spirit of tightening up the issue of trafficking of children, New Section 4A deals with the issue of moratorium. This country issued a moratorium in 2014 against adoption of our children outside the borders of this country. However, because this is an Executive Order, when sometimes you go to court, and the lawyers will talk to this, the courts use the fact that this is a mere Executive Order to run over the moratorium and continue to send our children for international adoptions. So, what we are saying is:

“Notwithstanding any other provision of this Part, the moratorium issued before the enactment of subsection (4) shall be deemed to have been issued under this section.”

What we are saying is the moratorium was issued in 2014. The law was amended in 2017. We want that moratorium to be part of the law so that courts do not dismiss it as an Executive Order. With that, I beg to move that this section be read a Second Time.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Children Act, No. 8 of 2001, New Section 177A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Mover, Hon. Wanga, to move Second Reading of New Section 177A.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act, No. 8 of 2001 by –

New.

National
Adoption
Society.

Insert the following new section immediately after section 176—

177A. (1) Notwithstanding any other provision of this Act, the Child Welfare Society of Kenya established under Legal Notice No. 58 of 2014 shall be –

(a) the national adoption society whose function shall be to provide adoption services on behalf of the Government of Kenya;

(b) the approved society for purpose of care, protection and control of children;

(c) exempted from the provisions of section 177 of this Act with regard to registration;

(2) The exemption granted to the Child Welfare Society of Kenya under the Societies Act immediately before the commencement of this section shall upon such commencement, be deemed to have been granted under this Act.

Hon. Temporary Deputy Chairlady, notwithstanding any other provision, the Child Welfare Society shall be the national adoption society whose function will be to provide adoption services on behalf of the Government. It shall be the approved society for purpose of care and is exempted from the provision of Section 177.

Again this is what we have been canvassing the whole time. So, we have now just brought it to be clearly put there. Somebody had talked about the Child Welfare Society being created now. These were things that were done before I was born in the 50s. It was made an approved society in 1959 by WB Havelock when Kenya was still a protectorate. So, these are things that happened way before many of us in this House, probably even all of us were born in 1955 when Kenya was still a protectorate. It was made an adoption society in 1969. This organisation receives funding from this House to the time of Kshs900 million every year. It is funded by Government. We believe the Government must have a go-to place as far as adoptions are concerned. I beg to move that this section be read a Second Time.

(Question of the new section proposed)

(New section read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady, for this opportunity. While it is laudable to make this as the only child adoption society in the country, I was just wondering and I was asking the legal minds around what would have been a neater way to do it if it were not to simply create it in the Act. Instead of relating it to a legal notice, why not just say: “It is hereby created the Child Welfare Society of Kenya established for the following purposes...” Instead of having a reference, we should tightly anchor it in the law so that nobody can go around and start asking the validity of a legal notice. Even though it might have legal force, why not just create a specific body or society in the Act? It will be neater and easier for everybody to understand.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Tharaka, do you want to speak to this? No. Let us have Hon. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I hope you will not be tired with me because I have been here two days just to prosecute these issues. This is the subline of everything we have said since morning. Hon. Members, look at your Order Paper and look at the Bill. We have said it a lot. We cannot force people to take advice but the truth is there. The amendment by the Member for Homa Bay says this:

“Notwithstanding any other provision of this Act, the Child Welfare Society of Kenya established under Legal Notice No. 58 of 2014 shall be the adoption society.”

What it has meant is this: that if you come to the parent Act in Section 177(1) it says that nobody in Kenya can make any arrangement for adoption unless that body is registered as an adoption society.”

Therefore, the Act itself as it were gave a provision by which Government is a regulator and if you then register – and the way to register is even under that Act, you must apply to the director and so on – you then can become an adoption society. However, this amendment overrides the Act itself and says notwithstanding what the Act has said; it is this Child Welfare Society which will be the only adoption society. That is the interpretation that is here. This is the monopoly that we have been talking about since morning.

Therefore, this society, which is registered as a society under the Societies Act and put under State Corporations Act, becomes the only adoption society. That is the danger. As my friend, Hon. (Prof.) Oundo has said; why not just establish the society? Make it a legal entity. Move it from a society and make it a government authority with a board which has *Mwongozo* principles and corporate government and then we will give it money. We are the House that gives it money and we will say that it is good. However, now you create an NGO and then give it money through the pretext of a legal notice. How then are we going to oversee this thing and our duty as Parliament is oversight? Please take advice. It is not too late to change your mind.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Bura.

Hon. Ali Wario (Bura, JP): Thank you, Hon. Temporary Deputy Chairlady. It is one thing to have an adoption society and it is another to have a national adoption society. These are two different things. The issue I wanted to share with Members – and I appeal to them to understand me

– is even if we bury our heads in the sand, trafficking of Kenyan children is a reality. Our children are sold in Netherlands and elsewhere in this world. We want a national institution which has the face of Kenya, which will protect our children. That is the essence of that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I tend to agree with Hon. T.J Kajwang'. I have lived here for some time and I have never seen where an Act of Parliament becomes inferior to a legal notice. In fact, I really want to ask the legal teams who draft amendments that they are failing us. I have never seen it. There is nowhere where you say:

“Notwithstanding any other provision of this Act, the Child Welfare Society of Kenya established under...”

This is poor drafting. Hon. Wang'a, I think we need to go. We can do it and say it be part of the Act. Why are we referring to a legal Notice No. 58? That is subsidiary legislation. We even need to look at the law itself. You know we are making laws. Let us not even look at the content but let us look at the legal aspect. The Legal Department of the National Assembly, this is not how you can draft.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you, Leader of the Majority Party. As we say, this is a House of debate and this is a law-making process. This is one of the processes. Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): I can breathe. This was the crux of the matter. We take one body established by the Gazette Notice and then we make it superior and try to tie it to the Act. The Act establishes the National Council for Children's Services. This legal notice also establishes this Child Welfare Society. It will not only be involved in adoption but it will develop and review standards and guidelines on child welfare, care, protection and control to be applied by the society. If you look at the National Council for Children's Services, it has the same powers. Moreover, this Act establishes a whole structure of the children's department and children officers in every district. If you bring this, apart from the legal process and duplication, we are getting it wrong. This is the crux of the matter. Once you sort out this one, the rest will fall into place.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. As the Mover, Hon. Wang'a, consults, let me have Hon. Mulu Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Temporary Deputy Chairlady. I said in the morning that it would be very important for Members to listen before they make a decision. I said what we are doing might one day come back to haunt us. I want to thank God that now we can see where the problem is. We know there is a problem called child trafficking in Kenya. Even if we want to address that problem, it must be addressed properly – in a way that whoever will be in charge of that part of the whole exercise will be accountable to Kenyans. We are pushing the issue of accountability and nothing else. We have no problem with this law. I have been saying since morning that this Committee, which seems to be very committed to this thing, should get the original Children Act of 2001 and propose a comprehensive amendment to it, so that people can look at the law from the introduction to the end and make sure that we have no inconsistencies.

I like what is happening now. Let us just consult. It is time we stepped down the amendments in this Statute Law (Miscellaneous Amendments) Bill and introduced a comprehensive amendment process of the Children Act.

I want to stop there, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kilifi North. Give him the microphone.

Hon. Owen Baya (Kilifi North, ODM): I would not like to contribute to this Act, Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Hon. Kioni, Member for Ndaragwa, do you want to speak to this as Members consult?

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to concur with quite a number of people who have spoken before me. We have an issue of child trafficking in this country. Even as we want to address that issue, it is necessary that we do it in a tidy manner. I know we supported and opposed some of the amendments we dealt with in the morning. We seem to have given authority to a body that did not have statutory powers. We are placing it above the institutions that are under the Public Service Commission. The problem is where we started. This issue is too complex to be dealt with through Statute Law (Miscellaneous Amendments) Bill. As we move on, we need to address ourselves to this issue of Statute Law (Miscellaneous Amendments) Bill because even in the other provisions that we have for other Acts, we still have the same issue. You need to look at the whole Act, so that you can see the eventual goal. What do you want to achieve or improve?

I do not want to agree with Hon. Kaluma but you can easily be reduced to a voting machine which is not a very good thing, because you do not want to disagree with issues but you also do not want to agree with issues in a manner that is not quite civil. What we have done today through this Statute Law (Miscellaneous Amendments) Bill may be something that we may need to address within six months to tidy it up because quite a bit of it is untidy.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Tharaka.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Chairlady. It is good to clarify the position in the Statute Law (Miscellaneous Amendments) Bill. It is supposed to be for routine matters that simply need to be brought in line with the main Act. It is not supposed to include substantive amendments which go into the core or change the goal of a statute. In this particular instance, in the Act we are dealing with and possibly in the next one, there are wide ranging amendments being proposed. We must look at our Standing Orders and practice to ensure that we bring proper amendments to statutes through proper Bills but not through Statute Law (Miscellaneous Amendments) Bills.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear Hon. Wario as I wait for feedback from the consultations. Thereafter, I will put the Question.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairlady, thank you very much. The Leader of the Majority Party raised an issue about the legal notice. If you sit where I sit, well-placed and very eloquent people can influence you to make decisions which at the end of the day will force us to sell our children out of this country. There is the case of Ms. Inkobu from Meru who had two children who were taken away. We are supporting this institution. I want Members to understand me. Talking about legal notices, a Cabinet Secretary can, by a stroke of a pen, remove that organisation the next day.

My conclusion is that we will amend if there are areas which supersede an Act of Parliament. I have no problem. However, we need to have a national adoption society in this country. It is a need, Hon. Temporary Deputy Chairlady

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. That is interest of every Kenyan. Hon. Members, the issue at hand is about the Constitution. Hon.

Wanga, I saw you consulting. I want to put the Question. Hon. Members, allow me to put the Question to this one.

Member for Emuhaya, what is out of order?

Hon. Omboko Milemba (Emuhaya, ANC): Chair, I thought there is a lot of agreement that has been generated within the House. In the spirit of making good laws, I wish the key protagonists could quickly come to a consensus, so that we come up with a good law for the country.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is quite in order. That is why there were a lot of consultations. Hon. Members, having listened to the debate that arose after the point of order, and having proposed the Question to this amendment, allow me to put the Question.

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

(Section 177 agreed to)

The Children Act, No. 8 of 2001, New Section 179 (1) (b)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I call upon the Mover, Hon. Wanga, to move the amendment. We are on new Section 179 (1) (b). It is on page 1671.

Hon. (Ms.) Gladys Wanga (Homa Bay, CWR, ODM): Hon. Temporary Deputy Chairlady, indulge me for a moment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are on new Section 179(1) (b), Hon. Wanga. It is on page 1671 in the Order Paper right at the bottom.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Children Act, No. 8 of 2001 by –

s.179(1) Delete the “proviso “and substitute therefore the following new
(b) proviso—

“commits an offence and is liable on conviction to imprisonment for a term not exceeding twenty years or to a fine not exceeding twenty million shillings or to both.”

Thank you, Hon. Temporary Deputy Chairlady. This is a bit on offences for payment of adoption. We are saying any person who makes or gives or agrees to give to an adopter or any parent or guardian of a child any payment or other reward in consideration of adoption of any child under this Act commits an offence and is liable to conviction to imprisonment for a term

not exceeding 20 years or to a fine not exceeding Kshs20 million or to both. It is just fines to payment to for adoption.

(Question of the new clause proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

(New Section added to the Bill)

(Provisions relating to the Children Act, No. 8 of 2001, as amended agreed to)

THE COPYRIGHT ACT, NO.12 OF 2001

The Copyright Act, No.12 of 2001, Section 6

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment by Hon. Nyikal on behalf of Hon. Millie Odhiambo.

(Hon. (Dr.) James Nyikal spoke off record)

Hon. Kajwang' will move the amendment on behalf of Hon. Millie Odhiambo. Move the amendment.

Hon. William Kisang (Marakwet West, JP): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear what is out of order. Hon. Members, let us try to save time.

Hon. William Kisang (Marakwet West, JP): Hon. Temporary Deputy Chairlady, yesterday in the evening, I discussed with Hon. Millie Odhiambo that she drops her amendments and she agreed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Where were you?

Hon. William Kisang (Marakwet West, JP): We were here in the House.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Was it passed procedurally or it was a private consultation?

Hon. William Kisang (Marakwet West, JP): She spoke on that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Because she had given the authority to move the amendments to Hon. Kajwang', he must be cognisant of the same, if it is true. Let us hear Hon. Kajwang'.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I confirm that on behalf of the Member for Suba North, we withdraw the amendments to provisions of the copyright law.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Therefore, it is on record that all the amendments to the provisions relating to the Copyright Act No.12 of 2001 by Hon. Millie Odhiambo are officially withdrawn.

*(Proposed amendments by Hon.
Odhiambo-Mabona withdrawn)*

(Section 6 agreed to)

The Copyright Act, No.12 of 2001, Section 6(1) (c)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We must move each section for us to be procedurally in order. Chair of Departmental Committee on Communication, Information and Innovation.

Hon. William Kisang (Marakwet West, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Copyright Act, 2001 (No. 12 of 2001) by –

(i) inserting the following new paragraph immediately after the proposed new paragraph 6(1) (c) –

“(ca) the principal Secretary in the Ministry responsible for matters relating to information and communications technology or a designated representative”;

As a Committee, we met and agreed with stakeholders that we replace the representative of the Law Society of Kenya with the Principal Secretary of the Ministry responsible for ICT. This is because the Executive Director for Kenya Copyright Board is a lawyer with Master's degree in intellectual property who is also a member of the Law Society of Kenya. There is a representative in the Board from the Attorney-General Chambers who is also a lawyer and an advocate of the High Court of Kenya and a member of the Law Society of Kenya.

We agreed we get somebody with knowledge in technology to assist the board. Thank you.

(Question of the amendment proposed)

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

(Section 6(1) (c) as amended agreed to)

The Copyright Act, No.12 of 2001, Section 6(1)(f)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, you have an amendment to this section.

Hon. William Kisang (Marakwet West, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Copyright Act, 2001 (No. 12 of 2001) by –

(ii) deleting the proposed new paragraph (6) (1) (f);

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What is the import of your amendment?

Hon. William Kisang (Marakwet West, JP): I want to give a chance to Hon. Oluoch to speak. He has been looking for an opportunity to speak. We are replacing the representative of the Law Society of Kenya.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): That section removes representation of the Law Society of Kenya in the Copyright Board. The Chair has given good reason for that. The Director General must be a lawyer and a member of the LSK and the Attorney-General's representative is a lawyer.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Thank you very much. I support the amendment. The CEO and his team appeared before us as a Committee and we managed to convince them that there was overrepresentation. The Attorney-General's representative is a lawyer, the CEO is a lawyer and we did not want to look like that there is a lot of selective application and preference to the Law Society of Kenya.

I support the Chair and ask Hon. Members to carry the amendment.

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

(Section 6(1) (f) as amended agreed to)

The Copyright Act, No.12 of 2001, Section 6(2)

Hon. William Kisang (Marakwet West, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Copyright Act, 2001 (No. 12 of 2001) by –

(iii) deleting the expression “paragraphs (1) (e) and (f)” appearing in the proposed new section 6(2) and substituting therefor the expression “paragraph (1) (e)”

Basically we are cleaning the Bill by removing the representative of the Law Society of Kenya. It has been said here that out of eight members, two are lawyers. That is why we said we need somebody with knowledge on technology to assist the board. In this particular organisation, there are a lot of ICT issues that need to be dealt with.

(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 Copyright Act, No.12 of 2001, New Section 6(1A)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I withdraw because I do not have notes from my legal team.

(Proposed amendment by Hon. Aden Duale withdrawn)

Hon. T.J. Kajwang’ (Ruaraka, ODM): Let us help each other for purposes of good legislation. Although it is not on your notes, it is very clear here that if you do not provide the transition, you will end up throwing those boards away.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party is on record that since it is his amendment, he has dropped.

(Provisions relating to the Copyright Act, No.12 of 2001, as amended agreed to)

THE PRIVATISATION ACT, NO.2 OF 2005

The Privatisation Act, No.2 of 2005, Section 23(3)

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Privatisation Act, 2005 by –

(a) deleting the proposed amendment to section 23(3);

This amendment was meant to remove Parliament from playing a role during privatisation. Currently, Parliament is involved before privatisation is done. So, the Bill was proposing to remove Parliament but we have proposed to reject it. We must retain Parliament’s role during privatisation.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): I thank the Chair of the Departmental Committee on Finance and National Planning. This amendment is to provide for the laying of privatisation reports to the National Assembly and then committing it to the relevant committees. It is very important. This House, as representative of the people, must have a say in how privatisation goes on in our country.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, the Chair and the Leader of the Majority Party may have not been with us here. We are on 23(3), if I hear you properly. What they have spoken to is section 23(4). What both of them have spoken to is 23(4)? I know that we have been here for a long time.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, we are prosecuting one by one. Let us start with section 23(3) for record.

Hon. Joseph Limo (Kipkelion East, JP): The justification is the same. The Bill is proposing to remove the requirement for the Cabinet Secretary to submit a report to the National Assembly. Now, we are deleting that amendment because we still insist that the privatisation must be submitted to the National Assembly.

(Hon. Jared Okelo raised his hand)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member who does not have a card is raising his hand. You are not in a classroom but you have caught my eye.

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment. I come from a sugar belt region. There have been advances to have privatisation of our sugar mills some of which are shrouded in mystery. We have consistently rejected some proposals but they have again, in retrospect, consistently insisted that it has to happen. So, bringing the Report by the Cabinet Secretary before this House for complete interrogation and adoption is much in order. Hence, I support.

Thank you.

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

(Section 23(3) as amended agreed to)

The Copyright Act, No.12 of 2001, Section 23(4)

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Privatisation Act, 2005 by –

(b) deleting the proposed amendment to subsection (4) and substituting therefor the following new subsection-

(5) The Cabinet Secretary shall compile and submit to the National Assembly, not later than four months after the end of each financial year, a consolidated report summarising the status of implementation of each proposal approved under subsection (2) in that year.

(6) Upon laying before the National Assembly, the report under subsection (5)

shall be referred to the relevant committee.

That means the Cabinet Secretary will be required to submit a report summarising the status of all the proposals which have been approved, not later than four months after a financial year.

(Question of 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)*

(Section 23(4) as amended agreed to)

(Provisions relating to the Privatisation Act, No.2 of 2005as amended agreed to)

WITNESS PROTECTION ACT, NO.16 OF 2006

(Sections 2 and 3E agreed to)

Witness Protection Act, No.16 of 2006, Section 3E (12)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I drop mine and allow the Chair of the Departmental Committee on Justice and Legal Affairs to execute the same.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair has no amendments on this. Yours remains dropped He has them on 3(F)(6). Yours is 3(E)(12), Hon. Leader of the Majority Party. That is page 1675. Yours are on Section 3(E)(12).

Hon. Aden Duale (Garissa Township, JP): I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Witness Protection Act, 2006—

(a) by inserting the following new provision in proper numerical order—

The Witness Protection Act, s.3E (12)	Delete.
2006 (No. 16 of 2006)	

It first seeks to apply the legislative and regulatory provisions on auditing of security organs. It also deals with replacing the terms “minister” with “cabinet secretary”. Lastly, it seeks to allow members of the board to designate a representative to represent them on the board.

(Question of amendment proposed)

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

(Section 3E (12) as amended agreed to)

Witness Protection Act, No.16 of 2006, Section 3(F)(1)

Hon. Aden Duale (Garissa Township, JP): I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Witness Protection Act, 2006—

(b) in the proposed amendment to section 3F (1), by deleting the words “Cabinet Secretary responsible for Finance” and substituting therefor the expression “the

(c) Attorney-General”; and

(d) by deleting the proposed amendment to section 3F(7).

That is the one I want to drop and allow the Chair to prosecute.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair has amendments on Section 3(F)(6). The Leader of the Majority Party, please confirm.

Hon. Aden Duale (Garissa Township, JP): Yes. It is the same. Mine is 3(F)(1). This is just to provide clarity on the Cabinet Secretary responsible for witness protection. This will have a spill over effect on Section 3(F)(6) and 3(F)(7) which I am sure the Chair will move.

(Question of 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)*

(Section 3(F)(1) as amended agreed to)

Witness Protection Act, No.16 of 2006, Section 3F (6)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair of the Departmental Committee on Justice and Legal Affairs.

Hon. William Cheptumo (Baringo North, JP): I think I have amendments on Section 3F(7). That is the one I am proposing to amend because it is nonexistent in the Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is page 1674 on the Order Paper? You will start with 6?

Hon. William Cheptumo (Baringo North, JP): Section 3F (6) is what has been dealt with by the Leader of the Majority Party. I am dealing with Section 3F(7). We are saying it should be deleted from the Act. It is nonexistent in the Act. So, you cannot purport to delete what is not there.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Then you can drop it. It is indicated that you have an amendment. Just drop it officially.

Hon. William Cheptumo (Baringo North, JP): I am deleting it because it is an amendment to the Act. We are proposing that the particular amendment be deleted.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me consult with the Clerks-at-the-Table.

(The Temporary Deputy Chairlady consulted Clerks-at-the-Table)

It is dropped.

Next?

(Hon. Jimmy Angwenyi spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is dropped. It is not his. He is not moving it. You can help him to put it better, just help the Chair.

Hon. T. J. Kajwang' (Ruaraka, ODM): What he is saying is that the proposition in the Bill does not exist in the parent Act. So, he is proposing to delete the clause which is in the Bill because it has no relation or relevance to the Act. If you drop it, it means the Bill will still be the way it is. But, if he prosecutes it, then it will clean up what the Act is about. So he cannot just drop it to clean.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You are the same person who is now misadvising him. Hon. Kajwang' you know you are misadvising him when you speak. So, the Chair was right. He is deleting the words "responsible for finance" then you are saying he is supposed to take it to finance. You confused him.

Hon. T. J. Kajwang': I am sorry.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes. Please. Chair, you should not be confused. You own your amendment.

Hon. William Cheptumo (Baringo North, JP): No. I was very clear. It is only that you allowed my colleague a moment to confuse us which is okay. It is part of debate. What I have said is to delete.

(Proposed amendment by Hon. William Cheptumo dropped)

Witness Protection Act, No.16 of 2006, Section 3F (7)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairperson, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Witness Protection Act, 2006—

(d) by deleting the proposed amendment to section 3F(7).

We have seen no relevance of this in the whole Act. We need to delete it.

(Question of the amendment proposed)

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

(Section 3F (7) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment by the Chair of the Departmental Committee on Justice and Legal Affairs but it has failed because the amendment by the Leader of the Majority Party has been carried.

Next.

(Proposed amendment by Hon. William Cheptumo dropped)

*(Sections 3 (G2), 3I (2) (c), 3I (6), 3J (5), 3K, 3L (2),
3L (3), 3P, 5(4) and 30(D) agreed to)*

*(Provisions relating to the Witness Protection
Act No. 16 of 2006 as amended agreed to)*

THE EMPLOYMENT ACT, NO. 11 OF 2007

The Employment Act, No. 11 of 2007, Section 10 (3)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chair I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Employment Act, No. 11 of 2007, by deleting the proposed amendment to Section 10(3).

The justification to this, Hon. Temporary Deputy Chairlady is that, Labour convention dictates that whenever you make decisions on these things, you bring on board the social actors; the employers and the employees.

From where we sit as a Committee there are stakeholders who appeared before us and confirmed to us that they were not involved in this particular decision. Therefore as a Committee we decided to delete.

The second issue is that the amendment interferes with the management and dictates insertion of futuristic provisions in the employment contract. It is confusing. We do not know what we are curing by this particular amendment. A comprehensive review of the same law is on the way coming so, we thought that this is not the right place to carry this amendment and therefore proposed to delete it.

Thank you.

(Question of the amendment proposed)

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

(Section 10(3) agreed to)

(Provisions relating to the Employment Act, No. 11 of 2007 agreed to)

THE LABOUR INSTITUTIONS ACT, NO.12 OF 2007

The Labour Institutions Act, No.12 of 2007, Section 43 (1)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, on behalf of the Member for Suba North, I hereby withdraw this amendment. I can see that the intention of the amendment in the Bill is to include workers of the Export Processing Zones (EPZ) so that their wages can also be regulated by the wages council. I think my friend may not have looked at this properly. Coming from Ruaraka where we do export processing, I am the first person to support that the wages be regulated can be paid better. I withdraw.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 43 (1) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I thought the Chair had an amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me confirm in the Order Paper.

The Leader of the Majority Party, your concern is on the next one. We are on Labour Institutions Act 2007 (No. 12 of 2007). The amendment that the Chair has is on the Labour Relations Act. It is good to be keen, Hon. Members.

*(Provisions relating to the Labour Institutions Act,
No.12 of 2007, agreed to)*

THE LABOUR RELATIONS ACT, NO. 14 OF 2007

The Labour Relations Act, No. 14 of 2007, Section 2

Hon. Omboko Milemba (Emuhaya, ANC): Put the Question.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Emuhaya, you keep saying, 'put the Question'. No, the process must be followed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Mover Hon. Wario.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to Labour Relations Act, 2007 (No. 14 of 2007) by –

(i) deleting the proposed amendment to section 2;

The justification is that this is a substantive amendment to this Act.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you have heard what the Chair has said, that he is doing a substantive amendment to this Act. He must provide evidence to the House. We cannot say somebody is cooking food, we want that evidence. He wants to bring a substantive amendment to the Act, we have no problem, but

Parliament is a House of records. Tell us where that substantive amendment to the Act is. Kenyans are waiting for these amendments.

*[The Temporary Deputy Chairlady
(Hon. Ms.) Jessica Mbalu left the Chair]*

*[The Temporary Deputy Chairman
(Hon. Patrick Mariru) took the Chair]*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Wario.

Hon. Ali Wario (Bura, JP): Hon. Duale should sit and wait for my conclusion before he jumps to give me direction on what to do and how to do it. I Chair a Committee and we are in the process of amending this Act, as I earlier said. It is so substantive that it cannot be done in the Miscellaneous Amendment Act. That is what we agreed upon.

Secondly, in the wider tripartite, the employees of this country were not brought on board. This is one reason we are saying this is not a good law. Finally, this will interfere with trade unions. In sections 10, 36 and 41, that is why we decided to delete this amendment because it is not a good law.

Hon. Aden Duale (Garissa Township, JP): Of course, my question has not been answered. However, we need to have evidence of the existence of any legislation. Parliament is so transparent. So, can I put it that as from today there is no piece of legislation from the Labour and Social Welfare Committee pending before---I am on HANSARD, you can shout. I am not addressing a political rally, where you walked out. I am in the Chamber, so you better listen to me. You can as well walk out because you also walked out on me.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Leader of the Majority Party!

Hon. Aden Duale (Garissa Township, JP): Secondly, as I oppose, when the Chair says that the serious stakeholders were not given a chance, that beats logic. Parliament is a forum in legislation that listens to all stakeholders within the reading of the Standing Orders. That is why a Bill is published and read for the First Time. It is published in the newspapers. Call in stakeholders and listen to them. I expected the Chair to say he had listened to the stakeholders and this is what they said. But not that the stakeholders were not given a chance.

In fact, in law-making it is Parliament as an institution that protects through public participation. According to an article in the Constitution it protects the stakeholders out there. I am supporting this amendment because it was seeking to amend the Act to make provisions for safeguarding of essential services during industrial action. Let us not be very selfish and make legislation for posterity and for protecting mothers and children.

For example, what is an essential service and this happens in other jurisdictions? Health care service is essential, services at the airport are essential. There are services that touch on national security. I know I might not win, there are trade unionists around or their representatives. I really want to go on record. The Chair is laughing because he knows where he is coming from.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Milemba, what is your point of order?

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairman. I have been listening to the Leader of the Majority Party. Is it in order for him to refer to Hon. Members elected by the people of Kenya in different constituencies as trade unionists in the House? I have been keenly following your language of diligence in this House. Can he withdraw that?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Milemba there are no trade unionists here but only Hon. Members.

Hon. Aden Duale (Garissa Township, JP): Let me make it right. When you talk about the EPZ in Ruaraka, Hon. T. J. Kajwang' will stand up. When you talk about camels, Hon. Ganya and I represent camels and pastoralists. I am only saying the obvious. Hon. Sossion, a man I respect a lot is here to represent the interest of teachers and unions. I oppose and the only trade union friend I have in this country is a man called Francis Atwoli.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Prof. Oundo. We will have one or two more Members and then we make progress.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. I am not a trade unionist but a law maker.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Hon. Oundo! We need to be clear on what we are dealing with. We are dealing with Section 2 because we have heard about trade unionists, which is fine. To be sure, that Members are on the same page, we are in Section 2 about definition. The House will make a decision and we will proceed to Section 48 shortly.

Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): When the Chair of the Committee stood up, other than commenting on Section 2, he wholesomely and generally declined the proposed amendments. You will allow me to make a statement in respect of the entire Act so that even if we go one by one it is on record that many of us who stood here irrespective of the decision of the Committee opposed the amendments. The right to protest injustice at work is an inalienable right that cannot be legislated against.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Oundo please proceed.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Therefore, I support the amendments by the Chair to delete the provisions that were going to make amendments to the Labour Relations Act. We need to protect the workers in this country.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, speak for one minute each so that we can make progress. Obviously, Hon. Sossion, I will give you for sure but let us have Hon. Tonui.

Hon. Richard Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Chairman. I want to support the amendment by the Chair. Somebody has said we are making the law for posterity and I agree. That is why we should not rush it. In this Statute Law (Miscellaneous Amendments) Bill, the amendment on issues to do with labour covered more than 20 pages. It was lengthy and it requires thorough trashing of the issues. It requires lots of public participation and all that. Instead of having these small amendments, we need to have a substantive Bill and a complete change of that Bill. I do support the Chair, and I think we should not be intimidated when we are doing this.

Sometimes the Leader of the Majority Party needs to be soft when he is here. He should not be pushing things to look like he is controlling Parliament, especially intimidating the chairmen of the committees.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I had promised, Hon. Sossion.

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairman. I support the amendments proposed by the Chair because of one fundamental reason. Trade union rights are human rights and as such, by bringing such amendments through this process, this House will greatly be infringing on the rights of trade unions. Under Section 41 of the Constitution, it is clearly outlined. I am sure that Section 41 is under the Bill of Rights and it will be fundamentally wrong to bring all these clauses through the Statute Law (Miscellaneous Amendments) Bill. That is the basic reason. The rights of workers must remain protected. I am sure this country desires to have a quality workforce in all sectors. We cannot do that by taking away their rights. So, fundamentally, if all these amendments have to be brought, it has to go through another wider and more consultative process.

I support the Chair that these amendments be carried as they are.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, let us make progress on this one.

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

(Section 2 agreed to)

The Labour Relations Act, No. 14 of 2007, Section 48

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have the Chair.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(ii) by deleting the proposed amendment to section 48;

I have already given the justification, for the interest of time.

Hon. Temporary Deputy Chairman, we have 16 clauses under this Act. Can you put them together so that we vote on them once?

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is a good suggestion but, please, it is until a Member raises an issue on one that is down the list that you will get everyone confused. What we can do is to move fast but let us give an opportunity to each Member.

(Question of the amendment proposed)

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

(Section 48 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There were two other amendments by Hon. Millie Odhiambo and Hon. Tonui. In that case they all fail.

*(Proposed amendments by Hon. Odhiambo-Mabona
and Hon. Ronald Tonui dropped)*

The Labour Relations Act, No. 14 of 2007, Section 49

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(iii) by deleting the proposed amendment to section 49;

I have given the justification.

(Question of the amendment proposed)

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

(Section 49 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): For record, there was an amendment by Hon. Tonui and Hon. Millie Odhiambo. They also fall in those circumstances.

*(Proposed amendments by Hon. Odhiambo-Mabona
and Hon. Ronald Tonui dropped)*

The Labour Relations Act, No. 14 of 2007, Section 50 (2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have Hon. Millie Odhiambo. Chair, you do not have an amendment on that. Hon. Millie has a deletion.

Hon. T.J. Kajwang' (Ruaraka, ODM): I do not see Section. 50 here. In the Bill we have Section 50(2). Could the Member for Suba North be referring to non-existent clause?

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is in the Order Paper is that she was proposing deletion of all the amendments under Section 50.

Hon. T.J. Kajwang' (Ruaraka, ODM): I do not see a proposal on the Bill itself on Section 50.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It must be referring to Section 50 (2).

Hon. T.J. Kajwang' (Ruaraka, ODM): For the purposes that have been explained by the Chair of the Committee; that the matters being dealt with on issues to do with the Labour Institutions Act are so weighty that even one amendment may take it off course, I propose to withdraw that amendment on behalf of the Member for Suba North to allow the Committee to look at all the issues wholesomely so that we come up with a legislation that is well thought out.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Kajwang', what you have done is to withdraw the amendment by Hon. Millie Odhiambo.

(Proposed amendments by Hon. Odhiambo-Mabona dropped)

In that case, we have to go to Section 50 (2) and, later, to Section 50 (2) (b) where the Chair has amendments.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(iv) by deleting the proposed amendment to section 50 (2);

(v) by deleting the proposed amendment to section 50 (2) (b);

The Temporary Deputy Chairman (Hon. Patrick Mariru): You were also proposing a deletion.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it, Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, get me to understand. This is because in my Bill, Section 50 (2) (b) is also a deletion. So, is the Chair agreeing with the deletion in the Bill? He moved Sections 50 (2) and 50 (2) (b). So, is the Chair agreeing with me on the deletion?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T.J. Kajwang', I hope you are not returning us to where we were.

Hon. T.J. Kajwang' (Ruaraka, ODM): No, I am not returning you. I have just confirmed that there was actually nothing on Section 50. You know Hon. Duale is serving a third term. If you are not careful, you will do things which will make you wonder: "Why was I there doing these things?"

The Leader of the Majority Party is saying that if you prosecute your deletion, you will be deleting the deletion. The Chair is right because he is against the deletion of what is in the parent Act. He says that we should not touch the Act. Let that Act come to the Committee. Whether it is just deleting one full-stop or comma, we will deal with it wholesomely. That is why you need to prosecute your deletion.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Hon. T. J. Kajwang' is quite correct.

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

(Sections 50 (2) and 50 (2) (b) agreed to)

Hon. Onyango, that sounds quite unique.

The Labour Relations Act, No. 14 of 2007, Section 50 (5)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -
(vi) by deleting the proposed amendment to Section 50(5);

(Question of the amendment proposed)

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

(Section 50(5) agreed to)

(Section 50(8) agreed to)

The Labour Relations Act, No. 14 of 2007, Section 50 (9)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -
(vii) by deleting the proposed amendment to Section 50(9);

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Is it Section 50 (9) or Section 50 (9) (1)?
The Temporary Deputy Chairman (Hon. Patrick Mariru): It is Section 50 (9). Yes, Leader of the Majority Party. The Order Paper states Section 50 (9) but in the Bill, it is Section 50 (9) (i). I will read that in entirety.

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

(Section 50(9) (i) agreed to)

The Labour Relations Act, No. 14 of 2007, Section 76

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -
(viii) by deleting the proposed amendment to Section 76;

(Question of the amendment proposed)

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

(Section 76 agreed to)

In that case, Hon. Members, the amendments by Hon. Tonui and Hon. Millie Odhiambo also fall.

(Proposed amendments by Hon. Ronald Tonui and Hon. (Ms.) Odhiambo-Mabona dropped)

The Labour Relations Act, No. 14 of 2007, Section 78 (1) (f)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(ix) by deleting the proposed amendment to Section 78 (1) (f);

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it, Hon. Duale?

Hon. Aden Duale (Garissa Township, JP): I will move a Procedural Motion. We will sit here until midnight. Can the Chair give reasons for his amendments after he proposes?

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is a fair request. For purposes of going along with the Members, it does no harm. It is important to briefly give the import of what you are suggesting the House should do. We are dealing with Section 78 (1) (f).

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I have summarised the import. I have around 16 sections under these amendments. Largely, the effect of amending the sections is the same. The end results of the amendments are the same. That is why I generalised and gave you four reasons.

First, it will interfere with the trade unions. Secondly, the proposed amendments are so substantive that they should not be carried under a miscellaneous amendment Bill. Third, it interferes with the right of trade unions. Lastly, the wider participation of tripartite partners has not been brought on board.

(Question of the amendment proposed)

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

(Section 78 (1) (f) agreed to)

The Labour Relations Act, No. 14 of 2007, Section 81

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(x) by deleting the proposed amendment to Section 81;

I have already given the justification.

(Question of the amendment proposed)

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

(Section 81 agreed to)

The Labour Relations Act, No. 14 of 2007, New Part XA

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. In that case, that amendment is dropped.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona dropped)

(New Part XA agreed to)

The Labour Relations Act, No. 14 of 2007, New Section 81A

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment to delete by Hon. Ali Wario.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(xi) by deleting the proposed amendment to Section 81A;

I have given the justification. It is the same. I have summarised.

(Question of the amendment proposed)

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

(New Section 81A agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Tonui's amendment is dropped as well in the circumstances.

(Proposed amendment by Hon. Ronald Tonui dropped)

The Labour Relations Act, No. 14 of 2007, New Section 81B

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by -

(xii) by deleting the proposed amendment to section 81B;

I had earlier given the justification.

(Question of the amendment proposed)

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

(New Section 81B agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): In the circumstances, Hon. Tonui's amendment is dropped.

(Proposed amendment by Hon. Ronald Tonui dropped)

The Labour Relations Act, No. 14 of 2007, New Section 81C

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by –
(xiii) by deleting the proposed new Section 81C.
I gave the justification earlier. Thank you.

(Question of the amendment proposed)

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

(New Section 81 C agreed to)

The Labour Relations Act, No. 14 of 2007, New Section 81(D)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by –
(xiv) by deleting the proposed new Section 81D.

(Question of the amendment proposed)

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

(New Section 81D agreed to)

The Labour Relations Act, No. 14 of 2007, New Section 81(E)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by –
(xv) by deleting the proposed new section 81E.
I gave the justification earlier.

(Question of the amendment proposed)

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

(New Section 81E agreed to)

The Labour Relations Act, No. 14 of 2007, Section 81(10)(A)

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by –
by deleting the proposed Section 81(10)(A).

(Question of the amendment proposed)

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

(Section 81(10) (A) agreed to)

Fourth Schedule

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Schedule to the Bill be amended in the proposed amendments to the Labour Relations Act, 2007 (No. 14 of 2007) by –
(xvi) by deleting the proposed amendment to the Fourth Schedule.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I oppose. The reason is that as a country, if we want to develop the economy of our country and get seamless service to the citizens. We must protect the provision of essential services from regular strikes by the providers. I am talking about water, electricity, healthcare, hospital and sanitary services. I do not know why they are here, that is, air navigation services, fire services, and telecommunication, marine and port services.

Imagine what will happen if the Port of Mombasa staff went on a strike for two months. How many people died when the doctors were on strike? As the Chair has said, the substantive Bill needs to come to the House as fast as possible, so that we engage each other and have a discussion as a country. I am sure all of us who are sitting here know of somebody who died when doctors went on strike. We cannot live in a world which is chaotic. I really want to ask the Chair to please bring that Bill which he said he wants to engage us on. Kenyans need to get into a discussion.

For now, I oppose the proposed amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Hon. Members, in that case, let me go to the far end there. Hon. Tom has not spoken. Give him the microphone.

Hon. T. J. Kajwang (Ruaraka, ODM): He must be using my card.

(Laughter)

Hon. Anthony Oluoch (Mathare, ODM): For the record, I am Hon. Tom. Thank you very much, Hon. Temporary Deputy Chairman. I want to support the amendment by the Committee for the simple reasons that had already been advanced before. There are less restrictive ways of dealing with industrial strikes which are entrenched in the laws as they exist. We also have the labour laws which are well equipped to deal with disputes in a manner that may be able to safeguard crucial institutions like our health facilities.

Secondly, lastly and more importantly, if you touch on anything that will appear to tinker with the Bill of Rights, labour laws and the rights to ventilate discontent which is entrenched in the Constitution, you need a referendum. There are better and less restrictive ways of dealing with this.

I support the Committee in terms of the amendments.

(Hon. T. J. Kajwang' raised up his hand)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Hon. T. J. Kajwang', let my eye be caught by someone who has not spoken like Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): My neighbour has taken the microphone. Hon. Temporary Deputy Chairman, I support the Committee because I have looked at the special services. I disagree on essential services. Even as small a driver, taking one person from one area to another, if he does not do it, it is essential. Therefore, it is not good enough to say essential services.

Hon. Temporary Deputy Chairman, I want to support the Committee.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, finally Hon. T. J. Kajwang'.

Hon. T. J. Kajwang'(Ruaraka, ODM): First of all the Chair of the Committee, please, call the Leader of the Majority Party to come before you and give evidence because the information he has is very important. The Leader of the Majority Party did not say that a lot of services which have been listed here are devolved functions. So, if we were to pass this piece of legislation, it would have ended up in the Senate. Other than the fact that the Chair wants to do a good job, he also wants to see whether there are services here which are conflicting with devolved functions, so that we can have one whole legislation.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, please allow me to put the Question on this one, so that we make progress.

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

(Fourth Schedule deleted)

(Provisions relating to the Labour Relations Act, No. 14 of 2007 agreed to)

THE ANTI-COUNTERFEIT AGENCY ACT, NO. 13 OF 2008

The Anti-Counterfeit Agency Act, No. 13 of 2008, Long Title

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang' for Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, on behalf of the Member of Suba North, I wish to withdraw all the amendments pertaining to the Anti-Counterfeit Agency Act.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is on record that the amendments to those sections are withdrawn.

(Proposed amendment by Hon. Odhiambo-Mabona withdrawn)

(The Long Title agreed to)

The Anti-Counterfeit Agency Act, No. 13 of 2008, Section 2

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang', for the record, pronounce yourself on Section 2.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, you have adopted the painful approach of going to each one of them.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is very helpful because you may find situations where a Member has an issue down the line.

Hon. T. J. Kajwang' (Ruaraka, ODM): I confirm that I withdraw the amendment to Section 2 of the Bill.

(Proposed amendment by Hon. Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is another amendment to Section 2 by Hon. Ali Wario and Hon. Wanga is holding brief for him. I like the spirit of supporting each other. Hon. Wanga, there is an amendment to Section 2.

Hon. (Ms.) Gladys Wanga (Homa Bay, CWR, ODM): Of the National Youth Council?

The Temporary Deputy Chairman (Hon. Patrick Mariru): No. On the Counterfeit.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): That is not mine.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Kanini, I have no intention. This is from my record here. I need to correct it. It is not Hon. Ali Wario, it is for Hon. Kanini Kega.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by inserting the following new proposed amendment to section 2 of the Anti-Counterfeit Agency Act, No. 13 of 2008 —

s. 2 Insert the words “or outside Kenya” immediately after the words “subsisting in Kenya” appearing in the definition of the word “counterfeiting”.

The justification for that is simple. The new proposed amendment is intended to enable the agency initiate measures targeting and protecting intellectual property rights registered outside Kenya.

Without belabouring much on that, we know what has been happening in the country in terms of the counterfeit products we have had in the country. This is to address those issues. Thank you.

(Question of the amendment proposed)

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

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I thank the Chairman of the Departmental Committee on Trade, Industry and Cooperatives. There is a problem in this country. One morning somebody may go to a go down in Ruaraka in Baba Dogo and say everything in the godown is counterfeit. We must define what counterfeit is. How do you determine a counterfeit between the suit I am wearing and that of Hon. T. J. Kajwang' which is counterfeit? I am happy counterfeit has been defined.

Many of our businesses are suffering under the multi-agency team. In the United States of America, major companies have, for example an iPhone like the one I am using from China and another from the USA. So, the culture of talking about counterfeit and contraband gives chance to other people like the Chinese to do business in this country.

I support the Chair of the Committee because he has now defined what counterfeit is. Once it is signed into law, we will ask you to come with a machine to gauge and tell what is counterfeit and which is not.

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

(Section 2 as amended agreed to)

(Part II agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, the following sections, Hon. Millie Odhiambo has proposed deletion. They are quite a number of them. Hon. T. J. Kajwang', it may be helpful to listen to these ones. There are quite a number of sections, over 20, that Hon. Millie Odhiambo has proposed to delete. They are on the Order Paper. We may not take all the sections but a chunk of them at ago.

Hon. T. J. Kajwang' that speaks to your earlier request. So, we will take chunks together and make progress.

The Anti-Counterfeit Agency Act, No. 13 of 2008, Sections 3, 3(1) and 3(2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang' for Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, JP): Hon. Temporary Deputy Chairman, I withdraw the amendment proposed in the Order Paper.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 3, 3(1) and 3(2) agreed to)

(Section 4 agreed to)

Sections 5, 6, 7, 10(1), and 10(2)(c)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang' for Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, JP): Hon. Temporary Deputy Chairman, I confirm that I have withdrawn amendments relating to those sections on the Anti-Counterfeit Agency Act.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 5, 6, 7, 10(1), and 10(2)(c) agreed to)

The Anti-Counterfeit Agency Act, No. 13 of 2008, Sections 11, 12(1), 12(2), 12(3), 14(1), 14(2), 15, 16(2) and 17

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang' for Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, JP): Hon. Temporary Deputy Chairman, I hereby withdraw the sections.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

*(Sections 11, 12(1), 12(2), 12(3), 14(1),
14(2), 15, 16(2) and 17 agreed to)*

(Section 18 agreed to)

*The Anti-Counterfeit Agency Act, No. 13 of 2008, Sections 19 (1), 19 (2) (a), (b) (c) (d),
19 (4), 20 (1), 20 (2) (a) and (b) and 20(3)*

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I withdraw the proposed amendment concerning sections 19 up to 20.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

*(Sections 19 (1), 19 (2) (a) (b) (c) (d), 19 (4),
20 (1), 20 (2) (a) and (b) and 20 (3) agreed to)*

*The Anti-Counterfeit Agency Act, No. 13 of 2008, Sections 21 (1) and (2), 23, 26, 32, 33 (4),
34 (1) (2) (3) (4) and (5), 34B, 35 and 36*

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, we have Section 34 (6) (a).

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let me confirm from the Bill. Yes, absolutely. In the Order Paper, it reads that she was going to delete the entire of section 34 but because we had specified (1) (2) and (3), we needed to specify even 6. Allow me to read it again.

Sections 21 (1) and (2), 23, 26, 32, 33(4), 34(1) (2) (3) (4) (5) (6) (7) and 9, 34B, 35 and 36

Hon. T.J. Kajwang' (Ruaraka, ODM): I confirm that I withdraw the amendments from sections 21 to 36.

(Proposed amendment by Hon. (Ms.)Odhiambo-Mabona withdrawn)

(Provisions relating to the Anti-Counterfeit Agency Act, No. 13 of 2008, agreed to)

THE BIOSAFETY ACT, NO. 2 OF 2009

The Biosafety Act, No. 2 of 2009, Section 6 (1)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I withdraw the proposed amendment to section 6(1).

(Proposed amendment by Hon. (Ms.)Odhiambo-Mabona withdrawn)

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendment to the Biosafety Act, (No 2 of 2009) by inserting the following new paragraph immediately after the proposed new paragraph 6(1)(d) —

s.6 (1) Delete and substitute therefor the following subsection -

(1) The Authority shall be managed by a Board comprising of nine members as follows –

(a) a Chairperson who shall be an eminent scientist, appointed by the Cabinet Secretary;

(b) the Principal Secretary in the Ministry for the time being responsible for Science and technology or a representative;

(c) the Principal Secretary in the Ministry for the time being responsible for finance or a representative;

(d) the Principal Secretary in the Ministry for the time being responsible for agriculture or a representative;

(e) the Principal Secretary in the Ministry for the time being responsible for health or a representative;

(f) two experts in the biological, environmental and social sciences respectively, appointed by the Cabinet Secretary;

(g) one member with financial expertise, appointed by the Cabinet Secretary; and,

(h) the Chief Executive Officer who shall be an ex-officio member.

The justification is fairly straightforward. The amendment deals with the composition of the board, which shall be nine members. The Committee received communication from the Ministry of Health seeking inclusion of Principal Secretary, Ministry of Health. This is owing to

the fact that the National Biosafety Authority's role in conducting risk assessment in terms of genetically modified foods is absolutely necessary. That prompted the Committee to include the PS, Ministry of Health. Further amendment seeks to allow the various PSs to nominate representatives to sit in the board. In the earlier Act, it merely stated that PSs should form part of the board but we are now saying that they can also nominate representatives to sit in their place whenever they are not there.

Thank you.

(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)

(Section 6 (1) as amended agreed to)

The Biosafety Act, No. 2 of 2009, Section 12 (2)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I withdraw the amendments touching on Section 12 (2) of the Biosafety Act.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 12(2) agreed to)

The Biosafety Act, No. 2 of 2009, Section 14

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I withdraw the amendments touching on Section 14 on Biosafety Act.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 14 agreed to)

The Biosafety Act, No. 2 of 2009, New Section 6(1)(A)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Leader of the Majority Party. Move the Second Reading.

Hon. Aden Duale (Garissa Township, JP): I have an amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Are they on the Biosafety Act?

Hon. Aden Duale (Garissa Township, JP): I have an amendment? Which page?

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is page 1708, in the Supplementary Order Paper.

Hon. Aden Duale (Garissa Township, JP): Yeah! There is nothing for me here.

The Temporary Deputy Chairman (Hon. Patrick Mariru): On the one that reads: “any person who immediately before the commencement of this section was a member of the board shall be deemed to be a member of the...”

Hon. Aden Duale (Garissa Township, JP): Is it page 1707 or 1708, or is it 1716?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Leader of the Majority Party, you can approach the Table to get guidance.

Hon. Aden Duale (Garissa Township, JP): Yeah. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Biosafety Act, 2009, (No. 2 of 2009) by inserting the following new amendment immediately after the proposed amendment to Section 6(1) —

(1A) Any person who, immediately before the commencement of this section was a member of the Board shall be deemed to be a member of the reconstituted Board for the unexpired period of his or her term of service.

I think this is just to provide for a transitional clause where any person who immediately before the commencement of this section was a member of the board shall be deemed to be a member of the reconstituted board for the unexpired period of his or her term of service.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

(Provisions relating to the Biosafety Act, No. 2 of 2009, as amended agreed to)

THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING ACT, No.9 OF 2009

The Proceeds of Crime and Anti-Money Laundering Act, No.9 of 2009, Section 2

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw the proposed amendments touching on Section 2 of the Act.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Having dropped, I will put the Question.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Proceeds of Crime and Anti-Money Laundering Act, No.9 of 2009, Section 2(fa)

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Proceeds of Crime and Anti-Money Laundering Act –

(a) by deleting the proposed new paragraph (fa) in Section 2.

The essence of this amendment is to seek to include employees of accountants, advocates, and their employees' trust company service providers in the definition of the expression "designated non-financial business or professionals" for purposes of this Act. In other words, employees of those institutions like law firms and accountant firms can be required, under this amendment, to report to the reporting center when there is information about resources alleged to be proceeds of crime and so on. This proposal to include advocates as reporting institutions will encroach on and significantly affect the well settled principle of advocate-client privileges. The privileges are enjoyed by the advocates and their clients even after the relationship ceases.

Without taking a lot of time on this, we are proposing a deletion to that section because this is a very serious step. It requires wide consultations. We cannot deal with this under miscellaneous amendments. That is the basis and justification of that. That is the same case in Section 48 which we will do later.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I want to go on record. Even though I do not want to oppose the Chairman, the essence and the objective of this amendment in the Bill was to propose to amend the Act to include employees of accountants, advocates and notaries to fall within that reporting. The amendment will remove that. The amendment of the Chairman will remove advocates, notaries and other legal professions who are sole practitioners from being classified as designated financial business or professionals. That is to say that if I today want to say that I want to hide money, I just need to talk to my lawyer and give him one billion. How do we fight corruption in our country? How do we fight money laundering? If we can allow advocates to hold accounts that the Director General of the Financial Reporting Centre cannot access and question, is wrong.

It is very sad. You know, the Chair of the Departmental Committee on Justice and Legal Affairs is a lawyer. Many of his colleagues in the Committee are lawyers. This afternoon I have realised that this House is divided into different segments. There are those who will represent trade unions and those who defend legal professions. Maybe a day will come when I will also defend the camel breeders in this country. Let me go on record. If we have to fight corruption and join the President in the war against corruption, this amendment negates what Government, the EACC, the DPP, the DCI and the Financial Reporting Centre are doing. I want to challenge the Governor of the Central Bank of Kenya (CBK) and the Financial Reporting Centre. By

having these amendment, make sure you follow the money that is moving around the country in the financial sector.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, I will give you a chance as I come to a close on that. Hon. T.J. Kajwang’.

Hon. T. J. Kajwang’ (Ruaraka, ODM): You know Kenyans listening to Hon. Duale would think that he is speaking from Mars and he has decided not to understand the principles of the practice of law. If there is anything else, the practice of law hangs upon the advocate-client confidentiality without which there is no practice of law completely. Hon. Duale will need an advocate one of these fine days. In fact, I think he really needs one. I am sure.

(Applause)

Ahmednasir will be a commoner the day we remove advocate-client confidentiality from him. He will not be able to represent him anywhere, not just because advocates handle clients’ property and trust, leave alone the issues of the monitory or physical properties, the issue of confidentiality. That you can talk to a lawyer just like you can talk to a Catholic priest and confess to him, yet he can find a way in which he can present your case in a way which does not defeat the law but does not defeat the facts of the case. This is what advocacy is all about. So, the Leader of the Majority Party somebody behind me said the office that you occupy, when you speak young people who are aspiring to be lawyers want to hear what you say. So, spare these young people to understand that advocacy is still a protected institution and practice.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Finally, the Chair then we make progress.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I also want to go on record that all of us including the lawyers and accountants must fight corruption. We should not make laws in vain. When you look at Section 134 of the Advocates Act, it provides that the advocate-client privilege gives exceptions of instances where disclosure may be made in such situations. We must look at all these issues in totality so that we just do not amend that section without looking at the other related legislations like the Advocates Act. So, this is a very serious matter. When we did public participation, all the citizens who appeared before us, the lawyers and the accountants opposed this. I want the Leader of the Majority Party to realise that it is not just the lawyers it is even the accountants. I plead with the House that we pass this. The Leader of the Majority Party has agreed with me.

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

(Section 2(fa) as amended agreed to)

The Proceeds of Crime and Anti-Money Laundering Act, No.9 of 2009, Section 2 (fb)

Hon. T.J. Kajwang (Ruaraka, ODM): I am persuaded by the Bill and I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 2 (fb) agreed to)

The Proceeds of Crime and Anti-Money Laundering Act, No.9 of 2009, Section 48

Hon. T. J. Kajwang'(Ruaraka, ODM): Hon. Temporary Deputy Chairman, I have to withdraw this and I will do it for a very good reason. Had I not withdrawn the amendment, the Bill would have... She was proposing a deletion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, she was proposing a deletion of the entire section 48.

Hon. T. J. Kajwang'(Ruaraka, ODM): But the Chair has an amendment to this?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes.

Hon. T.J. Kajwang' (Ruaraka, ODM): Yes. I would prefer that we go with the Chair's amendment and for that reason I withdraw. I would be comfortable with the proposals of the Chair.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, the withdrawal is confirmed, Hon. Chair you have an amendment to Section 48.

Hon. William Cheptumo (Baringo North, JP): Hon. Chair, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Proceeds of Crime and Anti-Money Laundering Act –

(b) by deleting the words “advocates, notaries, other independent legal professionals and” appearing in the proposed new subsection 8 (a) in section 48.

Section 48 now wants to have the advocate, the lotteries, and the accountants to be part of the reporting institutions in the process of reporting what I said earlier. For the same reasons I raised in Section 2, we are proposing that this section be deleted because the argument is the same.

(Question of the amendment proposed)

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

(Section 48 as amended agreed to)

(Provisions relating to the Proceeds of Crime and Anti-Money Laundering Act, No.9 of 2009 as amended agreed to)

THE NATIONAL YOUTH COUNCIL ACT, NO.10 OF 2009

The National Youth Council Act, No.10 of 2009, Section 2

Hon. Aden Duale (Garissa Township, JP): I am withdrawing the whole thing so I should be given the first chance.

The Temporary Deputy Speaker (Hon. Patrick Mariru): But the Leader of the Majority Party, that was to happen.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg move:

THAT, the Schedule of the Bill be amended by deleting all the proposed amendments to the National Youth Council Act.

These amendments look very substantial and after consultation with the Attorney-General of the Republic of Kenya, and though a letter dated, 22nd August 2018, we have agreed to drop that amendments.

(Question of the amendment proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wang

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I want to agree that the Committee had also taken the same path because the Ministry appeared before the Committee and asked that all the amendments be deleted. So, my hope is that the Leader of the Majority Party will also withdraw the amendments on page 17 on the same Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wang, let us deal with Section 2 first.

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

(Section 2 agreed)

The National Youth Council Act, No.10 of 2009, Section 4

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I withdraw the amendment. I have said that I have withdrawn all the proposed amendments to the National Youth Council Act.

Let me say it again

THAT, the Bill be amended by deleting all proposed amendments to the National Youth Council Act.

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Leader of the Majority Party, we are dealing with one after the other. Particularly, because there are many proposed amendments in each section. Therefore, we need to move fast.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I did this yesterday and even this afternoon. I am deleting all the proposed amendments to the National Youth Council Act of 2009. That supersedes, we cannot go again to other sections.

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Leader of the Majority Party, I know Members may want us to move fast but we will deal with one after another. This is because we have a situation where a Member may not agree with us. This is because the amendments are by more than one person. Therefore, if yours are carried, the others fall. Let us move must.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to section 4.

(Question of the amendment proposed)

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

(Section 4 agreed to)

The National Youth Council Act, No.10 of 2009, Section 5(1)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to section 5(1).

(Question of the amendment proposed)

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

(Section 5(1) agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Ichung'wah, you seem to be helping the Chair.

The National Youth Council Act, No.10 of 2009, Section 5(3)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to section 5(3).

(Question of the amendment proposed)

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

(Section 5(3) agreed to)

The National Youth Council Act, No.10 of 2009, Section 9

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to section 9.

(Question of the amendment proposed)

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

(Section 9 agreed to)

The National Youth Council Act, No.10 of 2009, Section 10(2)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to section 10(2).

(Question of the amendment proposed)

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

(Section 10(2) agreed to)

The National Youth Council Act, No.10 of 2009, Section 23

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to section 23.

(Question of the amendment proposed)

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

(Section 23 agreed to)

The National Youth Council Act, No.10 of 2009, New Section 5(1)(c)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Leader of the Majority Party. Yes, you have a new Section 5(1)(c).

Hon. Aden Duale (Garissa Township, JP): Where is it?

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is on page 1708 of the Supplementary Order Paper. You may approach the Table.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –
deleting the proposed amendment to New section 5(1)(c).

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

(New Section 5(1)(c) agreed to)

First Schedule

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, Hon. Naomi Shaban is asking me what time we are leaving and I told her we are here until midnight. She is telling me she is going to tell my wife that now *nimehamia hapa*. At least my wife knows I am here. She is watching television.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Youth Council Act, 2009 (No. 10 of 2009) by –

- (i) deleting the proposed amendment to the First Schedule.

(Question of the amendment proposed)

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

(First Schedule agreed to)

(Provisions relating to the National Youth Council Act, No.10 of 2009, agreed to)

THE ALCOHOLIC DRINKS CONTROL ACT, NO. 4 OF 2010

(Section 2 agreed to)

(Provisions relating to the Alcoholic Drinks Control Act, No. 4 of 2010, agreed to)

THE COMPETITION ACT, NO. 12 OF 2010

(Section 10(1)(a) agreed to)

(Provisions relating to the Competition Act, No. 12 of 2010 agreed to)

THE JUDICIAL SERVICE ACT, NO. 1 OF 2011

The Judicial Service Act, No. 1 of 2011, Section 15(1)(b) and 15(2)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, the way we were going this morning and even yesterday is that if I delete all the proposed amendments to that Act, then all other amendments collapse and we just put the Question. If you allow me, let me move the first one.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by deleting the proposed amendments to the Judicial Service Act, 2011.

I gave the reason earlier. This amendment looks very unconstitutional. After consulting with the Attorney-General, we have agreed to delete and drop that amendment altogether.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I am sure Members who were around will tell me. The moment I withdraw my amendment as the owner of the Bill...

The Temporary Deputy Chairman (Hon. Patrick Mariru): Are you withdrawing or prosecuting the deletion?

Hon. Aden Duale (Garissa Township, JP): I am withdrawing all amendments relating to the Judicial Service Act in the Bill.

The Temporary Deputy Chairman (Hon. Patrick Mariru): That becomes different. You are not prosecuting the deletion. You are withdrawing the proposed amendment.

Hon. Millie Odhiambo also had an amendment. We will go to the new section where the Chair is concerned. Leader of the Majority Party, having withdrawn your amendment, Hon. Millie Odhiambo also had an amendment.

Hon. T. J. Kajwang' (Ruaraka, ODM): The Leader of the Majority Party is making a lot of sense. First of all, under the Standing Orders, the person whose action will affect all the other people proposing amendments to the legislation has the first bite of the cake. That is why he had

that first bite. He has withdrawn the entire proposed amendments in the Bill. There is nothing for Millie Odhiambo or the Chair of the Committee to propose amendments to. You can take us through the long route or agree that we save time. He has not withdrawn his amendment. He has prosecuted an amendment to delete the entire proposed amendments to that Act in the Bill. There are no proposals left in the Bill. We go back to the Act. This is what we are talking about.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang, let us be very clear here. It is important. There are two instances. The Leader of the Majority Party could withdraw the amendments that he has proposed. The Leader of the Majority Party could prosecute the deletion as he had proposed. If he prosecutes his deletion, in effect, everything else falls because he will have deleted any other amendment that would have been proposed. That is why I asked the Leader of the Majority Party whether he is withdrawing his amendment or prosecuting deletion of all the amendments. It is very important. That is why I asked him twice.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, you are very right.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by deleting the proposed amendments to the Judicial Service Act, 2011.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. That relates to Sections 15 (1) (b) and 15 (2) for purposes of record.

(Question of the amendment proposed)

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

(Sections 15(1)(b) and 15(2) agreed to)

The Judicial Service Act, No. 1 of 2011, New Section 15 (1) (a)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Cheptumo, you are proposing a new section altogether. It is New Section 15 (1) (a).

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, in view of the deletion by the Leader of the Majority Party, I also wish to withdraw that proposed amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. That withdrawal is confirmed.

(Proposed amendment by Hon. William Cheptumo withdrawn)

The Leader of the Majority Party has deleted all of them. We do not need to put that particular Question.

(Provisions relating to the Judicial Service Act, No. 1 of 2011, agreed to)

THE TOURISM ACT, NO.28 OF 2011

The Tourism Act, No. 28 of 2011, Section 7 (1) (a)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, on behalf of the Member for Suba North, I hereby withdraw the proposed amendments touching on the Tourism Act.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Munyaka, you also had an amendment on Section 7 (1) (a).

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Tourism Act, (No. 28 of 2011) by –

(a) deleting the proposed amendment to Section 7(1)(a) and substituting therefor the following new amendment —

s.7(1)(a) Delete paragraph (a) and substitute therefor the following new paragraph—

“formulate guidelines and prescribe measures for sustainable establishments and operations to realise sustainable tourism development throughout the country”

Hon. Temporary Deputy Speaker, this is to give a broader meaning and description of the mandate of the Tourism Regulatory Authority, so that it can be more clear and understandable. It is a matter of language only.

(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)

(Section 7(1)(a) as amended agreed to)

The Tourism Act, No. 28 of 2011, Section 7 (1) (b)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Tourism Act (No. 28 of 2011) by –

(b) deleting the proposed amendments to section 7(1)(b).

I propose that the original clause be reinstated so that a lacuna or vacuum is not left after the Tourism Regulatory Authority is deprived of one of its major functions.

(Question of the amendment proposed)

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

(Section 7(1)(b) agreed to)

The Tourism Act, No. 28 of 2011, Section 7 (1) (g)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T.J. Kajwang' on behalf of Hon. Millie Odhiambo.

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw. This is what the Leader of the Majority Party was saying. I have already gone on record and withdrawn all the amendments touching on the Tourism Act. I have withdrawn all of the amendments on the Tourism Act, on behalf of the Member for Suba North.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. I will read all of them. It is very important for record.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 7 (1) (g) agreed to)

Hon. T.J. Kajwang', for purposes of record, we will read all the other remaining sections so that you can go on record. I have put the Question on Section 7 (1) (g). It is important.

The Tourism Act, No. 28 of 2011, Sections 7 (1) (h), 31 (a) and 42 (b)

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I withdraw all the amendments on those sections.

(Sections 7(1)(h), 31(a), and 42(b) agreed to)

(Provisions relating to the Tourism Act, No.28 of 2011 agreed to)

THE INDEPENDENT POLICING OVERSIGHT AUTHORITY ACT, NO.35 OF 2011

The Independent Policing Oversight Authority Act, No.35 of 2011, Sections 11(1) and 12

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

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by deleting the proposed amendments to the Independent Policing Oversight Authority Act, 2011.

The reason is that they are very substantial and after consulting the Attorney-General of the Republic of Kenya and through his letter dated 22nd August 2018, we have agreed I delete the proposed amendments to the Independent Police Oversight Authority Act.

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

(Sections 11(1) and 12 agreed to)

(The Clerks-at-the-Table took over from their colleagues)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is change of guard.

Hon Aden Duale (Garissa Township, JP): What happens when the Hon. Temporary Deputy Chairman and the Clerks-at-the-Table change while the Members do not change?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Leader of the Majority Party, the Hon. Temporary Deputy Chairman has been here with you. Let us give them a minute.

*(Provisions relating to the Independent Policing Oversight Authority Act,
No.35 of 2011, agreed to)*

THE NATIONAL CONSTRUCTION AUTHORITY ACT, NO.41 OF 2011

(Sections 18(5), 27(3), 30, 30(c) and 42(2) agreed to)

*(Provisions relating to the National Construction
Authority, No.41 of 2011 agreed to)*

THE ENGINEERS ACT, NO.43 OF 2011

(Section 23(6) agreed to)

(Provisions relating to the Engineers Act, No.43 of 2011 agreed to)

THE LAND ACT, NO.6 OF 2012

The Land Act, No.6 of 2012, Section 2

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

The Land Act, 2012
(No. 6 of 2012)

S. 2 THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

Insert the following new definition in its proper alphabetical sequence—

“Alienation of public land” means alienation of land by either the National Government or the County Government as the case may be, by way of issuance of a letter of allotment by the National Land Commission to any person to hold the land either under leasehold or freehold tenure.

The justification is that the part deals with matters as stated in the new title. This is to address instances where counties may allot land as long as the same is authorised by the NLC. It is just to tighten it up.

(Question of the amendment proposed)

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

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

(Section 2 as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): In that case, the amendments by the Chairperson of the Departmental Committee on Lands and Hon. Millie Odhiambo fall.

Hon. Leader of the Majority Party, there is one amendment for deletion and one for definition on alienation of public land.

*(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona
and Hon. (Ms.) Rachel Nyamai dropped)*

The Land Act, No.6 of 2012, Heading of Part II

Hon. Aden Duale (Garissa Township, JP): I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

Heading of

Part II

Delete the heading of Part II and substitute therefor the words “General Conditions Relating to Leases, Licenses and Agreements for Leasehold Land.

Of course, part 2 deals with the heading of Part II. The reason or the justification is that the part deals with matters as stated in the new title.

(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)*

(Part II as amended agreed to)

The Land Act, No.6 of 2012, Section 23

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Leader of the Majority Party, before we come to you, Hon. Millie Odhiambo is actually proposing a deletion. In that case, we have to give her a chance. Hon. Hon. T. J. Kajwang?

Hon. T. J. Kajwang' (Ruaraka, ODM): Is it the deletion on Section 23?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes.

Hon. T. J. Kajwang' (Ruaraka, ODM): That is reasonable. The problem is that the Chair of the Departmental Committee on Lands is not speaking. Is she in the House in the first place?

Hon. (Ms.) Rachel Nyamai (Kitui South, JP): I am here.

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Chairperson is absolutely here? She has been here.

Hon. T. J. Kajwang' (Ruaraka, ODM): All right. I will be with you if you just give me a minute. I think I have to withdraw this. This amendment is good the way it is in the Bill. It says that the lease or licenses for private land will be issued by the Cabinet Secretary and registered by the Land Registrar. That makes sense. Who else would issue the license? Therefore, I withdraw the amendment concerning that.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well, that is noted. The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s. 23 Delete sub-section (2) and substitute therefor the following new sub-section—

(2) A lease or licence for private land within the meaning of Article 64(b) of the Constitution shall be issued by the Cabinet Secretary and registered by the Chief Land Registrar.

I agree with Hon. T. J. It is just to make clarity on issuance of leases and licenses. It says they should be issued by the Cabinet Secretary and registered by the Chief Land Registrar.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will give you a chance if you want to speak, Hon. Chair of the Departmental Committee on Lands, Hon. Rachael.

Hon. (Ms.) Rachel Nyamai (Kitui South, JP): This is just to put the voice of the Parliamentary Departmental Committee on Lands. We agree to that amendment. It is properly justified. It makes matters clearer in terms of implementation.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. In that case, I will put the Question.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it?

Hon. T. J. Kajwang' (Ruaraka, ODM): We are dealing with technical issues. My point was, I like the amendment by the Leader of the Majority Party but it was the same wording that was in the Bill so I was just flashing my mind to see how the Leader of the Majority Party would... This is on page 340 of the Bill.

I now see the point which is that the Leader of the Majority Party is amending subsection 2. What is in the Bill is in subsection 3. I am most obliged.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairperson, you had an amendment to that section.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Lands Act, 2012 by –

s.23 Delete sub-section (2) and substitute therefor the following new subsection—

(2) A lease or licence for private land within the meaning of Article 64(b) of the Constitution shall be issued by the Cabinet Secretary and registered by the Chief Land Registrar.

The Justification for this amendment is to provide clarity. When it comes to private land it is the Ministries that shall be responsible for all matters relating to leases of private land including registration of leases.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is your point of order, Hon. T. J. Kajwang’.

Hon. T. J. Kajwang’ (Ruaraka, ODM): We are just getting tired because the Chair of the Committee is not proposing an amendment to subsection 3 of 23. Her amendment relates to subsection 2 which you have dealt with ably through the Leader of the Majority Party and we have finished it. Now we are on subsection 3 which is already on the Bill itself. To that extent, we do not have an amendment proffered to it. So, we just go to it.

Hon. Aden Duale (Garissa Township, JP): (*Off record*)

Hon. T. J. Kajwang’ (Ruaraka, ODM): She is not amending subsection 3 so that we just go by what is in the Bill and treat it as though there is no amendment. That is what I am seeing as far as I can see.

Look at Section 23 (3). The one which we finished was by the Leader of the Majority Party which was done well. So, now we are in Section 23(3), which she is not amending. She has just expressed herself on something which she has no amendment for. That is my point.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, what exactly is your amendment.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, there is some confusion there, so I would like to withdraw. We are therefore not making any amendments to Section 23(3).

The Temporary Deputy Chairman (Hon. Patrick Mariru): We are dealing with Section 23 and the first amendment was a deletion by Hon. Millie Odhiambo, the second one was an amendment by the Leader of the Majority Party and the other one was the proposed amendment by the Chairperson of the Departmental Committee on Lands. The only amendment on Section 23 is that of the Leader of the Majority Party. I had put a Question to that already.

Hon. T. J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chair, look at page 340 of the Bill you will see Section 23. So we have dealt with the amendments which were proposed by Hon. Millie which I withdrew. I suppose that subsection (2) and (3) are the same. The difference is how we pronounce ourselves on HANSARD because we have finished what the Leader of the Majority Party did in subsection (2). Now we are in subsection (3) which is in the Bill and there is no amendment. We just need to put the Question to the plenary and vote on it.

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is fine I agree with you, Hon. T. J. Kajwang’ on section 23(3).

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

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

(Section 23 as amended agreed to)

The Land Act, No.6 of 2012, Section 25

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s.25 Delete the word “leased” appearing in the marginal note.

This is just to correct an error on the intent of the section. The existing proviso provides for building on leased public land.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members should be more but we are very happy about this.

(Question of the amendment proposed)

I see no interest in this, so I move to put the Question.

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

(Section 25 as amended agreed to)

The Land Act, No.6 of 2012, Section 28(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo had a deletion.

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw in view of the fact that the Hon. Leader of the Majority Party has an amendment to it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo takes precedence because it is a deletion.

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is on record that Hon. Millie's amendment is withdrawn. So, I call upon the Leader of the Majority Party to move his proposed amendment.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s.28 (1) Delete and substitute therefor the following new subsection—

(I) The rent, royalties and payments reserved under any lease or licence shall be a debt owed to the national or county government, as the case may be, and shall be paid by the lessee or licensee at the office of the respective government or at such place as such government may prescribe.

Basically, the justification is that some public lands are administered by the counties while others are by the national Government. This amendment will help both levels of Government to recover any debt owed to them through land rent, royalties and reserved payments. I want to make it clear so that everybody knows his royalties and rents on a piece of land they administer.

(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)*

(Section 28 as amended agreed to)

The Land Act, No.6 of 2012, Section 29

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Mover. There is a deletion by Hon. Millie Odhiambo. I was surprised that Hon. Duale is the one who does not like Members riding on other's names.

Hon. T.J. Kajwang' (Ruaraka, ODM): You see what is confusing me is that the Leader of the Majority Party has an amendment and yet the Bill itself prefers a deletion. It is the Bill that should have taken precedence. If we go by the Bill, then there will be nothing for any of us to amend unless I am mistaken.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo's is meant to delete the Act.

Hon. T.J. Kajwang' (Ruaraka, ODM): I see. Hon. Millie Odhiambo intends to amend the deletion meaning that we then go to the parent Act. So, I withdraw, but even when I withdraw, it is the Bill that should take precedence over the Leader of the Majority Party because

if then the Bill proposes to delete, there will be nothing for the Leader of the Majority Party to amend. That is the way I look at it. For the purposes of the record, I withdraw.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That one is on record that Hon. Millie's amendment is withdrawn.

(Proposed amendment by Hon. Odhiambo-Mabona withdrawn)

Leader of the Majority Party, what is your amendment? We are on Section 29.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s. 29 Delete the word "Commission" wherever it appears and substitute therefor the words "national government or county government, as the case may be".

It is unconstitutional because we are trying to replace wherever the word "Commission" appears. As we said in Section 28, public land either belongs to the national Government or county governments. So, the Commission cannot collect rent and royalties on behalf. It is the county government and the national government who will own those royalties and rents. In all the subsequent amendments in sections 30 and 31, I am just replacing the word "Commission".

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The "Commission" has not been deleted by Hon. Millie Odhiambo. What did Hon. Millie Odhiambo delete? She withdrew. Thank you for noting. Leader of Majority Party, as you consult, let us have Hon. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): I think this is where we were and we made the same mistake on Section 28. The Bill is proposing to delete Section 28 in the parent Act. If then the Bill itself were to take precedence, then there will be nothing for the Leader of the Majority Party to amend. That is the point. The text in the Order Paper is not to amend and substitute. It is just to change the word "Commission" as though the Bill has not deleted. We are at Section 29. We get into trouble with procedure. The point is this...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang', I am looking at what Hon. Millie is intending to do on Section 29. During the Second Reading of the Bill, it is a deletion. So, Hon. Millie Odhiambo is deleting... We are on Section 29.

Hon. T.J. Kajwang' (Ruaraka, ODM): There are three sets to this thing. There is the Bill itself, a proposal by Millie and a proposal by the Leader of the Majority Party. All of them are on Section 29. Millie has withdrawn her proposal. Let me clear this. I was on a point of order. Millie has withdrawn her amendment. The two amendments are the Bill itself and what the Leader of the Majority Party intends to do. We need to clarify who has precedence. The Bill would have been deleted and there would have been nothing for the Leader of the Majority Party to amend. The Leader of the Majority Party is only amending the terminology which would have been deleted, anyway. I do not know if I am causing more confusion than helping you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): We have completed Section 28. I propose to amend Section 29 by deleting the word "Commission" wherever it appears and substituting therefor the words "national Government or county government, as the case may be".

The reason comes from Section 28 where we noted that some public lands are administered by counties whereas some are administered by the national Government when it

comes to royalties, rent and all that. In the parent Act, there was the element of the Commission. I am removing the “Commission” and substituting it with either the national Government or county government.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear Hon. Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): I have a problem with the proposed amendment. What are we amending? We have already deleted that section. That is where we are starting from. Unless we reinstate the provision in the Act and then consider the amendment by the Leader of the Majority Party, we will have a problem with the procedure.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have not deleted anything. Hon. Kajwang’, you withdrew Hon. Millie’s amendment.

Hon. Jeremiah Kioni (Ndaragwa, JP): We did away with Millie’s. We went back to the Act.

(Loud consultations)

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, this is where we are. We could go the way the Leader of the Majority Party is proposing. I have the Act. I have opened it. We can go the way of the Leader of the Majority Party and vote on his amendment. His amendment seeks to replace the word “Commission”. I see it here. We would have changed it. We would have gone back to the Bill itself which proposes deletion of all the amendments including Hon. Duale’s amendment. That is the point I am making. There is a deletion in the Bill. Nobody is proposing to delete the deletion and replace it. That is the point I am making. He is just deleting the word “Commission”. He is not proposing that we delete the deletion of the Bill.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, if you look at the amendments at the top of page 1683, it states that the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following... That covers everything I am proposing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’, I know we are tired. It is good to engage.

Hon. T.J. Kajwang’ (Ruaraka, ODM): We are 349 Members and only 10 people are in the Chamber.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Do not say that. We respect every Member. That is a very good observation. Hon. Duale has to convince you just the way you convinced him the other time and your point was taken. That is why the Chair has to allow for a debate for us to come to an agreement. Let us move to Hon. Duale’s amendment. Now, you have convinced us. Leader of the Majority Party, please move your amendment. I must thank you Members because you are very keen.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s.29 Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government, as the case may be”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Ndaragwa.

Hon. Jeremiah Kioni (Ndaragwa, JP): We need a clarification that will help us go through all the other sections. We can get it from the Leader of the Majority Party or the Chair on whether these amendments do not dilute in any way the powers of the Commission. We are just tidying up the legislation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, pronounce yourself on this one.

Hon. Aden Duale (Garissa Township, JP): We are giving to Caesar what belongs to him and what belongs to the national Government and the county governments, when it comes to rent, royalties and other payments.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us get a voice of the Committee, Member for Kitui South.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Chairlady. I would like to confirm that we had a similar amendment and we discussed it. What the Leader of the Majority Party is doing by this amendment is to place the authority where it should be — at the county government and national government. The Commission does not have the human power. It is not empowered in terms of human power to do this.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Are you supporting the Leader of the Majority Party?

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Mathare and then I put the Question.

Hon. Anthony Oluoch (Mathare, ODM): Not on this one, Hon. Temporary Deputy Chairlady.

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

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

(Section 29 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Next Section.

The Land Act, No.6 of 2012, Section 30

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a deletion by Hon. Millie.

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): On record, Hon. Millie's amendment has been withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

I will move to the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

- s. 30 Delete the words “Commission’s right to recover a debt in any other way, the Commission may sue” and substitute therefor the words “the right of the respective government to recover a debt in any other way, such government may sue”.

The justification is the same. We are replacing the word “Commission” with either national Government or county governments.

(Question of the amendment proposed)

(Hon. Kimani Ichung'wah consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order. Who is this Member? Hon. Ichung'wah.

(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 Land Act, No.6 of 2012, New Section 31

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I call upon the Mover to move Second Reading.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

- s. 31 Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government, as the case may be”.

(Question of the new clause proposed)

(New section read the First Time)

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

The story is still the same. We are substituting the word “Commission” wherever it appears with the words “national government or county government, as the case may be.”

Hon. Kajwang' New Section 31 is on page 1684. Hon. Wanga, that is a new section.

(Hon. T. J. Kajwang' spoke off record)

Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I agree with you but it is an error on the Order Paper. We have seen a number of errors today on the Order Paper made by those who were working on it. It is not shown on the Order Paper as a new section.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, let us move together. The sections go up to 30 and there is a new section, you will agree with me. We are right. It is good for that to go into record.

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

(The new section was read a Second Time)

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

The Land Act, No.6 of 2012, New Section 32

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Mover.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s. 32 Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government, as the case may be”.

(Question of the new clause proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Land Act, No.6 of 2012, New Section 33

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s. 33 Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government, as the case may be”.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Land Act, No.6 of 2012, New Section 34

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s. 34 Delete the words “Public Land” appearing in the marginal note and substitute therefor the words “leasehold land”.

Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government, as the case may be”.

Delete the words “leasehold public land” wherever they appear and substitute therefor the words “land held under leasehold tenure”

The justification seeks to clarify the role of the national and county governments relating to all leasehold land not just leased public land.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Land Act, No.6 of 2012, New Section 35

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Land Act, 2012 and substituting therefor the following—

s. 35 Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government, as the case may be”.

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

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

(The new section was read a second time)

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

The Land Act, No.6 of 2012, New Section 36

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, after consultation with the Leader of the Majority Party, we withdrew our amendment so that they can all be aligned.

(Proposed amendment by Hon. (Ms.) Rachel Nyamai withdrawn)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, she is in a different position from us. She is the Chair of a Committee. Therefore, this thing belongs to us as a House. We need to investigate the reasons for which she is withdrawing. As far as I can see, the environmental and land court are the high courts. So, if you withdraw, what are you saying because this amendment was to give jurisdiction to the environment and land court? I hope she is not being intimidated by the Leader of the Majority to withdraw without seeing the justification of that withdrawal.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair being the owner of the amendment says she has consulted. Hon. Leader of Majority, do you want to speak before the Chair?

Hon. Aden Duale (Garissa Township, JP): Hon. T.J. Kajwang' said I am intimidating the Chair. If there is somebody who is being intimidated by somebody, it is T.J. Kajwang' who is being intimidated by Hon. Millie Odhiambo from Ukraine. She is in Ukraine but Hon. Kajwang' is unable to leave the Chamber because of her.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I knew you had to say something on that in your defence. Hon. Chair?

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, now that I am here, I am not intimidated. We have been consulting with the Majority Leader. The amendments we had were giving the power to the Chief Land Registrar to deal with matters of county and national level. As you know, public land can fall at the county level and also at the national level. For that reason, we withdrew ours which was focusing on Chief Land Registrar so that we can talk about the national Government and the county government. So, we are not intimidated in any way.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, she could be the owner of the amendment but she cannot mislead the Assembly. Is it in order that the Chair of the Committee should mislead the House to suggest that she was dealing with issues to do with county governments when it is clear in the Bill, Page 340, at the bottom of the page...

(Hon. Aden Duale interjected)

Hon. T.J. Kajwang' (Ruaraka, ODM): No. There is no mention of the county jurisdiction or anything to do with what the Chair has said. Is she in order to mislead the Assembly? Apart from the part that she is withdrawing, is she in order to mislead us? As far as I can see, all this amendment was to do was to confer jurisdiction on the Environmental and Land Court. Is it in order to mislead the Assembly with all that information?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. She started by explaining that they consulted and that is why they withdrew, as far as the Committee is concerned. So, since it is the position of the Committee and she is the Mover of the amendment, the Chair has no powers after it is withdrawn. So, we go to the other step. We are through with that. Hon. T. J. Kajwang' scared people. We are past that. I am consulting, Hon. T. J. Kajwang'. I understand we are in that Act.

(Provisions relating to the Land Act, No.6 of 2012, as amended agreed to)

THE LAND REGISTRATION ACT, NO.3 OF 2012

The Land Registration Act, No.3 of 2012, Section 2

Hon. Aden Duale (Garissa Township, JP): I beg to move:

THAT, the Schedule to the Bill be amended by deleting the proposed amendment to section 2 of the Land Registration Act, 2012.

I am deleting all proposed amendments to Section 2, of the Land Registration Act, 2012. The stakeholders need to be consulted. The Attorney-General, through a letter dated 22nd August, 2018, concurred with me and said we need to do it in a substantive Bill.

I beg to move by deleting all the proposed amendments on Section 2 of the Land Registration Act, 2012.

(Question of the amendment proposed)

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

(Section 2 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair of the Departmental Committee on Lands, yours has already been overtaken. The Leader of the Majority Party. So, yours falls.

(Proposed amendment by Hon. (Ms.) Rachael Nyamai withdrawn)

(Provisions relating to the Land Registration Act, No.3 of 2012, agreed to)

THE NATIONAL AUTHORITY FOR THE CAMPAIGN AGAINST ALCOHOL
AND DRUG ABUSE, NO. 14 OF 2012

*The National Authority for the Campaign Against Alcohol and Drug Abuse, No.14 of 2012,
Section 6 (1) (a)*

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I withdraw that proposed amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

(Section 6(1) (a) agreed to)

*(Provisions relating to the National Authority for the Campaign against Alcohol and Drug
Abuse, No. 14 of 2012 agreed to)*

THE KENYA DEFENCE FORCES ACT, NO. 25 OF 2012

The Kenya Defence Forces Act, No. 25 of 2012, Section 61(2)

Hon. T. J. Kajwang' (Ruaraka, ODM): The amendment is withdrawn

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

(Section 61(2) agreed to)

The Kenya Defence Forces Act, No. 25 of 2012, Section 133 (1)

Hon. T. J. Kajwang' (Ruaraka, ODM): The amendment is withdrawn

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We move to the amendment by the Chairperson of Defence.

Hon. Charles Kilonzo (Yatta, Independent): Hon. Temporary Deputy Chairlady, on behalf of my Chair I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Defence Forces Act (No. 25 of 2012) by –

(a) deleting the word “on” and substituting therefor the word “or” in the proposed amendment to Section 133 (1); and

This is purely a typo. It should have read ‘or’ not ‘on’.

(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)*

(Section 133(1) as amended agreed to)

The Kenya Defence Forces Act, No. 25 of 2012, Section 245(11)

Hon. T. J. Kajwang’ (Ruaraka, ODM): The amendment is withdrawn

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

(Section 245(11) agreed to)

The Kenya Defence Forces Act, No. 25 of 2012, Section 249 (5)(a))

Hon. T. J. Kajwang’ (Ruaraka, ODM): I have to check this. When it concerns things to do with oaths and declarations of the President, I am an authority in giving people oaths. I have to be sure that I am doing the right thing. I suppose that it is supposed to give oaths to members of the cadre of the Kenya Defence Forces. So, I withdraw it.

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

(Section 249(5)(a) agreed to)

The Kenya Defence Forces Act, No. 25 of 2012, Section 252

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, there is an amendment by Hon. Odhiambo. Hon. Kajwang’

Hon. T. J. Kajwang’ (Ruaraka, ODM): The amendment is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 252 agreed to)

The Kenya Defence Forces Act, No. 25 of 2012, Section 304(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, there is an amendment by Hon. Odhiambo. Hon. Kajwang’

Hon. T. J. Kajwang’ (Ruaraka, ODM): The amendment is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Before I put the Question we have an amendment by the Chair of the Departmental Committee on Defence and Foreign Relations. We are in Section 304(1).

Hon. Charles Kilonzo (Yatta, Independent): Hon. Temporary Deputy Chairlady, on behalf of my Chair, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Defence Forces Act (No. 25 of 2012) by –

(b) deleting the word “board” wherever it appears and substituting therefor the word “committee” in the proposed amendment to Section 304 (1).

This was an error, the Bill talks about board instead of committee. So we are correcting this by inserting the word ‘committee’ wherever the word ‘board’ appears.

(Question of the amendment proposed)

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

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

(Section 304 (1) as amended agreed to)

(Fourth Schedule agreed to)

*(Provisions relating to the Kenya Defence Forces Act, No. 25 of 2012,
as amended agreed to)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Next provisions.

THE KENYA SCHOOL OF LAW ACT, NO. 26 OF 2012

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have proposed amendments by the Leader of the Majority Party.

Kenya School of Law Act, No.26 of 2012, Section 4(2)

Hon. Aden Duale (Garissa Township, JP): Chair, I withdraw my amendment it was erroneous.

(Proposed amendment by Hon. Aden Duale withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): On record the Leader of the Majority Party has withdrawn. So, we will move to the Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairlady, in view of the fact that the Leader of the Majority Party has withdrawn his amendments, I also do the same.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Are you being guided by the fact that he has deleted? You have consulted. It is also on record that the Chairperson of the Justice and Legal Affairs Committee has also withdrawn.

(Proposed amendment by Hon. William Cheptumo withdrawn)

With that I move to Hon. Millie Odhiambo.

Hon. T.J Kajwang' (Ruaraka, ODM): The amendment is withdrawn.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Amendment is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 4(2) agreed to)

Kenya School of Law Act, No.26 of 2012, Section 16

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party. You have a deletion.

Hon. Aden Duale (Garissa Township, JP): I withdraw.

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is on record that the Leader of the Majority Party has withdrawn.

(Proposed amendment by Hon. Aden Duale withdrawn)

We move to the Chairperson of the Committee on Justice and Legal Affairs.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairlady, I also withdraw.

(Proposed amendment by Hon. William Cheptumo withdrawn)

We move to Hon. Millie Odhiambo.

Hon. T.J Kajwang' (Ruaraka, ODM): Amendments are withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 16 agreed to)

Second Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed deletion.

Hon. Aden Duale (Garissa Township, JP): I withdraw.

(Proposed amendment by Hon. Aden Duale withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party has withdrawn his amendment to the Second Schedule. It has also been withdrawn by the Chairperson of the Committee on Justice and Legal Affairs and it has also been withdrawn by Hon. Millie Odhiambo, just as it applied to Sections 4(2) and 16.

(Proposed amendment by Hon. William Cheptumo withdrawn)

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

I move to put the global Question now. Give Hon. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): Amendment withdrawn.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Which one are you withdrawing?

Hon. T.J. Kajwang' (Ruaraka, ODM): The Second Schedule.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You were actually on record. You also pronounced but there is no harm in repeating. With that, I want to put the Question on the provisions.

(Provisions relating to the Kenya School of Law Act, No.26 of 2012 as amended agreed to)

THE LEGAL EDUCATION ACT, NO.27 OF 2012

The Legal Education Act, No.27 of 2012, Section 8(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment of deletion.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the Legal Education Act, 2012.

This is after getting communication from the Attorney-General through his letter dated, 22nd August 2018, saying that this is a very substantive amendment. We will prefer to table a Bill on those amendments. I propose to delete all the proposed amendments.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, let us go section by section. You have deleted Section 8 (1).

Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs going on record with his amendments. After the Leader of the Majority Party prosecutes his amendments, yours are also withdrawn. Also, Hon. Millie Odhiambo's amendments are withdrawn.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, a few minutes ago, I listened to the Leader of the Majority Party putting the Chair of the Departmental Committee on Labour and Social Welfare to task to tell us if he has evidence of legislation before the Assembly to amend a particular legislation. He made a lot of noise about it until I saw that my very able leader and Chair of the Departmental Committee on Labour and Social Welfare was thoroughly embarrassed.

Here is the Leader of the Majority Party thrashing him and telling him that he must provide proof of that legislation. Can we also put the Leader of the Majority Party to task and ask him to give us evidence of legislation concerning the Legal Education Act? I want to see this legislation. I will be interested to see his proposal on Part II of that legislation. It is a big problem in this country. Can we also put him to task in the same way he did to the Chairman of the Departmental Committee on Labour and Social Welfare to give us evidence that there is legislation before the House which he intends to introduce to amend this legislation?

Hon. Aden Duale (Garissa Township, JP): Since he did a fake swearing-in, he forgot that I represent a serious Government. An amendment Bill to the Legal Education Act is before the Cabinet. Before the House goes on recess, we will table that Report. It is before the Cabinet. I can bring the letter.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are on Section 8(1). The Leader of the Majority Party has deleted this section. With your deletion, the Chairperson of the Departmental Committee on Justice and Legal Affairs has nothing to delete. Hon. Millie Odhiambo has nothing to amend.

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

(Section 8 (1) agreed to)

(Proposed amendments by Hon. William Cheptumo and Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Legal Education Act, No.27 of 2012, Section 8(2)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Legal Education Act, by –

(b) deleting the proposed amendments to Section 8(2).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party has proposed a deletion. If this is approved, the proposed amendments by the Chair and Hon. Millie Odhiambo will fall.

(Question of the amendment proposed)

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

(Section 8(2) agreed to)

The Legal Education Act, No.27 of 2012, Section 8(3)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Legal Education Act, by –

(c) deleting the proposed amendments to Section 8 (3).

(Question of the amendment proposed)

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

(Section 8(3) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With the Leader of the Majority Party's amendment carrying the day, the other two fall.

We are through with that provision.

(Provisions relating to the Legal Education Act, No.27 of 2012, as amended agreed to)

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT, NO. 33 OF 2012

The National Transport and Safety Authority Act, No. 33 of 2012, Section 2

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have the Leader of the Majority Party. We are on Section 2 of the provisions relating to the National Transport and Safety Authority Act, 2012.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the National Transport and Safety Authority Act, 2012.

Hon. Temporary Deputy Chairlady, the Chair of the Departmental Committee on Transport, Public Works and Housing is here. He will agree with me that all the proposed amendments to the National Transport Safety Authority (NTSA) should be deleted for the simple reason that the Committee, the Ministry and the NTSA raised concerns on these amendments. After consulting with the Attorney-General and putting it in writing, we agreed to withdraw and allow the Committee to bring their own amendments to that section.

I ask for deletion.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Are you asking for deletion or withdrawal of the amendments? They are different.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, on the Order Paper, I am proposing to delete all the proposed amendments to NTSA. The Chair can confirm his amendments. I am asking for deletion.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You are asking for withdrawal of the amendments. If you delete yours, they will not have amendments.

Hon. Aden Duale (Garissa Township, JP): I am proposing deletion of the proposed amendments. If my amendment carries the day, then they will not have amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We must move section by section. Chair, before I propose the Question, please confirm to us about the deletion of the amendments.

Hon. David Pkosing (Pokot South, JP): Hon. Temporary Deputy Chairlady, Jubilee is a working and consulting Government. We consulted with the Leader of the Majority Party and the wider stakeholders, which is the Ministry and the public. We agreed that all these proposed amendments be deleted.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, you are ready because you know the consequences of the deletion.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Hon. Member without a card.

Hon. Jared Okelo (Nyando, ODM): Hon. Temporary Deputy Chairlady, based on the serious crackdown going on in the country at the moment on violators of traffic rules, it will not serve us to the best interest to have a piece of legislation that has the potential to tinker with this exercise.

Therefore, I support.

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

(Section 2 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Transport, Public Works and Housing and Hon. Millie Odhiambo's amendments fall. Next section.

*(Proposed amendments by Hon. David Pkosing and
Hon. (Ms.) Odhiambo Mabona dropped)*

The National Transport and Safety Authority Act, No. 33 of 2012, Section 3(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the National Transport and Safety Authority Act, 2012.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is a deletion. It is always good to pronounce yourself on that.

(Question of the amendment proposed)

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

(Section 3(2) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Transport, Public Works and Housing and Hon. Millie Odhiambo's amendments are dropped. Next section.

*(Proposed amendments by Hon. David Pkosing and
Hon. (Ms.) Odhiambo Mabona dropped)*

The National Transport and Safety Authority Act, No. 33 of 2012, Section 5

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the National Transport and Safety Authority Act, 2012.

(Question of the amendment proposed)

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

(Section 5 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Transport, Public Works and Housing and Hon. Millie Odhiambo's amendments are dropped. Next section.

*(Proposed amendments by Hon. David Pkosing and
Hon. (Ms.) Odhiambo Mabona dropped)*

The National Transport and Safety Authority Act, No. 33 of 2012, Section 15(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the National Transport and Safety Authority Act, 2012.

(Question of the amendment proposed)

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

(Section 15(1) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Transport, Public Works and Housing and Hon. Millie Odhiambo's amendments fall.

*(Proposed amendments by Hon. David Pkosing and
Hon. (Ms.) Odhiambo Mabona dropped)*

The National Transport and Safety Authority Act, No. 33 of 2012, Section 15(3)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting all the proposed amendments to the National Transport and Safety Authority Act, 2012.

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Section 15(3) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Transport, Public Works and Housing and Hon. Millie Odhiambo's amendments fall.

*(Proposed amendments by Hon. David Pkosing and
Hon. (Ms.) Odhiambo Mabona dropped)*

*(Provisions relating to the National Transport and Safety Authority Act,
No. 33 of 2012, agreed to)*

THE UNIVERSITIES ACT, NO.42 OF 2012

The Universities Act, No.42 of 2012, Section 35(1)(a)(v)

Hon. T.J. Kajwang' (Ruaraka, ODM): Amendment withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We move to the amendment by the Chairperson of the Departmental Committee on Education and Research.

Hon. Omboko Milemba (Emuhaya, ANC): I am standing in for the Chair. Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, 2012 by –

(a) deleting the words “in consultation with the Cabinet Secretary, after a competitive process conducted by the Public Service Commission” appearing immediately after the word “Colleges” in the proposed amendments to section 35 (1) (a)(v) and substituting therefor the words “in the manner provided in the Fourth Schedule”;

We have expanded the selection panel. Instead of just having the Public Service Commission do the work, we have created, as you will see later in the Fourth Schedule, a panel which includes all these bodies including the Public Service Commission, the Ministry itself and other stakeholders. It is expanded and it is stronger than it was.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I oppose. The selection panel is only found in independent commissions. Universities come under the Ministry of Education which falls under the national Government. If we have removed the interviewing from the university councils, and we have removed them from Ministry of Education, the right place is the Public Service Commission. We should not have selection panel. Let us not turn our universities into institutions like Independent Electoral and Boundaries Commission (EBC) or Independent Policing Oversight Authority (IPOA). The Public Service Commission is right to interview people. They interview people within the national Government.

If we go the route of selection panel, then tomorrow we are going to amend the law of appointing a parastatal CEO to be done by a panel. The only place this has passed in terms of selection panel is when it comes to constitutional independent commissions but not public entities. We shall complicate the appointment of vice chancellors if we do that. Let us leave it the way the Bill is with Public Service Commission. I ask Hon. Omboko to agree with us on this one because we have agreed with him on all labour issues.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear Oyoo Onyango, Member for Muhoroni.

Hon. Onyango Oyoo (Muhoroni, ODM): Hon. Temporary Deputy Chairlady, in this position I want to fortify the position taken by the Leader of the Majority Party. We should not make laws that suit our personal interests. It appears to me that some people want to get their people selected through these panels where they want to suggest those who are going to sit there. It is very clear. If you are not going the Public Service Commission way, then we use the route that we take when we are dealing with independent constitutional bodies.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Do you want to withdraw, Hon. Member for Emuhaya?

Hon. Omboko Milemba (Emuhaya, ANC): Maybe I should inform Members that within that particular panel, we have virtually everybody. In the Fourth Schedule which I was to come to later, we have a representative from the Council; a representative of the Public Service Commission; Principal Secretary, Ministry of Education; Principal Secretary for the time being responsible for finance; two representatives, being one man and one woman, nominated by the Senate; a representative of the University Academic Staff Union; a representative of alumni association, and so on. So, when you look at our proposal, in which...

(Hon. Aden Duale spoke off record)

Hon. Omboko Milemba (Emuhaya, ANC): Order! You really need to listen to us. We have been working for you. We work on behalf of this Parliament. We have expanded and strengthened the process so that we shall never again have the kind of noise we have been getting from our universities about the selection of Vice Chancellors.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very true, very well. Hon. Members I will put it to the vote so that we make a decision. We have listened.

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

(Section 35(1)(a)(v) agreed to)

The Universities Act, No.42 of 2012, Section 39(1)(a)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment, Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendments withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 39(1)(a) agreed to)

The Universities Act, No.42 of 2012, Section 39(3)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have Hon. Millie Odhiambo who is deleting.

Hon. T. J. Kajwang' (Ruaraka, ODM): The amendments are withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): If the amendment is withdrawn, I give it to the Acting Chairperson of the Departmental Committee on Education and Research.

Hon. Omboko Milemba (Emuhaya, ANC): I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, 2012 by -

(b) deleting the proposed amendment to section 39(3) and substituting therefor the following proposed new subsections –

“(3) the Vice-Chancellor of a public university shall hold office for a term of three years and shall be eligible for reappointment for one more term, upon satisfactory performance, as evaluated by the Council.

(3A) A person who immediately before the commencement of this Act, is a Vice-Chancellor of a public university, shall remain in office for the remaining period of his or her five year term, in accordance with the terms and conditions of their appointment”.

The justification is that the Committee and stakeholders were of the view that the recruitment of Vice Chancellors and Chancellors of Universities should not just be left to the Public Service Commission; there is also need to include more stakeholders in the recruitment.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): We are on Section 39(3).

Hon. Omboko Milemba (Emuhaya, ANC): It talks about the tenure of office. Let me come out clearly so that the House may again hear me. Formerly, Vice Chancellors have been serving for a period of 10 years. That is two terms. In our proposal, Hon. Leader of the Majority Party and Chair if you may listen to me, they will serve for a period of three years. They are allowed to serve an extra three years if they are confirmed to be competitive and good in their work.

That is the suggestion we are proposing for that section. We have reduced their term from 10 to six years. In the original Bill as it were, we were only giving them a term of five years. We are giving them two terms of three years each.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Allow me to propose

(Question of the amendment proposed)

Thank you, Hon. Temporary Deputy Chairlady. I rise to oppose that amendment, Hon. Temporary Deputy Chair. The stability of our public universities is critical. Even diploma courses are at least four years in the minimum. All our degrees are four years and above. If you are telling a Vice Chancellor that he cannot even transit one graduation from first year to the third year unless his term is renewed, we will be killing our universities. It would be palatable if you had given a term of four years that is automatically renewable. I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from the Member for North Horr, Hon. Chachu Ganya.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairlady, I strongly oppose that amendment. All over the world professors are tenured to have their jobs for life. In this case, the Vice Chancellor is a CEO. We should give them five years to have a strategic plan effectively and take that university somewhere. Three years is such a short period. It is a joke. I strongly oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Homa Bay. Why is the Member in front of you raising his hand?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Jared is my brother. Actually the Members seated in front of me except Hon. Charles are my brothers.

The Departmental Committee on Education was thinking about six years instead of five years. The challenge with this is the second term is not automatic. When it is not automatic, if you do three years, then you are shown the door, you have done zero. By the time you are starting your second year, you are already thinking about whether you are going to be reappointed or not and now the politics come in. I am speaking as a student leader who sat in the university Senate and the university council at Kenyatta University. It is a serious matter. I am the student leader who sent Eshiwani away after working for 11 years at Kenyatta University. Let us give them five years, let them do a good job and turn around what they can and leave. That is what we have currently. If we have six years, it would be better.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang', one minute.

Hon. T.J. Kajwang' (Ruaraka, ODM): You know I had an amendment which I had to drop. I think there is a problem with both propositions. He is proposing three years which is such a short time, although he is trying to say that we can have an extra term to amount to six years, but even five years is such a short time. In fact, it is only Vice chancellors that we are giving one term. In the Constitution, governors have 10 years. I think the Chair of the Committee should have amended further what we have in the Bill and say, a Vice Chancellor of Public university shall hold office for... One term of five years is terrible. Five years is not enough for a Vice Chancellor to do anything meaningful. No office can talk about five years, they do 10 years. That makes sense.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I think one minute is enough to convince the House. I do not want to get into issues with the Member for Ndaragwa he seems to have something to say.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairlady, allow me to just declare that my brother is a Vice-Chancellor. It is unfortunate that Hon. Millie dropped her amendment. In fact, she has done us a lot of disservice. She has an efficient clerk here who is saying "delete everything". He has now deleted even some important amendments.

This five years term is not adequate for a Vice-Chancellor to impact a university. The amendments that have been proposed by the Departmental Committee on Education and Research are introducing unnecessary political lobbying into these positions. When you bring in panels for three years, you will completely destabilise the university education in this country. I wanted to go with the five years if Hon. Millie had not dropped deleting it earlier. If there was a way of bringing it back, that would have been a better way.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is actually a way.

Hon. Jeremiah Kioni (Ndaragwa, JP): At least, if it was a term of five years renewable it would have made sense.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members please give me your ear because I need to put the Question. Members, I have listened to your import and the debate that arose after. During recommital he can speak and we can see what is most applicable.

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

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, I know you are consulting but allow me to put the Question because the House takes a vote to make a decision. Order, Hon. Kajwang'! Order Members! A Member who has said aye is already upstanding. Hon. Member, is it that the seat is too hot? Can you resume your seat? Hon. Members let me put the Question. Next!

(Section 39(3) agreed to)

The Universities Act, No.42 of 2012, New Section 2

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is a new Section 2 so I call upon the Mover to move the Second Reading. Hon. Kimani Ichung'wah.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule by inserting the following new item in its proper alphabetical sequence-

The Universities Act 2012	s.2	Delete the words "to which a Charter has been granted under this Act" appearing in the definition of "University" and substitute therefor the words "establish in accordance with section 13 of this Act";
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Delete the words "established" appearing in the definition of "foreign university" and substitute therefor the words "legally established in a country";

Hon. Temporary Deputy Chairlady, all I am doing is cleaning up the Act in terms of the Section 2 by deleting the words "to which a Charter has been granted under this Act" appearing in the definition of "University" and substitute therefor the words "established in accordance with section 13 of this Act." If I may read for the Benefit of Members, Section 13 of the Act says:

“Every university in Kenya shall be established by a charter or a letter of interim authority in accordance with the Act.”

Therefore, it is just to make the two consistent; ensuring that Section 2 is consistent with Section 13 of the Act.

(Question of the new section proposed)

(New section read the First Time)

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

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, I would want to also bring to the notice of the House that the section being proposed by the Hon. Member was not really part of the Bill that we were given to deal with. If you check Standing Order No. 133(5), it clearly indicates that we do not have to expand our mandate beyond what we were already given by the Bill. So, I refer you to that. Therefore, I think the proposal is null and void.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): This amendment is already in the Order Paper. It is a new section. That is why it is being read a Second Time.

Hon. Omboko Milemba (Emuhaya, ANC): But when you look at it clearly, it is an amendment that would have required subjecting to public participation and so on. However, the way it has been brought in is such that that has not been done.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): This amendment is in order. Hon. Omboko, the day I will join KUPPET, I will learn from you. Here, you are a new Member. So, learn. Once there is an opening in the Statute Law (Miscellaneous Amendments) Bill, Members can bring any amendment on any section as long as the relevant statute is included in the Statute Law (Miscellaneous Amendments) Bill. So, relax. This amendment is very good.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Now that the Member for Emuhaya is relaxed and convinced, I put the Question.

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

(The new section was read a Second Time)

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

The Universities Act, No.42 of 2012, New Section 6 (1)

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I call upon the Mover, Hon. Kimani Ichung’wah, to move second Reading.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, Hon. Kioni was interrupting me through consultation.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, 2012 by –

- s.6 (1) Insert a new paragraph (i) as follows-
- the Attorney-General or his representative who shall be an ex-officio member.

Hon. Temporary Deputy Chairlady, this is to bring in the Attorney-General as a Member of the Commission for University Education.

(Question of the new section proposed)

(New section read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member for Kikuyu is a veteran. When you see him at this hour in the Chamber, you must understand that it is because most of the universities are in his constituency. So, he has a right to also speak for his constituents. But I am bothered that he is trying to include the Attorney-General in the Commission. I do not know if I am right. You are introducing the Attorney-General into the Commission. We need to look at the Constitution because it has set the number of commissioners. I do not know how this marries with other commissions. This is not an independent commission. It is part of the commissions which are outlined in the Schedules to the Constitution. Am I not right? I need to think through.

(Hon. Aden Duale spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, maybe instead of speaking off-record... What we are doing is very healthy.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you need to protect us from Hon. Ichung'wah. He is talking about the Commission for University Education. That is not a Chapter 15 Commission. He needs to tell us what the essence of introducing the Attorney-General is. Convince us.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Ichung'wah, you need to know that things have changed. Before, there was a senior constituent of Kiambu called Sir Charles Njonjo who was a member of all commissions. The Constitution explains what the Attorney General does in Article 156. He should not be a member of commissions. He is only an adviser to the Government. Are you giving the Attorney-General new functions? It would be unconstitutional to the extent that we will be giving the Attorney-General new functions that are not in the Constitution. You need to explain very well why the Attorney-General must be there.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Ichung'wah, please, clarify for the Members so that we take a vote on this.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, if you allow me, the Attorney-General, as Hon. T. J. Kajwang' says, is not just another legal officer. He is the chief legal adviser to Government. I thought it was important to have him on the Commission. The current Commission has eight members.

The first question Hon. Kajwang' asked was whether it will be in line with the numbers. There are only eight members of the commission without a single legal representative. Therefore, I thought it would be in the best interests of the Commission, the Ministry and the Government that the Government chief legal adviser be a member of this Commission.

There are very many cases that come up in court regarding the Commission of University Education. They are taken to court by private universities and others.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I am very sceptical. The Attorney-General comes from Kiambu County. There must be a plan they have hatched. This Commission has a legal department. We do not want the Attorney-General on the Commission and we will oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear whether Hon. Kioni is convinced.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairlady. There is a typo error in the way the amendment is done. You need to read the sentence so that we include what is needed to make it correct. Also, I do not see any harm in this. He is only being introduced as an *ex-officio* member. Other than the suspicion from the Leader of the Majority Party, he has also not convinced us as to why we should not have the Attorney-General on the Commission. Other than being suspicious that he comes from Kiambu, why does it become a money Bill?

Hon. T.J. Kajwang' (Ruaraka, ODM): This becomes a money Bill. These people will be paid allowances.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, you know how we make laws. Let us take a vote. With the debate, I am sure you are convinced on which way to vote.

(Question, that the new section be read a Second Time, put and negatived)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Next Section.

The Universities Act, No.42 of 2012, New Section 6(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, there is a New Section 6(2). I therefore call upon the Mover, Hon. Kimani Ichung'wah, to move the Second Reading.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, first, you must protect me from the Leader of the Majority Party, especially against inciting the House on the basis of where I come from. It is indeed true that the Attorney General comes from Kiambu. The previous Attorney General, Prof. Githu Muigai, is from Kiambu. The first African Attorney General and his immediate successor were also from Kiambu. The only Attorney General who was not from Kiambu is Hon. Amos Wako.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Ichung'wah, for the sake of time and Members, we may find ourselves in the next Sitting, having passed the Procedural Motion today.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule by inserting the following new item in its proper alphabetical sequence-

s.6 (2) Delete.

I am seeking to delete. It is good that the Leader of the Majority listens so that he does not incite people. The principal Act as it was in 2012 had created a panel that was in place of a Commission. Section 6(1) was introduced through the amendment of 2016 that created the new Commission for University Education and listed its composition as listed now in Section 6(1). This is the one I sought to include the Attorney General. Section 2 all the way to Section 6(10) became redundant. Therefore, it is just a clean-up.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is simple, Hon. Members.

(Question of the new section proposed)

(New Section read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): My work is to educate the House on what Hon. Ichung'wah is purporting to do. He is deleting Sections 6(2), 6(3) and 6(4). I will take you through them one by one. Section 6(2) says that a person who was serving as a member of the Commission prior to the commencement of the section shall continue to serve as a member for the remainder of his or her term. That is a transition clause. He is deleting it.

He is deleting Section 6(3) which is the whole selection panel and he is not replacing it with something. The selection panel referred to in sub section 2 shall be composed of the Chairperson and six other persons appointed by the Cabinet Secretary as follows: one person representing Public Service Commission and Federation of Kenyan Employers. He is deleting that. He is deleting Section 6(4) which says that the selection panel shall have powers to regulate its own procedure. He is deleting it. Section 6(5) says the selection panel shall advertise the vacancies and publicise the names of applicants. He is deleting it. Section 6(6) says in determining the nomination of the criteria for the members of the Commission...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, the House needs to understand. Are you speaking to New Section 6(2) on the deletion?

Hon. Aden Duale (Garissa Township, JP): Yes. I am reading Sections 6(2),(3) and (4) and I will go up to Section 6(10). Hon. Ichung'wah is trying to deal with a whole legal infrastructure in the University Act. He is removing it and not replacing it. He needs to tell us the reason. He has not explained to us why he is deleting the sections.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): Let me help the Leader of the Majority Party by saying that when we made the Constitution 2010, we put panels to help us form commissions. We have commissions now. Allow me to finish. You will eventually come back and amend this, even if you defeat us here. Even if we do not delete that panel, it is of no value because we already have a commission doing the work the panel did at the beginning. We have the commission in the Act. I am trying to persuade the Leader of the Majority Party that this is another clean up. There is no mischief. In any case the panellists do not come from Kiambu as the Attorney General.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that explanation, Members should be convinced on the way to vote.

Member for Homa Bay County.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, the Leader of the Majority Party, apart from being hard working, he is very keen. So, he sees many things. But, on this one, we just did away with the election panel when we were talking about the appointment of the Vice Chancellor. We said that we do not want this panel. We said we want to have the Public Service Commission. On this one, especially the explanation the Leader of the Majority Party has given and he has read through the sections... I did not have the Act. Hon. Ichungw'ah is right in his clean up mission.

(Hon. T. J. Kajwang' spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang', we take votes by...

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

(The new section was read a Second Time)

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

That is the House. It is passed. You can recommit it if you want. Next section

The Universities Act, No.42 of 2012, New Section 6(3)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I call on the Mover to move. Hon. Ichungw'ah, we have already moved from there. You should have convinced each other earlier as Members. You know what we usually do is to convince the Members by lobbying.

Hon. Kimani Ichungw'ah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule by inserting the following new item in its proper alphabetical sequence-

s.6 (3) Delete

Again, as Hon. Wanga has articulated, it is a simple clean up. This panel that is listed in the original Act, Section 3 was the selection panel referred to in subsection 2, the one Hon. Leader of the Majority Party read and it is no longer in existence. It was transitional, as Hon. Kioni said.

(Question of the new section proposed)

(New section read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Could Hon. Ichungw'ah explicitly explain, like the Leader of the Majority Party did, on what the amendment means to the changes he is proposing?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Ichungw'ah, pronounce yourself on that so that Hon. Members can vote from an informed position.

Hon. Kimani Ichungw'ah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, in 2012, when this Act was put in place, there was no commission. When the commission was brought in by the amendment of 2016, by insertion of the New Section 6(1) it created the Commission for University Education and lists the members of that Commission. The chairperson is an appointee of the President, the Principal Secretary Ministry responsible for university education, Principal Secretary for National Treasury, one person appointed by.... All those people are listed. Therefore, the panel as was listed is now redundant, as Hon. Kioni clearly stated. He was there in that Parliament. He therefore speaks from a point of knowledge and so it the Leader of the Majority Party who is now convinced that what we are doing is in the best interest of cleaning up. Hon. T. J. Kajwang' is also convinced.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for North Horr give a comment on this.

Hon. Chachu Ganya (North Horr, FAB): Hon. Temporary Deputy Chairlady, I happened to be in the same Committee with Hon. Kioni in the 10th Parliament. The selection panel was for a purpose then. It was a transitional mechanism. It has no value right now. Let the Commission do its job.

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

The Universities Act, No.42 of 2012, New Section 15(2)

Hon. Kimani Ichungw'ah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule by inserting the following new item in its proper alphabetical sequence-

s.15(2) Insert a new paragraph immediately after paragraph (e) as follows-

(ee) exercise any of the functions specified in section 20(1)(e).

This one is inserting a new paragraph immediately after paragraph (e) to exercise any of the functions specified in section 20(1)(e) of the principal Act. This, again, is in line with the first amendment we did to section 2 of the Act in terms of tidying up the definition of a university to also give those universities that have interim letters of authority the same mandate as those that already have a charter.

Hon. Omboko Milemba (Emuhaya, ANC): Members, even though we have been here for a long time, we shall still be here. That would jump the gun. It will make the interim universities to jump over because of a law that we have passed. Maybe there were issues that they were supposed to satisfy before they are given that status.

Thank you.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, this is what the English from where I come call tautology. He is repeating himself quite unnecessarily. Section 20 (1) says that a university granted a charter in accordance with section 19 can do any of these things, and (e), may award degrees including postgraduate degrees and diplomas including postgraduate diplomas. Hon. Ichung'wah is inserting a paragraph which will say "exercise any of the functions specified in section 20(1)(e)". He is repeating himself. It is already here that these people have the functions to do what is provided for in (e). Section 20(1)(e) says that the university granted a charter may award degrees including postgraduate degrees and diplomas including postgraduate diplomas. Now he is saying that he will exercise functions specified in section 20(1)(e). He is repeating himself. That is what the law has provided for. Section 15(2) says an institution to which a letter of interim authority is granted shall have power to...I see. What he is trying to do is that an institution to which a letter of interim authority has been granted shall award degrees and postgraduate degrees. Now, that will change the universities traction. If you have an interim letter of authority, you cannot award a degree.

Hon. Aden Duale (Garissa Township, JP): Which authority?

Hon. T.J. Kajwang' (Ruaraka, ODM): This is what we need to legislate. It is unlawful for them to do this. If you have a letter of interim authority, until you get a charter, you cannot award degrees and postgraduate degrees.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, whether Hon. T.J. comes from the lake or Uganda, the word "tautology" is not English, it is Suba. Your bone of contention with Hon. Ichung'wah, Hon. T.J., is that a university with a letter of interim authority cannot offer courses.

Am I right? As we sit here today, we have over 10 universities. They still offer courses but are attached to a university. They do everything. We do not want a situation whereby a university suffers yet it has invested in infrastructure and human capital and then they are denied accreditation just because they have a Letter of Interim Authority. They must be given a charter.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear you, Hon. Member for Emuhaya Constituency. You have been in the education sector.

Hon. Omboko Milemba (Emuhaya, ANC): There were many universities operating behind shops. Some of them, yes, were big. But, during Matiang'i's time, he tried to control pilfering of universities. What this law is almost doing is to give even those that did not mandate to execute certain authorities to execute. That is not good for law-making and ourselves.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. Let me have the Member for Homa Bay.

Hon. (Ms.) Gladys Wanga (Homa Bay (CWR), ODM): There has to be a reason you are given a Letter of Interim Authority and finally a charter. The transition is because maybe the CUE is still checking you from all angles to see if you are suited to become a full university with a charter. Now, if you can do everything that a university with a charter can do then it begs the question why you are given the Letter of Interim Authority and why you are finally given a charter.

On this, Hon. Ichung'wah is truly from Kiambu. This is perhaps the reason Hon. Ichung'wah has been here the whole time. He wanted to do this particular one. The others were just hoodwinkers and to tell us he is cleaning up.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member of Ndaragwa, Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): I think we can see the effects of going late into the night. It is affecting some people differently. It is expected. It has a lot to do with what time one slept. What I wanted to say is that, Hon. T. J. will understand this much easier, when you get an interim driving licence, you will still drive. You will only be waiting for the process to be finished so that you can get a driving licence. It is exactly the same with the Letter of Interim Authority. We have to be careful so that we do not kill universities with some registrations in the night.

All we need when you have that Letter of Interim Authority is to ensure that the universities do all that full universities do. All that they are waiting for is that ceremony of being awarded a charter and we know it. So, I am pleading with my friend here to just allow this amendment to pass.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is a very interesting relation of driving licences and the Letter of Interim Authority. Let me hear from the Member for Muhoroni. Members, let us confine ourselves. We could use a minute to do this House some bit of decorum.

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Deputy Chairlady. I have been advised to be very careful and wary with my very good friend Hon. Kimani Ichung'wah. One time during President Moi's reign, some funny character started a university called Narok University, with no requisite preparations. The Government took a long time to bring it down. I believe that we want to create another Narok University without requisite arrangements. We need to bring this down. We cannot license a university when we must.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady. With all due respect to my good friend Hon. Kioni, that example is not making sense. There is a very big difference between a driving licence and what we are discussing today. I would not want it to go on record that he has said the truth.

I will give my position. I want to cite an example today: Kaimosi University has a Letter of Interim Authority. It cannot proceed and award degrees until we give it the charter. It means there are steps in between which a university must undertake. Therefore, my very good friend *Mheshimiwa* Ichung'wah, I differ with you on this one.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Homa Bay Town Constituency, as we strive to hear more on driving licences.

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you, Hon. Temporary Deputy Chair. When a university is under an interim letter, it is at the incubation stage. That university is called a university college because it is attached to a mature college to be matured. What is

checked is whether the university has the capacity to offer specific courses, whether the university has the human resource to what it needs to do as a university and assessments are done by the Commission for University Education. If the university for instance is to give a law degree, the Council for Legal Education will be assessing the capacities and other things. We have been saying that we cannot give a university at incubation the capacity to be granting awards of degrees and diplomas as a fully-fledged university. This will be unlawful.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Member for Ikolomani. One minute.

Hon. Bernanrd Shinali (Ikolomani, JP): Thank you, Hon. Temporary Deputy Chairlady. Hon. Kimani Ichung'wah is my chair but I have experience. When you have an interim authority that means you have not satisfied the authorities to run a university. You are running it under certain supervision until you are mature to get a charter then you can offer the degrees.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Ichung'wah, you have not indicated that you are withdrawing. Allow me to put the Question.

Hon. Kimani Ichung'wah (Kikuyu, JP): One clarification, Hon. Temporary Deputy Chairlady. Indeed, what Members are saying has a lot of relevance to the question of an interim letter of authority. However, it must not be lost on us that the letters of interim authority are only for a limited period of time. I think it is about a year or two years. Therefore, for that university they can give courses and award certificates, degrees and diplomas until the Commission for University Education finds reasons not to award them a charter. If they are not awarded a charter, they either have to renew their interim letter of authority and upon renewal they will still continue these certificates thereof. I would honestly beg Members to allow the amendment as it is because it will be in the best interest of many of our students who were in many of these colleges.

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

(New Section 15 (2) agreed to)

The Universities Act, No.42 of 2012, Second Schedule

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.
(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, 2012 by -

(d) By inserting the following new paragraph immediately after the proposed amendments to the Second Schedule -

We were proposing to delete the words "key stakeholders". If you follow in the Order Paper, the key stakeholders were not defined, but later on, the Committee went ahead to define it and we have given the list of the key stakeholders who should be consulted. They include the alumni associations, the staff and others.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): If we defeated the earlier amendment then this amendment falls. I think the Mover has to withdraw.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Which one, Hon. Leader.

Hon. Aden Duale (Garissa Township, JP): You know we rejected the selection panel and we went back to the parent Act. Consequently, it affects what is going to happen to the Schedule. So, I think he should withdraw.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, it is true that the Second Schedule was really premised on the earlier amendment. It is true it is getting defeated because the earlier one was defeated.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, you withdraw.

Hon. Omboko Milemba (Emuhaya, ANC): Yes, I withdraw.

(Proposed amendment by Hon. Omboko Milemba withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, he is on record withdrawing. Since it has been withdrawn then that Schedule has no amendment.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairlady. Just give me a chance.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairlady. I think it is because we are working late in the night and also sometimes the Leader of the Majority Party can be intimidating. But I am not intimidated anyway.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You should not be intimidated by the Leader of the Majority Party.

Hon. Omboko Milemba (Emuhaya, ANC): I want to clearly say that the Second Schedule is correct and I want to move it because it concerns the Vice-Chancellor and not Chancellor.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Emuhaya the acting Chairperson for now, are you recalling your previous withdrawal.

Hon. Omboko Milemba (Emuhaya, ANC): I can explain this. The first one which we dealt with... The Leader of the Majority Party, you will have a chance.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, just allow him so that he can convince us.

Hon. Omboko Milemba (Emuhaya, ANC): I will get counsel from you, if need be. The first one was to do with the Chancellor but the Second Schedule is dealing with the Vice-Chancellor.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Before, I go further and I can ask the HANSARD to be provided, the Hon. Member has already dropped and it is on the HANSARD.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I had not put the Question.

Hon. Aden Duale (Garissa Township, JP): No! But he is on HANSARD. How do we treat this?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kaluma.

Hon. Aden Duale (Garissa Township, JP): Let me finish.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay, the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you will remember when we had issues with the Finance Bill we got the HANSARD.

In the HANSARD, you will find Hon. Milemba saying: "I have dropped." How do you treat that?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang'

Hon. T.J Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, you learn the ropes by doing it and by walking them. So, my colleague here from Emuhaya is doing the right thing. He is learning the rope by walking it. Let me put this in perspective. I think the Leader of the Majority Party is taking him too fast. There is a Second Schedule which has been proposed in the Bill itself. You will find it on Page 344. It is this schedule in paragraph 1 of that schedule which is already in the Bill that the Chair is proposing to add a few words. For example, there are words which appear there called "key stakeholders." He wants to delete those words and put the words "in consultation with." So, he is really just amending the Second Schedule which is already in the Bill. This has nothing to do with the earlier proposals that he had made and I think that needs to be understood.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The fact that he had already withdrawn, Hon. Members allow me to just put the Question. Hon. Wang'a.

Hon. (Ms.) Gladys Wang'a (Homa Bay, ODM): Hon. Temporary Deputy Chairlady, I just want the Acting Chair of the Departmental Committee on Education to be clear because what he said – and I think Hon. Kajwang' has explained it a little differently – was that what we were dealing with earlier was appointment of the Chancellor and now we are dealing with the Vice Chancellor. However, you see in real sense, the Second Schedule is where a vacancy occurs in the office of the chancellor of a public university. I am guided by what Hon. T.J Kajwang' is saying but what the Acting Chair said does not make sense in this thing. No wonder he does not have a charter.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Already, he is on record having made the withdrawal.

Hon. (Ms.) Gladys Wang'a (Homa Bay, ODM): Okay. If he is withdrawing, it is fine.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): He has already made the withdrawal. In the event that he is not satisfied, he will, through the procedure of the House... So, Hon. Members, I now put the Question.

(Second Schedule agreed to)

The Universities Act, No.42 of 2012, New Fourth Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson of the Departmental Committee on Education to move Second Reading.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, 2012 by –

(d) by inserting the following new paragraph immediately after the proposed amendments to the Second Schedule –

“by inserting the following new Schedule immediately after the Third Schedule”

Fourth Schedule.

FOURTH SCHEDULE
(Section 35 (a) (v))

1. (a) Where a vacancy occurs in the office of the Vice Chancellor or Deputy Vice Chancellor of a public university or Principal or Deputy Principal of a constituent college, the Council of that university shall constitute a selection panel consisting of –
 - (a) a representative of the Council;
 - (b) a representative of the Public Service Commission;
 - (c) the Principal Secretary, Ministry of Education;
 - (d) the Principal Secretary in the Ministry for the time being responsible for finance;
 - (e) two representatives, being one man and one woman, nominated by the Senate;
 - (f) a representative of the Universities’ Academic Staff Union;
 - (g) a representative of the alumni association; and
 - (h) a representative of the Students’ Association.
 - (b) The Vice Chancellor or a person acting as the Vice-Chancellor shall not be a member of the selection panel.
2. The Council shall—
 - (a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among themselves; and
 - (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.
 3. Subject to this Act, the selection panel shall, within seven days of convening, by advertisement in the media, invite applications from persons who qualify for nomination and appointment for the position of Vice Chancellor, Deputy Vice Chancellor, Principal or Deputy Principal.

4. The selection panel shall—

(a) consider the applications received under paragraph (3) to determine their compliance with the provisions of the Constitution and this Act;

(b) short list the applicants;

(c) publish the names of the qualified applicants and short-listed applicants in the media;

(d) conduct interviews of the short-listed persons;

(e) shortlist three qualified applicants for each vacant position; and

(g) forward the names of the qualified persons to the Council.

(5) The Council shall, within fourteen days of receipt of the names forwarded under paragraph (4)(e), in consultation with the Cabinet Secretary appoint the Vice Chancellor, Deputy Vice Chancellor, Principal or Deputy Principal from among the three qualified applicants.

(6) The selection panel may, subject to this section, determine its own procedure for the conduct of business and affairs.

(7) The selection panel shall stand dissolved upon the appointment of the Vice Chancellor, Deputy Vice Chancellor, Principal or Deputy Principal under paragraph (5).

(8) Despite the foregoing provisions, the Cabinet Secretary may, by notice in the Gazette, extend the period specified in respect of any matter under this schedule by a period not exceeding twenty-one days.

**The
Temporary
Deputy
Speaker**

(Hon. (Ms.) Jessica Mbalu): Give us the import. Just a summary.

Hon. Omboko Milemba (Emuhaya, ANC): I had already made the justification.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You did not. Maybe you can repeat yourself.

Hon. Omboko Milemba (Emuhaya, ANC): This Schedule is dealing with appointment of the Chancellor who is actually a person who should not really be subjected to the Public Service Commission and who is actually quasi in his duties as an authority within the university. Thank you.

(Question of the new section schedule)

(New schedule read the First Time)

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang'. Take a minute.

Hon. T.J Kajwang' (Ruaraka, ODM): As we said, the Member for Emuhaya is learning by doing it. This is the schedule which should now be dropped. This refers to the Vice Chancellor, which we had put in the public service. So, Member for Emuhaya is consulting but this is now the place at which he needed to withdraw. However, he is doing a very good job, Leader of the Majority Party, that many Members from the other side would not have done. You know we have a powerhouse from this side of the divide. Look at how they are vibrant and indefatigable.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, let me go on record that we drop that Fourth Schedule

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Since it is a New Schedule and you have withdrawn. It remains withdrawn.

(Proposed amendment by Hon. Omboko Milemba withdrawn)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I move to put the overall Question.

(Provisions relating to the Universities Act, No.42 of 2012 as amended agreed to)

THE TREATY MAKING AND RATIFICATION ACT, NO.45 OF 2012

The Treaty Making and Ratification Act, No.45 of 2012, Section 3 (3)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I withdraw the amendments proposed.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The proposed amendment was a deletion. With your withdrawal, the section remains as it is.

(Section 3 (3) agreed to)

The Treaty Making and Ratification Act, No.45 of 2012, New Section 8A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is an amendment by the Chairperson of the Departmental Committee on Defense and Foreign Relations.

Hon. Charles Kilonzo (Yatta, Independent): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Treaty Making and Ratification Act, (No. 45 of 2012) by deleting the proposed new Section 8A.

If you have the Act, this particular section provides for consideration by the Senate. Our view as a Committee was that the amendment has not captured the spirit of ratification by both Houses. Secondly, the amendment does not address the procedure to be followed when one House rejects, does not approve or ratifies the treaty. We were of the opinion that this should be left in the parent Act to be dealt with at a later date.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Wait I propose the Question, Leader of the Majority Party.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, since the advent of the two bicameral Houses, it is only the National Assembly which, through its Committees, has the function of ratifying treaties and protocols. This Bill was introducing a proposal that the Senate should also ratify treaties and protocols. Treaties are very important. They are done by national Government entities. I support the Departmental Committee on Defence and Foreign Relations that excluded the Senate from considering ratification of treaties.

I beg to support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I see no other interest in this.

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

With that Hon. Millie Odhiambo's proposed amendment falls.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

*(Provisions relating to the Treaty Making and Ratification Act,
No.45 of 2012, as amended agreed to)*

(Schedule agreed to)

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS ACT, No.2 OF 2013

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The proposal was withdrawn by the Mover but it is important for him to pronounce himself on it because it is already on the Order Paper.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended by deleting the proposed amendments to the Office of the Director of Public Prosecutions Act, 2013.

This is after wide consultations between that Office and the Attorney-General and through the letter written to me and copied to the Clerk on 27th August 2018. The Order Paper is saying that I am deleting the proposed amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Deleting means there is nothing in the Bill.

(Proposed amendments by Hon. Aden Duale withdrawn)

THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT ACT, NO. 4 OF 2013

The Kenya Institute of Curriculum Development Act, No. 4 of 2013, Section 5(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We will go section by section. We have a proposed amendment by Hon. Millie.

Hon. T. J. Kajwang' (Ruaraka, ODM): I have withdrawn the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I now move to the amendment by the Chairperson of the Committee.

Hon. Omboko Milemba (Emuhaya, ANC): The Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to Section 5 (2) of the Kenya Institute of Curriculum Development Act, 2013 by deleting the proposed amendments to paragraph (f) (ii) and substituting therefor the following new paragraph –

“(f) (ii) one person to represent the Kenya Private Schools Association;”

What we are trying to do as a Committee is quite brief. All we have done here is to give a specific role because the Kenya Institute of Curriculum Development (KICD) deals with education. However, it was general in the Bill on who to represent the private sector. We have specifically targeted the people who are concerned. These are the private schools. Therefore, the amendment is specific that one person should represent the Kenya Private Schools Association.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I welcome debate now. Let us start with the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, the Bill provides for a position for one person to represent the private sector. I want the Acting Chair of the Departmental Committee on Education and Research to tell us whether he is changing that. The person to represent the private sector wants to be the person to represent the private schools,

so that we do not create two positions: one representing the private sector and the other one representing the Kenya Private Schools Association.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, we have simply removed the general private sector and specifically targeted the Kenya Private Schools Association.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, my neighbour and friend, who has been sitting with me since morning, this is the ‘war’ we have been fighting since yesterday. We put in legislation characters or agencies which are not defined or known by law. The KEPSA has been in several other legislations.

(An Hon. Member spoke off record)

No, it is Kenya Private Sector Alliance. The problem we have is that it is an association run under society and we give it legislative underpinning. We now have a problem. Let us put it to be a nominee from the private sector and they will find a way to bring a representative from them without giving them a legislative underpinning.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Jeremiah Kioni, Member for Ndaragwa.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairlady, perhaps, we can get clarification. Are all the people we would want considered for this slot, members of the Kenya private sector association? I doubt. The membership is not a statutory requirement. It is a voluntary association. By bringing it here, there must be others we are going to exclude.

For that reason, I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, I am clarifying not arguing *per se*. The other membership of that board represents certain sections. You can look at it. We even have Kenya Primary Schools Headteachers Association (KEPSHA) there. We have Kenya Secondary Heads Association (KESHA) also. So, we shall get into trouble because we have the private school section which also runs education and it is the one we are narrowing down to have them represented. KEPSHA represents primary schools and KESHA represents secondary schools and other players then private schools association is represented by that particular organisation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that clarification, I want to put that into a vote.

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

(Section 5(2) agreed to)

The Kenya Institute of Curriculum Development Act, No. 4 of 2013, Section 5(3)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo has an amendment. She had proposed a deletion.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I beg to withdraw the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Withdrawing means that there is no amendment to it.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 5(3) agreed to)

The Kenya Institute of Curriculum Development Act, No. 4 of 2013, Section 7(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo again has an amendment.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I beg to withdraw the proposed amendment. I have checked with the parent Act. If I were to prosecute the amendment preferred by the Member for Suba North, it will come to an absurdity. The Act gives us how the vice-chairperson is appointed.

I withdraw it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Withdrawing means that there is no amendment to it.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 7(1) agreed to)

The Kenya Institute of Curriculum Development Act, No. 4 of 2013, Section 7(2)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, the amendment is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 7(2) agreed to)

The Kenya Institute of Curriculum Development Act, No. 4 of 2013, Section 8

Hon. T. J. Kajwang' (Ruaraka, ODM): The amendment is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 8 agreed to)

The Kenya Institute of Curriculum Development Act, No. 4 of 2013, New Section 2A

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended —

(5) in the proposed amendments to the Kenya Institute of Curriculum Development Act, 2013, (No.4 of 2013) by inserting the following new subsection immediately after the proposed new section 5(2) —

(2A) Any person who, immediately before the commencement of this section was a member of the Council shall be deemed to be a member of the reconstituted Council for the unexpired period of his or her term of service.

This is part of the transition where any person who immediately before the commencement of this section was a member of the Council shall be deemed to be a member of the reconstituted council for the expired period of his or her term of office.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

First Schedule

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendment withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(First Schedule agreed to)

(Provisions relating to the Kenya Institute of Curriculum Development Act, No. 4 of 2013 as amended agreed to)

THE KENYA AGRICULTURAL AND LIVESTOCK
RESEARCH ACT, NO. 17 OF 2013

(Second Schedule agreed to)

(Third Schedule agreed to)

(Fourth Schedule agreed to)

(Provisions relating to the Kenya Agricultural and Livestock Research Act, No. 17 of 2013, agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, as you can notice, we still have more to do on the same Statute.

*[The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu) left the Chair]
[The Temporary Deputy Chairman (Hon. Patrick Mariru) took the Chair]*

THE KENYA LAW REFORM COMMISSION ACT, NO.19 OF 2013

(Section 6 (1)(a) agreed to)

The Kenya Law Reform Commission Act, No.19 of 2013, Section 8(4)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Leader of the Majority Party, you have proposed amendments on Section 8 (4).

Hon. Aden Duale (Garissa Township, JP): Why not Sections 8(1) and 8(2)? I had amendments to those. How can you jump to 8 (4)? It is in the Order Paper.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Leader of the Majority Party. Consult from the Chair or the Clerks-at-the-Table whether or not you have them.

(Hon. Aden Duale consulted the Clerks-at-the-Table)

Hon. Aden Duale (Garissa Township, JP): I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act, 2013—

(a) by deleting the proposed new subsection 8(4) and substituting therefor the following new subsection—

(4) The members referred to in paragraphs (1) (c), (d) and (e) shall be officers of the Office of the Attorney-General, the Office of the Director of Public Prosecutions and the Judiciary, as the case may be, and a representative from the Law Society of Kenya.

Of course, this refers to the membership. They shall be the officers in the Office of the Attorney General, the Office of the Director of Public Prosecutions and the Judiciary. There also will be representation from the Law Society of Kenya (LSK) in the Kenya Law Reform Commission.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Opondo Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Chair, sorry, I thought the Mover, the Majority Leader ought to explain to us what and how what he proposes changes the amendment.

The Leader of the Majority Party is only adding the Judiciary among the bodies that should constitute the Law Reform Commission. To me, the Judiciary should be interpreting the law. You cannot have the Judiciary in the Law Reform Commission generally speaking. That is why when we looked at these amendments, we took the view as the Justice and Legal Affairs Committee that there was nothing to amend here. The amendment proposed in the Bill was

acceptable. How do we join the Judiciary? Who is the Judiciary to be represented here? The Leader of the Majority Party ought to explain further.

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is a fair request, the Leader of the Majority Party so that we carry along everyone.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I said that we amend the membership referred to in paragraphs 1 (c), (d) and (e) to be officers of the Attorney General, the Office of the Director of Public Prosecutions and the Judiciary. The Kenya Law Reform Commission does a very important function in terms of law reporting. Even in the current membership, the Judiciary is represented. So, they have a very big role to play.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Opondo Kaluma, why do we not get someone else to speak to this? Hon. T. J. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): I think the point the Member for Homa Bay Town is seeking is, when you say the Judiciary, what is Judiciary? He has put in the Attorney General, the DPP and then Judiciary. Who is Judiciary, unless you are talking about Judicial Service Commission? If you are talking about JSC, then there would be a commissioner perhaps the Chair of the JSC. I am sure he understands where we are going.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I agree with Hon. T. J. I will do a further amendment.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Section 8(4) be amended further by substituting the word “Judiciary” with “Judicial Service Commission” as a Member of the Law Reform Commission.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Leader of the Majority Party so that we make it simpler, move it in the amended form.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Section 8(4) be further amended in paragraph 1 (c), (d) and (e), who shall be the officers of the Attorney General, Office of the Director of Public Prosecutions, a representative of the Judicial Service Commission as the case may be and a representative from the Law Society of Kenya.

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Leader of the Majority Party, why do you not say that again so that we carry everyone along. You are on track but we just want to carry along everyone.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, you know in my community, when it reaches 10.00 pm, you do not repeat things, you do it once even when the lights are off.

The Temporary Deputy Chairman (Hon. Patrick Mariru): We are taking exception today.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, section 8(4) be further amended in paragraph 1 (c), (d) and (e), who shall be the offices of the Attorney General, Office of the Director of Public Prosecutions, a representative of the Judicial Service Commission as the case may be and a representative from the Law Society of Kenya.

(Question of the further amendment proposed)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman that is a further amendment. This is beautiful because for the first time we are doing a further amendment to an amendment.

Members will learn and understand where we are. The Leader of the Majority Party with a lot of respect, I want to ask you to do a further amendment to your amendment because the Office of the Director of Public Prosecutions has nothing to do with legal reforms. All he does is to investigate and prosecute. I would urge you to do a further amendment by deleting that. However, you are the owner of the amendment. Chair, if you wish Member for Homa Bay Town can help me on this.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Before him let us hear from Hon. Cheptumo.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Temporary Deputy Chairman. When we discussed this particular amendment we did not see the need for amending the same. I would like to pursue the line of Hon. T. J. Kajwang' about the DPP and the Judiciary. I would like to request the Leader of the Majority Party to remove both of them. This is because Judiciary is supposed to interpret the law. In the process of making these laws we have the Law Reform Commission which is very critical in making our laws. I think having the Judiciary there is misplaced. I propose that he removes the Judiciary and the DPP and the rest can remain.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Opondo Kaluma.

Hon. Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Chairman. I oppose the amendments by the Leader of the Majority Party. These offices we are mentioning are either commissions with clear mandate under the Constitution or independent offices like the Office of the DPP. The DPP's office has a limited range of functions and they do not include law making which is the mandate of law reform or law reporting. The DPP prosecutes people for matters crime.

That is why I think we should not only drop the DPP but also the Judicial Service Commission. If you look at the Constitution in terms of the JSC's mandate you will question what it would be doing in the Law Reform Commission. Even if it is the one representing the Judiciary, as the Leader of the Majority Party purports the Law Reform Commission proposes amendments of laws which are effected by this Parliament.

The Judiciary generally interprets and implements those laws. The JSC deals with recruitment, discipline and transfer of judicial officers. What would it be doing there surely? I want to request the Leader of the Majority Party to humbly consider leaving the amendment as it was proposed in the statute law, as we did in the Departmental Committee of Justice and Legal Affairs. We should not introduce bodies which will be adding numbers but not serving any meaningful constitutional or statutory functions.

The Temporary Deputy Chairman (Hon. Patrick Mariru): We want to make progress and must bring this to some closure. Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I think with the kind of interest it has generated, I want to do further consultation. Therefore, I beg to withdraw Section 8(4) of the amendment.

(Proposed amendment by Hon. Aden Duale withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members that is noted.

(Section 8(4) agreed to)

(Sections 11(5), 11(8) and 12(3) agreed to)

(Second Schedule agreed to)

The Kenya Law Reform Commission Act, No.19 of 2013, New Section 8(1)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Leader of the Majority Party, move Second Reading.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act, 2013—

(b) by inserting the following new amendments in proper numerical sequence—

s.8 (1) Delete paragraph (c) and substitute therefor the following new paragraph—

“(c) two person appointed by the Attorney General, of whom one shall be an advocate of the High Court of Kenya nominated by the Law Society of Kenya, and the other an officer in the Office of the Attorney General.”

Insert the following new paragraphs immediately after paragraph (e)—

“(f) a person of the rank professor and who teaches law in a public university, appointed by the Attorney General;

(g) a person nominated by the Council of Governors and appointed by the Attorney General.”

If you look at it, it only qualifies the two persons appointed by the Attorney-General of whom one should be an advocate of the High Court nominated by the Law Society of Kenya and the other one as officer of the Office of the Attorney-General.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Kenya Law Reform Commission Act, No.19 of 2013, New Section 8(2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Leader of the Majority Party, move Second Reading.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act, 2013—

s.8 (2) Insert the words “specified under paragraph (1)(b)” immediately after the word “Commission”

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Kenya Law Reform Commission Act, No.19 of 2013, New Section 8(3)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Leader of the Majority Party, move Second Reading.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I drop New Section 8(3) because it touches on the Director of Public Prosecutions and the Judiciary. I beg to withdraw that amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is noted.

(Proposed amendment by Hon. Aden Duale withdrawn)

Yes, Hon. T.J. Kajwang’.

Hon. T.J. Kajwang' (Ruaraka, ODM): Leader of the Majority Party, we are interacting with your amendments when we are in Chamber. So, we may not have given it a lot of thought. You are right in a provision that you have just given behind there on New Section 8(2). The problem is that your researcher did not show you that subsection (2) of the Act says:

“The chairperson and members of the commission shall be appointed in accordance with Section 11.”

I think what she was trying to do in Section 11 was a wrong cross-referencing. If that was cross-referencing, it should have said “delete the words ‘Section 11’ and instead put under paragraph 1(b).” I think that was the problem. As we are going through, you may want to ask your researcher to clean up where we are.

(Provisions relating the Kenya Law Reform Commission Act, No.19 of 2013, as amended agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Section 6(1)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment for total deletion by Hon. Millie Odhiambo. Let us have Hon. T. J. Kajwang’.

Hon. T. J. Kajwang' (Ruaraka, ODM): The amendments are dropped.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. That is noted.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

There is another amendment by the Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Nairobi Centre for International Arbitration Act by -

(a) deleting the proposed amendments to section 6(1) and substituting therefor the following—

S.6(1) Delete the word “justice” appearing in paragraph (c) and substitute therefor the word “finance”.

Insert the words “Kenya Branch” immediately after the word “Arbitrators” appearing in subparagraph (iv) of paragraph (f).

The rationale here is that the Committee recommends that the proposed amendments to Section 6(1)(e) be rejected. The reason is that the proposed amendments under (e) on the reduction of the member-States to represent the domestic bodies for arbitration in East Africa from five to three will create a problem because the East African Community (EAC) has more than three member-States. The Committee resolves to retain the number of five. The amendment intended to reduce the number from five to three. That will be a problem because we have more than three member-States in the EAC. That is the basis for our rejecting that amendment.

(Question of the amendment proposed)

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

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

(Section 6 (1) as amended agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Sections 9 (1) and (3)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by Hon. Millie Odhiambo. Let us have Hon. T. J. Kajwang’.

Hon. T. J. Kajwang’ (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 9 (1) and (3) agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Sections 21 (2) (b) and (c)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by Hon. Millie Odhiambo. Let us have Hon. T. J. Kajwang’.

Hon. T. J. Kajwang’ (Ruaraka, ODM): I withdraw the amendments.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 21 (2) (b) and (c) agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Section 21(4)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by Hon. Millie Odhiambo. Let us have Hon. T. J. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): I withdraw the amendments. It is correct that those people should serve on a part-time basis.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. That is noted.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

There is another amendment by the Chair of the Departmental Committee on Justice and Legal Affairs.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Nairobi Centre for International Arbitration Act by -

(b) in the proposed amendments to Section 21—

(i) by deleting the proposed amendments to sub-section (4) and substituting therefor the following—

- (4) Delete sub-section (4) and substitute therefor the following—
 (4) The President and his deputy shall be appointed by the Board and shall —
 (a) hold office for a term of five years;
 (b) be eligible for re-appointment for one further term of five years;
 (c) serve on a part-time basis.

The proposed amendment is misplaced as it should be under sub-section (4). In view of the amendments to sub-section 2 (b), it follows that sub-section (4) be further amended to refer to one deputy. It is not a serious departure from what has already been said in the previous sections. Section 21 (4) in the Bill seeks to allow the president of the centre to serve on a part-time basis. The word “deputy” needs to be aligned from plural to singular if the amendment to have one deputy president is agreed to. That is to harmonise that provision.

(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)*

(Section 21(4) as amended agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Section 21(5)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments. We shall start with that of the Chairperson, Departmental Committee on Justice and Legal Affairs.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Nairobi Centre for International Arbitration Act by –

- (a) in the proposed amendments to Section 21—
 (i) Deleting the proposed amendment to sub-section (5).

The rationale of the proposed amendment to sub-section (5) is to reduce the deputies to one. That is the essence of that amendment.

(Question of the amendment proposed)

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

(Section 21(5) as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): That was a similar amendment to that of Hon. Millie Odhiambo. Leader of the Majority Party, we are consulting to make sure that we are moving together.

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Sections 22(1), 23, 24 and 25

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is proposed amendment by Hon. Millie Odhiambo. Hon. T. J. Kajwang’.

Hon. T. J. Kajwang’ (Ruaraka, ODM): I have to withdraw this amendment. The original Act talks about original and appellate jurisdiction to hear disputes. The amendment in the Bill speaks to determine all disputes referred to it. So, to try to amend what the Bill is proposing may not be sound. I withdraw.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 22(1), 23, 24 and 25 agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, Schedule

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang’ on behalf of Hon. Millie Odhiambo.

Hon. T. J. Kajwang’ (Ruaraka, ODM): I withdraw the amendments to the Schedule.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Schedule agreed to)

The Nairobi Centre for International Arbitration Act, No. 26 of 2013, New Second Schedule

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie had an amendment.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I have to withdraw this amendment. The conduct and affairs of Arbitral Court is an integral part for arbitration processes. To purport to amend the Second Schedule will be to cripple the arbitration system in Kenya. So, I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Provisions relating to the Nairobi Centre for International Arbitration Act, No. 26 of 2013, Nairobi Centre as amended agreed to)

THE SCIENCE, TECHNOLOGY AND INNOVATION ACT, NO.28 OF 2013

The Science, Technology and Innovation Act, Section 5(1)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments: one by the Departmental Committee on Education and Research and another one by the Leader of the Majority Party. We will start with one of the Departmental Committee on Education and Research because it seeks total deletion.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Science, Technology and Innovation Act, 2013 by -

(a) deleting the proposed amendments to section 5(1);

We have also proposed to delete Section 8(1) and Section 8(4).

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us take one after another.

Hon. Omboko Milemba (Emuhaya, ANC): The justification is as simple. When we met as a Committee, we invited stakeholders including the Ministry of Education which is in charge. The Ministry requested withdrawal of all the amendments to the Science, Technology and Innovations Act of 2013 proposed in the Statute Law (Miscellaneous amendments) Bill to allow the sector to have wider consultations. That is why the Committee proposed we delete all of them. As you will notice, they provide a wide range of amendments that have a wide spectrum of effect within the sector. It is the Ministry that requested that the amendments be withdrawn as they prepare a more comprehensive law.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): He has explained extensively.

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

(Section 5 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): It means that the amendment by the Leader of the Majority Party falls.

(Proposed amendment by Hon. Aden Duale Dropped)

The Science, Technology and Innovation Act, Section 8(1)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have an amendment proposed by the Chairperson of the Committee to delete the amendment.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Science, Technology and Innovation Act, 2013 by -

(b) deleting the proposed amendments to section 8(1);

The Committee met officials from the Ministry and they requested that we withdraw this amendment for them to do wider consultation and bring a comprehensive law. For that matter, the Committee considered this and we propose that we delete.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I oppose because I have a letter from the Ministry of Education here. The Chair of Departmental Committee on Education can provide a letter from the Ministry of Education if he has it. Where they have issues on this law, this is the letter. There is no way the Chair can say he deletes because he consulted the Ministry of Education. This is a Government Bill. So, if you have the letter it is important, I may agree with you but if you do not have it, I will not. This Bill went to the Cabinet. The Cabinet Secretary for Education cannot at one time agree with the Cabinet and disagree at another time. If you have a letter showing that she has asked for withdrawal, I have no problem because I have this letter here.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is your point of order, Hon. Milemba?

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairman, I am in agreement with the Leader of the Majority Party but he should tell us the content of the letter before us. We have used this before while making law and he himself has used this before to indicate that certain interested parties have requested that they be given time for wider consultation. It will be good that he tables the letter so that we see the contents and even the date of the letter.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, this a house of records. It is good he has challenged me. All that I have said about the Attorney-General, this is a bunch of letters and I can table them. This one is from the Ministry of Education signed by the Cabinet Secretary. Her amendments are only in as far as University Act No. 42 of 2012 is concerned. So, if the clerk is here and they have a letter, they can give us. I can table it.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon Wanga, what is your point of order?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, with due respect to the Majority Leader, in committees we listen to Cabinet Secretaries and stakeholders. There is no time on the Floor of this House when a Committee has been asked to produce a letter from a Cabinet Secretary stating their position. What we have had here is a report of the committees. What is tabled is the report and recommendations. At no time have we demanded that a Committee Member moving amendments comes with a letter from a Cabinet Secretary. The Majority Leader is applying double standards. At some point when it favours him, it is ok and when it does not, he produces a letter. We have to know as Committees whether when we have amendments we have to bring letters from Cabinets Secretaries showing that those changes have been made. I respect the Majority Leader but on this one, I think the day has been long and the double standards are starting to set in.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Majority Leader, what is it?

Hon. Aden Duale (Garissa Township, JP): Hon. Wanga is using double standards. Even the reports that Committees table in this House carry the memoranda that stakeholders bring plus letters and documents as annexures. So, it is not something I am introducing. For the House to agree with Committees, they need to see the evidence that you have met so and so and this is their position. The report has annexures. So, it is not something that I introduced.

Hon. Moses Kuria (Gatundu South, JP): Hon. Temporary Deputy Chairman, I want to know from the Leader of the Majority Party whether he doubts the position of the Committee.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, look at it this way, we must make progress. When an issue has been raised on the Floor, the decision is made by the Members. If there are issues of letters from Cabinet Secretaries and stuff, those are persuasive. Decision is finally made by the members here.

Hon. Omboko Milemba (Emuhaya, ANC): On A point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Milemba, why must you have the final submission on this one?

Hon. Milemba, you are the Mover. Let us hear Hon. Okelo before I give you the chance. Then, we will see if we shall be making progress on this.

Hon. Jared Okelo (Nyando, ODM): Hon. Temporary Deputy Chairman, the functions and functionalities of the Committees are properly anchored in the Constitution. Committees are a creation of the Constitution. Their responsibilities are well captured in our Standing Orders. If we, having produced Reports brought by a Committee before this House, stand to punch holes on the conduct of a Committee, we have to reevaluate the entire Committee's standings here.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Korei, you have not spoken this afternoon – you spoke in the morning.

Hon. Korei ole Lemein (Narok South, JP): Thank you, Hon. Temporary Deputy Chairman. I want to repeat the sentiments of Hon. Kuria in the sense that the Standing Orders are very clear on matters concerning Committees. For sure, the Departmental Committee on Education and Research has specified objectives on the same. So, I want to say that maybe the Leader of the Majority Party should in this case clearly clear the air on the same.

(Hon. Omboko Milemba spoke off record)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we really must make progress on this one. Hon. Milemba, you do not have a right of reply. Please take 20 seconds only.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Chairman. I would wish to submit that the Departmental Committee on Education and Research is chaired by Hon. Melly and deputised by one Hon. Kimunya. This are two individuals who have the confidence of the Leader of the Majority Party or the leader of the House. I am just submitting on their behalf that we received a letter from the ministry indicating what I have said.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will allow the House to make a decision on this.

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

(Section 8(1) agreed to)

The Science, Technology and Innovation Act, Section 8(4)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Mover, you have a total deletion.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Science, Technology and Innovation Act, 2013 by –

(c) deleting the proposed amendments to section 8(4); and

It is for the same reason I have just given.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, Hon. Leader of the Majority Party, you will get a chance but it will be after I have proposed.

(Question of the amendment proposed)

Hon. Leader of the Majority Party

Hon. Aden Duale (Garissa Township, JP): This is a Government Bill. What he is deleting in Section 8(4), if you read it is that, “the Director General of this institution shall hold office for a period of four years, which period may be renewed once after every satisfactory performance as evaluated by the commission”. So, there must be a very good reason you want to delete an office in this institution. This is a Government Bill and this is the Committee of the whole House. There must be a good reason. If there will be no Director General because you are deleting it, so what?

The Temporary Deputy Chairman (Hon. Patrick Mariru): The House must make a decision on this one.

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

(Section 8(4) agreed to)

The Science, Technology and Innovation Act, Section 8(5)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Mover, you again have a total deletion.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Chairman. Without taking much time of the House, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Science, Technology and Innovation Act, 2013 by –

(d) deleting the proposed amendments to section 8(5).

As I had explained earlier, the Committee that is chaired by Hon. Melly and deputised by Hon. Kimunya received a letter and a Report to that effect from the Ministry of Education

requesting for the withdrawal of all the amendments to the Science, Technology and Innovation Act, 2013 to provide enough time for them to consult and come up with a more comprehensive law in the education sector.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

(Section 8(5) agreed to)

(Provisions relating to the Science, Technology and Innovation Act, No. 28 of 2013 agreed to)

THE NATIONAL SOCIAL SECURITY FUND ACT, NO. 45 OF 2013

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it the Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): I want to go on record. The clerk of that Committee said that there is a letter and I need to have it. There is no way Cabinet Secretaries can oppose a Government Bill that they have passed in the Cabinet. I will share that with the President.

The National Social Security Fund Act, No. 45 of 2013, Section 6A

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two amendments. One, by the Chairperson and another one by Hon. Millie Odhiambo. The one by the Chairperson of the Committee seeks a total deletion. Hon. Chairperson, give us one minute so that the Leader of the Majority Party can consult at the Table, then we move together.

You have the Floor now.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Social Security Fund Act, 2013 (No. 45 of 2013) by –

(a) deleting the proposed amendment to section 6(a);

There are a number of clauses which deal with National Social Security Fund (NSSF). The NSSF is a private sector membership fund and should not be heavy with Government appointees. This will open the fund to political manipulation. I am saying this because the current case where six out of 10 board members represent Government interest has in the past exposed the fund to abuse. The board should reflect the ownership. It is a workers' fund. I propose to delete the proposed amendment.

(Question of the amendment proposed)

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

(Section 6(a) agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Therefore, the amendment by Hon. Millie Odhiambo, suffers the same fate.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The National Social Security Fund Act, No. 45 of 2013, Section 6(d)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are three amendments; we shall start by the one of the Chairperson, which seeks for total deletion.

Hon. Ali Wario (Bura, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Social Security Fund Act, 2013 (No. 45 of 2013) by –

(a) deleting the proposed amendment to section 6(d).

I have already given the rationale for that deletion.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order! Chairperson, please take half a minute to further explain. It helps to carry everyone along.

Hon. Ali Wario (Bura, JP): As I had earlier said, NSSF is a private sector membership fund. Currently, there are six directors out of 10. This will open this fund to manipulation. The board should reflect the ownership of this fund. That is why the Committee decided to delete this proposed amendment.

(Question of the amendment proposed)

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Temporary Deputy Chairman. I think the Chairman is not being very generous with information. He has told us that NSSF is a private sector membership fund. The Government has six nominees and he has not told us why he is making these changes. We do not understand what he is doing. We want the Chair to explain to us the import of these amendments so that we can vote wisely. I would like the Chair to be more generous with information.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us hear a few more Members. Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. The amendment which the Committee has proposed is to delete Section 6(d) which in the Act states:

“(d) Seven persons appointed by the Cabinet Secretary as follows-

(i) two persons, one of whom shall be of the opposite gender, nominated by the most representative employers’ organisation with knowledge and experience in matters relating to employers to represent employers in Kenya;

(ii) Two persons, one of whom shall be of the opposite gender nominated by the most representative workers’ organisation...

(iii) Three persons, one of whom shall be of the opposite gender, not being public officers nor employees or directors of any public company, appointed by the Cabinet Secretary by virtue of their knowledge and experience...”

That is what is in the current law. The amendment by the Committee is to delete it and replace it with the following:

“(i) Five persons not being public officers nor employees or directors of any company appointed by the Cabinet Secretary.”

What are they doing? They have removed workers and employers and are now introducing five people brought solely by the Cabinet Secretary. This is what the Committee did not agree with and the Chair is proposing we delete it and have consultations if we need to make changes. That is the position.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Before we put the Question let us hear Hon. Wambugu. Hon. Korei, you already had your chance let us hear somebody who has not spoken.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Chairman. I want to pick up from what Hon. Wanga has said. Basically, this is how I understand this proposed amendment. The Chair is telling us that he does not want us to change what already exists in the current law. If that is the case, then I am in a good place because the way it has come out, it looks like he is trying to change what is in the current amendment using the proposed amendment. But, if he wants it to remain the same, then I guess we are a bit more informed. I think that is why some of my colleagues were saying it was clear what he meant.

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

(Clause 6(d) agreed to)

The National Social Security Fund Act, No. 45 of 2013, Section 6(2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a proposed amendment by Hon. Millie Odhiambo.

Hon. T.J. Kajwang' (Ruaraka, ODM): The amendment is exactly the same as what the Chair has. So, I will withdraw this and allow the Chair to prosecute his amendment.

(Proposed amendment by Hon. Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Section 6(2) did not have any further amendment.

(Section 6(2) agreed to)

The National Social Security Fund Act, No. 45 of 2013, Section 9

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments. One is by the Chairperson and another by Hon. Millie Odhiambo. We shall start with the one of the chairperson that seeks a total deletion.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Social Security Fund Act, 2013 (No. 45 of 2013) by –

(a) deleting the proposed amendment to section 9;

We have given the reasons as to why those deletions are important.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Chairperson, you still have the Floor. Are you done? He does not have to repeat. Maybe say its import in a briefer version.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, as I earlier said, NSSF is a private sector membership fund. In the current case, six board members out of 10 represent government interest. The board should reflect the ownership of this Fund, who are the workers. I generalised this for all the clauses I am trying to delete.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I think we need to be fair to the House. This is because Section 9 talks about inserting the expression “subject to sub-section 7(3) of the State Corporations Act” at the beginning of this section. So, it is in relation to the State Corporations Act. It is something different and I think it is good that we understand. Ultimately, we will put the Question. Maybe Hon. Wanga can answer.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Sossion says he is absolutely not confused. Hon. T.J Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): “Subject to the State Corporations Act” simply means that the President will have the opportunity to appoint these people. The Chair is saying that let us have all the stakeholders who are concerned because the State Corporations Act is run through the presidency. I will pick it up in a short while if you want us to go to the section.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have the Leader of the Majority Party and then we make progress.

Hon. Aden Duale (Garissa Township, JP): You know we want to carry everybody including Hon. Jude Njomo. The one on Sections 6(a) and (d), the Chair was very right. It was about the board composition and we have deleted it and gone back to the NSSF Act of 2014 I think No. 44 if I am not wrong.

Section 9 is making reference to Section 7(3) of the State Corporations Act. This amendment is owned by the Committee. Maybe T. J. can tell us what Section 7(3) of the State Corporations Act...

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will give an opportunity to a Member of the Committee. Let us have Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. T.J was absolutely right in the spirit of Section 7(3). It says that notwithstanding the provisions of any other written law or articles of association establishing and governing a board, the President may, if at any time it appears to him a board has failed to carry out its functions in national interest, revoke the appointment of any member of a board and may himself nominate a new member.

Hon. T.J is our Chief Justice). We call him C.J. because of the way he knows those things off the top of his head.

Looking at the way this board is composed, Section 7 (3) cannot apply because members’ and workers’ organisations can nominate. If you bring in Section 7(3), it means that the President can remove a workers’ nominee and replace him. It defeats the purpose.

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

(Section 9 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The amendment by Hon. Millie Odhiambo follows the same fate.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The National Social Security Fund Act, No. 45 of 2013, Section 11(2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two amendments – one by the Chairperson and another one by Hon. Millie Odhiambo. We will start with the amendment by the Chairperson which seeks total deletion.

Hon. Ali Wario (Bura, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Social Security Fund Act, 2013 (No. 45 of 2013) by –

(d) deleting the proposed amendment to Section 11(2).

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Are you done, Hon. Chair?

Hon. Ali Wario (Bura, JP): Yes, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, this amendment states that the quorum for conducting business at the meeting of the board shall be two-thirds of the total number of the members of the board. That is where the Committee had a problem. I have to take the position of the Chair. The amendment is just about the quorum. The Committee had a problem with the two-thirds quorum limit.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I must give an opportunity to Hon. Sossion.

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairman. This being a workers' kitty, it can be dangerously fatal if business is conducted in the absence of the representatives of the contributors. The current Act cures any such threat. It states that the quorum shall be in the presence of the representatives of workers. That was meant to protect. Therefore, I support the proposal by the Chair.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I must put the Question to this one. What is it? Order, Hon. Onyango. Are you standing on a point of order? I was already putting the Question. You need to be on record. Use the next microphone.

Hon. Onyango Oyoo (Muhoroni, ODM): I want the House to know that I was in the 11th Parliament. I thank His Excellency the President because we are just about to experience similar problems. People must understand that the National Social and Security Fund is a tripartite organisation. It belongs to workers and employers, and the Government is a regulator. However,

we have a situation here where some people or somebody in the Government wants to kick out the contributors and run it as if it is his or her personal property. Hence all the reasons you are seeing these amendments that we are bringing here. That clause demanding for quorum was very visible because last time when they did without it, a lot of money got lost within a short time, and investigations are ongoing.

The Temporary Deputy Chairman (Hon. Patrick Mariru): You have made your point.

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

(Section 11(2) agreed to)

(Provisions relating to the National Social Security Fund Act, No. 45 of 2013, agreed to)

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, NO.47 OF 2013

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Leader of the Majority Party. We have deleted all the sections.

(Hon. Aden Duale spoke off record)

Everything was deleted. I have just confirmed.

The Wildlife Conservation and Management Act, No.47 of 2013, Section 3

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments. The first one by Hon. Millie Odhiambo seeks total deletion. We have a second one by the Chairperson, Departmental Committee on Environment and Natural Resources. Hon. Millie Odhiambo's amendment is dropped.

(Proposed amendment by Ms. Odhiambo-Mabona dropped)

Chairperson, Departmental Committee on Environment and Natural Resources, Hon. Chachu.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, on behalf of the Chairman of the Departmental Committee on Environment and Natural Resources, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act by -

(a) in the proposed amendments to Section 3 in the definition of the term "subsistence hunting" by deleting the words "and/or his" appearing immediately after the words "consumption by individual" and substituting therefor the words "or their";

b) in the proposed amendments to Section 3 by inserting the following new definition in proper alphabetical sequence—

“Community Wildlife Compensation Committee” means the committee established under Section 18;”

The import of this amendment is to make the provision gender neutral and elegant.

(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)*

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

(Section 3 as amended agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 6(1)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a proposed amendment by Hon. Millie Odhiambo. Hon. T. J. Kajwang’. He has taken leave. So, that amendment is dropped.

(Proposed amendment by Ms. Odhiambo-Mabona dropped)

(Section 6(1) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 7(e)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a proposed amendment by Hon. Millie Odhiambo. Hon. T. J. Kajwang’. He has taken leave. That amendment is dropped.

(Proposed amendment by Ms. Odhiambo-Mabona dropped)

(Section 7(e) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 8(2)(f)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two amendments. One by Hon. Millie Odhiambo and the next one by the Chairperson, Departmental Committee on Environment and Natural Resources. Hon. T. J. Kajwang’ who is moving the amendments on behalf of Hon. Millie Odhiambo has taken leave. So, that amendment is dropped.

(Proposed amendment by Ms. Odhiambo-Mabona dropped)

Hon. Chairperson, Hon. Chachu. It is on page 1699 of the Oder Paper.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act by –

(c) in the proposed amendment to section 8(2) (f) by—

(i) deleting the word “four” and substituting therefor the word “five”;

(ii) inserting the words “one of whom shall be from local community wildlife areas” at the end of the paragraph;

This amendment seeks to introduce an expert to the Board of Trustees of Kenya Wildlife Service. This will ensure that experience that is required will be sorted out by the Authority.

(Question of the amendment proposed)

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

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

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

The Wildlife Conservation and Management Act, No.47 of 2013, Section 11(4)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a proposed amendment to delete the amendment by Hon. Millie Odhiambo. Hon. T.J. Kajwang’ has taken leave so the amendment is dropped.

(Proposed amendment by Hon. (Ms) Odhiambo-Mabona dropped)

(Section 11(4) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 18

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two proposed amendments, one by Hon. Millie Odhiambo that seeks total deletion and the second one by the Chairperson of the Committee that seeks deletion and substitution. We shall start with Millie Odhiambo’s. Hon. T. J. Kajwang’.

Hon. T. J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I beg to withdraw the amendment.

Conservation of wildlife is a very specialised area. I leave it with the Chair of the Committee who must have interacted with the stakeholders.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman

Hon. Josphat Kabinga (Mwea, JP): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Hon. Chachu Ganya. What is your point of order, Hon. Kabinga?

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman. At such a time, many things happen and some of us who are new are learning a lot of things. Is it in order for Hon. Kajwang' to be talking while seated and in a style likely to suggest that he is in his sofa set?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Kajwang'.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I accept that I have shown a very bad example. It is completely out of order to address the Chair while seated and I do not want to show the guys a wrong example. So, I apologise.

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are no guys here. We only have Hon. Members. Secondly, I did not notice that Hon. Kajwang' was seated. I should have pointed it out. I also note that Hon. T. J. Kajwang' has stood very many times both in the morning and in the afternoon today.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, the toll begins to take when the hours get to where they are. He begins to recline slowly. That is why he was not rising.

Hon. Jessica Mbalu (Kibwezi East, WDM-K): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Jessica, what is it?

Hon. Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Chairman, is it in order for Hon. Kajwang' my very good friend with whom I have served together in the panel to call Hon. Members of this august House guys? Are the women Members of Parliament guys? There is no definition of the word "guys". We are Hon. Members.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I take judicial notice that it is 11.00 p.m. Hon. T. J. Kajwang', there are no guys here.

(Hon. T. J. Kajwang' spoke off record)

All the terms you have used are not correct. We have Hon. Members. Is it the effect of 11.00 p.m.?

Hon Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. T.J. still remembers the clauses on child welfare where gays go and buy because they do not procreate. Because he has an interest there, he knows his clients. He did not say "guys"; he said "gays".

The Temporary Deputy Chairman (Hon. Patrick Mariru): We shall not reopen that debate again. Hon. Chachu Ganya?

Hon. Chachu Ganya (North Horr, FAP) : Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act –

(d) in the proposed amendment to section 18 by deleting the proposed new section 18 and substituting therefor the following new section—

- (1) Each county shall have a Community Wildlife Conservation Committee, consisting of—
- (a) a Chairperson appointed by the Cabinet Secretary being the County Commissioner;
 - (a) an officer of the Service for the county who shall be the Secretary;
 - (b) an agricultural officer based in the respective administrative Conservation area established by the Service;
 - (c) a medical officer based in the respective administrative Conservation area established by the Service;
 - (d) a livestock officer based in the respective administrative Conservation area established by the Service and nominated by the Director;
 - (e) four persons not being public officers knowledgeable in wildlife matters nominated by the community wildlife associations within the administrative Conservation Area established by the Service and appointed by the Cabinet Secretary.
- (2) The Community Wildlife Conservation Committees may hold a maximum of four meetings every financial year.
- (3) Despite subsection (2), additional meetings may be held with the prior consent of the Cabinet Secretary.

This amendment seeks to rationalise the community wildlife conservation committees which are established by this Act.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): I thank Hon. Chachu Ganya because he is establishing for the first time community wildlife conservation committees in each county.

Hon. Korei ole Lemein (Narok South, JP): Hon. Temporary Deputy Chairman, I thank Hon. Chachu as the Majority Leader has said. For the first time he has taken consideration of the persons who take care of the wildlife in this country. I support the same.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is your point of order?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Did all Members take some tea or something?

(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)

(Section 18 as amended agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 19

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act –

(e) In the proposed amendment to section 19 by deleting the proposed new section 19 and substituting therefor the following new section—

(1) The functions of the Community Wildlife Conservation Committees shall be to—

- (a) review and recommend payment of compensation on claims resulting from loss or damage caused by wildlife;
- (b) develop and implement, in collaboration with the Service and Community Wildlife Associations, mechanisms for mitigation of human wildlife conflict;
- (c) bring together relevant stakeholders to harness participation in conservation and management programmes of wildlife; and
- (d) perform such other functions as the Service may require or delegate to it.

The import of this amendment is to moderate the functions of the committees to ensure sustainability.

(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)

(Section 19 as amended agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 23

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 23 agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 92

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act –

(f) in the proposed amendments to section 92—

(i) in subsection (1), by deleting the word “three” appearing immediately after the words “not less than” and substituting therefor the word “five”;

(ii) in subsection (2), by deleting the word “five” appearing immediately after the words “not less than” and substituting therefor word “seven”;

(iii) in subsection (3) by—

(a) deleting the word “sin” appearing immediately after the words “endangered species as specified” and substituting therefor the word “in”;

(b) deleting the word “three” appearing immediately after the words “not less than” and substituting therefor the words “five”;

(iv) in subsection (4) by deleting the word “three” appearing immediately after the words “a term of imprisonment of not less than” and substituting therefor the words “five”.

The reason is the same as the one I gave before.

(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)

(Section 92 as amended agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 95

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is one amendment by Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 95 agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 95A

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 95A agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 97

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 97 agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 98

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments. One by Hon. Millie Odhiambo and the second one by the Chairperson. The amendment by Hon. Millie Odhiambo.

Hon. T. J. Kajwang' (Ruaraka, ODM): I withdraw the amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act by -

(g) in the proposed amendments to section 98 in subsection (3) by deleting the words "subsection (1)" appearing immediately after the words "contravenes the" and substituting therefor the words "subsection (2)".

This is just to tighten the whole section and make it neater. It is an issue of creating a smooth flow.

(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)*

(Section 98 as amended agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 99(1) (3) and 4)

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendment withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 99 (1) (3) and (4) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 102 (1)

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendment withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 102 (1) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 102(1)(a)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendments withdrawn.

(The proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 102(1)(a) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 102 (1)(g)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments; one by Hon. Millie and the other one by the Chairperson.

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendments withdrawn.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well, that is noted. Hon. Chairperson.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act by –

(i) in the proposed amendments to section 102(1)(g) by deleting the proposed amendments appearing after the proposed new paragraph (g) and substituting therefor the following

s. 102(2) Delete subsection (2) and substitute with the following—

“(2A) a person shall not enter any protected area with livestock without a permit or written permission from the authority responsible as the case may be.”

This amendment should have been done on Section 102(2) of the Act which deals with prohibition of persons entering the National Parks with any livestock. Instead of being in Section 102 (1) (g) of the Act, we are dealing with prohibitions of persons from undertaking any administrative activities. Basically this amendment was put in the wrong section and we are

trying to align it to ensure that it is in the right section which should be Section 102 (1) (g). It is more of an alignment of the sections.

(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)*

(Section 102 (1)(g) as amended agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 103

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendment withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

(Section 103 agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Section 116A

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two amendments. One by the Chairperson who seeks a total deletion and the next one by Hon. Millie Odhiambo who seeks to do the same thing. We will start by that of the Chairperson.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act-

(j) by deleting the proposed new section 116A;

This is a very important amendment. The amendment as it is violates Section 44 of the Civil Procedures Act. This amendment introduces a new section in order to bar execution or attachments or process issued against the immovable property of the service or any of its vehicles, vessels, aircraft or its operating equipment machinery, features or fittings.

Section 44 of the Civil Procedures Act provides that all property belonging to a judgment debtor is liable to attachment and sale in execution of a decree. It provides a list of properties which are not liable for execution and do not include what the proposed amendment seeks to provide. So, we strongly feel that if this amendment goes through, it will violet sections of Civil Procedures Act. That is why we are opposing it and inserting a new section.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairperson that is total deletion?

(Hon. Chachu Ganya spoke off record)

(Question of the amendment proposed)

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

(New Section 116A deleted)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The amendment by Hon. Millie Odhiambo suffers that fate.

(Proposed amendment by Hon. (Ms.) Odhiambo- Mabona withdrawn)

The Wildlife Conservation and Management Act, No.47 of 2013, Third Schedule (Part A)

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendments withdrawn

(The proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Third Schedule (Part A) agreed to)

The Wildlife Conservation and Management Act, No.47 of 2013, Third Schedule Part B Heading

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments one by the Chair, Departmental Committee on Environment and Natural Resources and by Hon. Millie Odhiambo. Let us have the Chairperson.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act by –

(k) deleting the proposed amendment to the heading of Part B of the Third Schedule.

The justification is to ensure that crops and property damaged are compensated for. As it is this amendment entails strict compensation for properties and crops damaged. We thought otherwise from the information we had because of the memoranda we received during public participation.

(Question of the amendment proposed)

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

(Third Schedule Part B Heading agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. T. J. Kajwang' (Ruaraka, ODM): Amendments withdrawn.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Noted.

(Proposed amendment by Hon. Odhiambo-Mabona Withdrawn)

The Wildlife Conservation and Management Act, No.47 of 2013, New Section 102 (1)(da)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairperson, please move the Second Reading of the New Section 102(1)(da). It is on page 1700 of the Order Paper. Chairperson are you consulting, I can see you are still seated.

Hon. Chachu Ganya (North Horr, FAP): Sorry, Hon. Temporary Deputy Chairman, I was consulting.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is right to consult. Hon. Chairperson, maybe you can approach the Table so that you can be guided.

Hon. Chachu Ganya (North Horr, FAP): I got it just give me a minute. Hon. Temporary Deputy Chairman, I beg to move the proposed amendment to Section 102(1)(da).

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is the Second Reading of a totally new section.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move.

The Temporary Deputy Chairman (Hon. Patrick Mariru): No! Move Second Reading of the new Section.

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act -

(h) in the proposed amendments to section 102(1) (a) by inserting the following new item immediately after the proposed new paragraph (a)—

s. 102(1) (d) Insert the following new paragraph immediately paragraph (d)—

“(da) burns charcoal in any protected area;”

The Temporary Deputy Chairman (Hon. Patrick Mariru): Do you want to explain to the Members the import of this because it is important.

Hon. Chachu Ganya (North Horr, FAP): Yes. Burning of charcoal in any national park or reserve was not provided for in the Act before. This amendment seeks to specifically provide for that offence. So that, if one is caught burning charcoal in a national park, reserve or any prohibited area it will be an offence and crime.

(Question of the new section proposed)

(New section read the First Time)

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

(Question, that the new section be read

a Second Time, put and agreed to)

(The new section was read a Second Time)

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

*(Provisions relating to the Wildlife Conservation and Management Act, No.47 of 2013, as
amended agreed to)*

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED
STATE OFFICERS) ACT, NO. 8 OF 2015

(Schedule agreed to)

*(Provisions relating to the Retirement Benefits (Deputy President and
Designated State Officers) Act agreed to)*

THE COMPANIES ACT, NO. 17 OF 2015

The Companies Act, No. 17 of 2015, Section 151(3)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T.J Kajwang'

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, I want to go on record as withdrawing all the provisions touching on the Companies Act. Hon. Temporary Deputy Chairman, you are getting into problems. One of the problems we are getting into is we have to finish these things before midnight and if we do not, the whole Bill will be lost. So, I think we have to design another method of pushing up this thing. So, I go on record as withdrawing all the amendments preferred by Hon. Millie Odhiambo touching on the Companies Act.

The Companies Act, No. 17 of 2015, Sections 151(3) and 258

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, the withdrawal by Hon. T.J Kajwang' on behalf of Hon. Millie Odhiambo is noted. In that case, I propose the Question.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 151(3) and 258 agreed to)

The Companies Act, No. 17 of 2015, New Section 275A

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two amendments to this section. The amendment by Hon. Millie Odhiambo has already been dropped in advance.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Let us have the Chairperson.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Companies Act by –

(a) deleting the proposed new Section 275A;

The rationale for this amendment is that the provision relates to the convening of an annual general meeting (AGM) and proposes to penalise companies that fail to convene an AGM every year as required. Section 310 of the same Act has very clear provisions as to the penalties that will always be available if a company does not hold AGM meetings. We feel that having that provision is repeating what is already in the Act.

(Question of the amendment proposed)

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

(New Section 275A deleted)

The Companies Act, No. 17 of 2015, Section 281 (2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie Odhiambo had withdrawn her amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 281(2) agreed to)

The Companies Act, No. 17 of 2015, Section 329 (1)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The amendment by Hon. Millie Odhiambo was withdrawn but we have that of the Chairperson of the Departmental Committee on Justice and Legal Affairs.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Companies Act by –

(a) deleting the proposed amendments to Section 329 (1);

The rationale is that as it is presently in the law, the directors of a company may exercise powers to allot shares only if authorised by both the articles of association and a resolution of the company. This amendment seeks to only allow allotment of shares by a resolution of the company, which is not fair. The directors should be given that power by the memorandum and articles of association of the company. That is the essence of rejecting that proposal.

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

(Section 329 (1) agreed to)

The Companies Act, No. 17 of 2015, Section 329 (2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The amendment by Hon. Millie is withdrawn. Let us have the Chairperson.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Companies Act by –

(c) deleting the proposed amendments to Section 329 (2).

The reasons are the same.

(Question of the amendment proposed)

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

(Section 329 (2) agreed to)

The Companies Act, No. 17 of 2015, Sections 721 (3) and (4)

The Temporary Deputy Chairman (Hon. Patrick Mariru):
Hon. Millie Odhiambo's proposed amendment had been withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 721(3) and (4) agreed to)

(Provisions relating to the Companies Act, No. 17 of 2015 as amended agreed to)

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY ACT, NO.4 OF 2016

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang' on behalf of Hon. Millie.

Hon. T. J. Kajwang'(Ruaraka, ODM): I have withdrawn the amendment. All the amendments touching on the provisions of the National Drought Management Authority Act are hereby withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 8(1)(a)(d) agreed to)

The National Drought Management Authority Act, No.4 of 2016, Section 13

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairperson, Departmental Committee on Environment and Natural Resources, Hon. Chachu.

Hon. Chachu Ganya(North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to Section 13 of the National Drought Management Authority Act by inserting the following new subsection immediately after the proposed new subsection (2)—

“(3) The Board shall ensure that in the appointment of its staff—

(a) not more than two-thirds of the staff shall be of the same gender;

(b) the regional and other diversity of the people of Kenya is taken into account; and

(c) persons with disabilities are afforded adequate and equal opportunities.”

This is to ensure that the two-thirds gender rule is followed, the diversity of Kenyans is assured and people with disabilities and all other interests are catered for as provided for in the Constitution.

(Question of the amendment proposed)

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

(Section 13 as amended agreed to)

(Provisions relating the National Drought Management Authority Act, No.4 of 2016, as amended agreed to)

THE PROTECTION OF TRADITIONAL KNOWLEDGE AND CULTURAL
EXPRESSIONS ACT, NO. 33 OF 2016

*The Protection of Traditional Knowledge and Cultural Expressions Act, No. 33 of 2016,
Section 2*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T. J. Kajwang' on behalf of Hon. Millie Odhiambo.

Hon. T. J. Kajwang'(Ruaraka, ODM): I have withdrawn the amendments.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 2 agreed to)

(Provisions relating to the Protection of Traditional Knowledge and Cultural Expressions Act, No. 33 of 2016 agreed to)

THE FOREST CONSERVATION AND MANAGEMENT ACT NO. 34 OF 2016

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. T.J. Kajwang', you have quite a number of amendments. Do they face the same fate?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairman, if you will allow me, I want to withdraw amendments to Section 9,34,35(2), 40,50(1),57(1),63A, 64(3), 73(2) and 74, all touching on the Forest Conservation and Management Authority Act, 2016.

The Forest Conservation and Management Act, No.34 of 2016, Section 9 (3) and (5)

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Section 9(3) and 5 agreed to)

The Forest Conservation and Management Act, No.34 of 2016, Section 34

Hon. Chachu Ganya(North Horr, FAP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Forest conservation and Management Act by deleting the proposed amendment to section 34 and substituting therefor the following—

s. 34(1) delete the words “or the Senate,” appearing immediately after the words “National Assembly”.

s. 34(3) delete the words “relevant House” appearing immediately after the words “Standing Orders of” and substituting therefor the words “National Assembly”.

s. 34(5) (b) delete the words “or the Senate” appearing immediately after the words “National Assembly”.

s. 34(6) delete the words “or the Senate” appearing immediately after the words “National Assembly”.

This is because the words “National Assembly” and “Senate” were interchangeably used while this is within the sphere of National Assembly. We felt that it should be limited to National Assembly because it is a national function and not be referred to the Senate.

(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)*

(Section 34 as amended agreed to)

*The Forest Conservation and Management Act, No.34 of 2016, Sections 35(2),40, 50(1),57(1),
63A, 64(3), 73(2) and 74*

The Temporary Deputy Chairman (Hon. Patrick Mariru): We had amendments by Hon. Millie and they are all withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 35(2),40, 50(1),57(1), 63A, 64(3), 73(2) and 74 agreed to)

*(Provisions relating to Forest Conservation and Management Act, No.34 of 2016 as amended
agreed to)*

THE BRIBERY ACT, NO. 47 OF 2016

The Bribery Act, No.47 of 2016, Sections 13 (1)(c)and 16

Hon. T.J. Kajwang' (Ruaraka, ODM): I withdraw the amendments to Sections 13(1)(c), 16,27(2) relating to Bribery Act as appears on the Order Paper.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Sections 13 (1)(c)and 16 agreed to)

The Bribery Act, No.47 of 2016, Section 27(2)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie's amendment is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Let us have the Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I have never moved an amendment at quarter to midnight, but I will try.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments in the proposed amendments to the Bribery Act, 2016, by deleting the proposed amendment to section 27 and substituting therefor the following—

s.

27(2)

Delete and substitute therefor the following new subsection—

“(2) Any investigation or prosecution or court proceedings instituted before the commencement of this Act based on an offence under the Anti-Corruption and Economic Crimes Act, 2003 shall, be continued under the Anti-Corruption and Economic Crimes Act, 2003 Act.

This amendment clarifies on the transition of offences relating to bribery that occurred before the enactment of the Bribery Act that had been commenced under the Anti-Corruption and Economic Crimes Act, 2003. It is to secure those offences which have been committed so that the Ethics and Anti-Corruption Commission and other investigative bodies can carry on.

(Question of 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)

(Section 27(2) as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The amendment of the Leader of the Majority Party having been carried, the one by the Departmental Committee on Justice and Legal Affairs Chair suffers the same fate. It is dropped.

(Provisions relating to the Bribery Act, No.47 of 2016 as amended agreed to)

THE PUBLIC FINANCE MANAGEMENT ACT, NO.18 OF 2012

The Public Finance Management Act, No.18 of 2012, New Section 23 (2)(a)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, these are new sections that relate to the Public Finance Management Act, No18 of 2012. Hon. Chairperson, move New Section 23(2)(a).

Hon Aden Duale (Garissa Township, JP); Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in the Schedule by inserting the following new item in its proper alphabetical sequence -

s.23 Insert a new subsection as follows-

(2A) Notwithstanding the provisions of section (1), the Parliamentary Service Commission may, with the approval of the National Assembly, establish any other fund for the purpose of Parliament or a House of Parliament.

This is an amendment to the Public Finance Management Act. It is a very important amendment to all of us. We are passing it to enable provisions in the Public Finance Management Act that will enable the Parliamentary Service Commission with the approval of the House to establish statutory funds under its control for the welfare of Members and staff of the Parliamentary Service Commission when it comes to mortgage and car loan. They are currently under regulations, so, we want to anchor it in the Public Finance Management Act.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

The Public Finance Management Act, No.18 of 2012, New Section 23(3)

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

Hon Aden Duale (Garissa Township, JP); Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in the Schedule by inserting the following new item in its proper alphabetical sequence -

s.23(3) Insert the words “this Act or” immediately after the word “under”.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

(Question, that the new section be added to

the Bill, put and agreed to)

(Provisions relating to the Public Finance Management Act, No.18 of 2012 as amended agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Congratulations Members. This marks the end of that part.

Mover

Hon. Aden Duale (Garissa Township, JP): Hon. Chairperson, I beg to move that the Committee doth report to the House its consideration of the Statute Law (Miscellaneous Amendments) Bill, National Assembly Bill No. 12 of 2018 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

(The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) in the Chair)

REPORT AND THIRD READING

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Hon. Patrick Mariru (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Statute Law (Miscellaneous Amendment) Bill, and approved the same with amendments.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, in the next 10 minutes, when we leave here, we will be seeing tomorrow. This is serious.

Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Oyoo to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you, Hon. Temporary Deputy Speaker, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Koinange.

Hon. Paul Koinange (Kiambaa, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the following words at the end thereof, subject to recommittal of the Bill with regard to:

- i. Provisions relating to the Registration of Persons Act, Cap 107.
- ii. The provisions relation to the Higher Education Loans Board Act 1995 (No. 3 of 1995 in respect of Section 4.
- iii. The provisions relating to the Copyright Act, 2001 (No.12 of 2001) in respect of new Section 6 (1) (a).
- iv. All the provisions relating to the Kenya School of Law Act, 2012 (No.26 of 2012).
- v. The provisions relating to the Universities Act (No.42 of 2012) in respect of Section 15(2).

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Paul Koinange, who is seconding you?

Hon. Paul Koinange (Kiambaa, JP): I will ask Hon. Sabina.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Before I put the Question, I must ascertain the House is properly constituted. Member for Bura, Hon. Wario, I confirm I have seen him consulting. Hon. Milemba Omboko, he seems not to ready for this. Then I will give the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): generally I think Hon. Koinange has done well. The reason for recommitting is that we had contentions on a number of amendments including those moved by my distinguished friend who is out of the country, Hon. Millie Odhiambo. I am sure those who have eyes can see that the substantive Speaker should do the necessary and we move on.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Kajwang' who has sat with us for long.

Hon. T. J. Kajwang' (Ruaraka, ODM): I do not want to raise anything that will scare anybody here. I think we need to reflect the Procedural Motion we passed which committed us to finish Order No.9 which has been reported. However, I think we still have some work to do in terms of recommittal.

In my view, I expected the Leader of the Majority Party to do another Procedural Motion because we are tied to the finishing of Order No.9. He should beg to seek leave to sit again so that this recommittal business is part of Tuesday's business.

I think that should be the order because we cannot go past midnight on this. The Procedural Motion takes us up to midnight. By doing another Procedural Motion, we will reserve

all of this. Otherwise, technically, the Leader of the Majority Party, this Bill will collapse because we have not finished it.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me hear Hon. Wanga Nyasuna, Member for Homa Bay County. She is not asleep. That is how she looks at this hour.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): It is good to see how people look at this hour. Hon. Temporary Deputy Speaker, I did not have anything to add. I think the issues that have been raised by Hon. T.J need to be addressed by the Leader of the Majority Party if in any case, given the Procedural Motion that we passed, we can continue on Tuesday to finish the re-committals. I think that is the only issue.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Tharaka, do you want to say something?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I think what...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me hear from... Okay, I know you have precedence. Give the Leader of the Majority Party the microphone.

Hon. Aden Duale (Garissa Township, JP): The Procedural Motion was in as far as completing the Committee of the whole House is concerned. What will remain on Tuesday is still we have to put the Question at the Third Reading. Once we have also saved the recommitted clauses, I think we are safe but it does not harm that we sit again. I am sure once we have saved the re-committals and we have finished the Bill at the Committee of the whole House, we will still have, because we do not have the numbers, to put the Third Reading in the full plenary.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, from where I sit, the Speaker has no powers to give direction to the effect that we can sit on a Friday. Hon. Members, allow me to congratulate you for work well done and staying until this time. How I wish Kenyans and the public could know what the Members of Parliament, especially this august House... I am reminded by Hon. Duale that it is the National Assembly. We thank you Leader of the Majority Party.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members! Order! Order! Hon. Members, order! Hon. Members, the time being 11.59 p.m., this House stands adjourned until Tuesday, 20th November 2018, at 2.30 p.m.

The House rose at 11.59 p.m.