

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th August 2018

The House met at 2.30 p.m.

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

PRAYERS

MESSAGE

NOMINATION OF PERSONS TO INDEPENDENT POLICING OVERSIGHT AUTHORITY AND SALARIES AND REMUNERATION COMMISSION

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order No. 42, I wish to convey the following two Messages from His Excellency the President relating to nomination of the chairperson and members of the Independent Policing Oversight Authority and the Chairperson and members of the Salaries and Remuneration Commission.

In the first Message, His Excellency the President conveys that, in exercise of powers conferred by Article 250(2)(b) of the Constitution as read together with Section 11(5) of the Independent Policing Oversight Authority Act No. 35 of 2011, he nominates:

1. Ms. Anne Makori, Chairperson of the Independent Policing Oversight Authority.
2. The following members of the Independent Policing Oversight Authority:
 - (a) Ms. Doreen Nkatha Muthaura;
 - (b) Ms. Fatuma Mahamud Mohamed;
 - (c) Dr. Walter Owen Ogony;
 - (d) Mr. Jonathan Lodompui Ltipalei;
 - (e) Hon. Waiganjo John Muriithi;
 - (f) Ms. Praxedes Chepkoech Tororey; and
 - (g) Dr. Jimmy Mutuku Mwithi.

In the second Message, His Excellency the President conveys that, in exercise of powers conferred by Article 250(2)(b) of the Constitution as read together with Section 7(10) of the Salaries and Remuneration Commission Act, 2011, he nominates:

- (i) Ms. Lynne Cherop Mengich, Chairperson of the Salaries and Remuneration Commission.
- (ii) The following persons as nominated to represent various institutions in the Salaries and Remuneration Commission:
 - (a) Ms. Halima Abdille Mohammed, nominated by the Parliamentary Service Commission;
 - (b) Hon. Dalmas Otieno Anyango, nominated by the Public Service Commission;
 - (c) Dr. Leah Mumbua Munyao, nominated by the Teachers Service Commission;
 - (d) Mr. John Kennedy Monyoncho, nominated by the Defence Council;

- (e) Ms. Margaret Sawe, nominated by the Senate, on behalf of the county governments;
- (f) Ms. Nelly Peris Ashumbwe, nominated by the umbrella body representing trade unions;
- (g) Dr. Amani Yuda Komora, nominated by the umbrella body representing employers; and
- (h) CPA Sophie Moturi, nominated by a joint forum of professional bodies.

His Excellency the President, therefore, seeks the approval of this House on the nominees for appointment to the aforementioned positions in the Independent Policing Oversight Authority and the Salaries and Remuneration Commission.

Hon. Members, Standing Order No. 45 requires that upon receipt of notification of nomination for appointments, such nominations shall stand committed to the relevant Departmental Committee of the House for consideration.

Pursuant to the provisions of the said Standing Order, therefore, and paragraph three of Standing Order No. 42 relating to Messages from the President, I hereby refer the Messages from His Excellency the President on the Independent Policing Oversight Authority and the Salaries and Remuneration Commission to the Departmental Committee on Administration and National Security and the Departmental Committee on Finance and National Planning respectively to undertake the necessary approval hearings.

Hon. Members, Section 11(6) of the Independent Policing Oversight Authority Act, 2011 and Section 7(11) of the Salaries and Remuneration Commission Act, 2011, requires the National Assembly to either approve or reject the nominees to the respective positions within 21 and 14 days respectively.

In this regard, I wish to guide the Committees and the House as follows:

- (i) The Committees should notify the nominees and the general public of the time and place for holding the approval hearings in good time. The notification should therefore be made on Wednesday, 8th August 2018.
- (ii) The Committees may thereafter commence the necessary approval hearings from 14th August 2018 in respect of the nominee to the Salaries and Remuneration Commission and on 16th August 2018 for the nominees to the Independent Policing Oversight Authority.
- (iii) Thereafter, the Departmental Committee on Finance and National Planning should submit its Report to this House on or before 21st August 2018 in respect of its consideration of the nominees for appointment to the Salaries and Remuneration Commission.
- (iv) The Departmental Committee on Administration and National Security should submit its Report in respect of nominees for appointment to the Independent Policing Oversight Authority on or before 28th August 2018.

I thank you, Hon. Members.

PETITIONS

Hon. Speaker: Hon. Member for Kiharu, just be in the House a bit.

PROPOSAL TO AMEND THE CONSTITUTION TO ESTABLISH ELECTED JURY SYSTEM

Hon. Speaker: Pursuant to the provisions of Standing Order 225(2)(b), I wish to convey to the House that my office is in receipt of a petition from one Mr. Geoffrey Otieno Ogola of P.O. Box 94-40300, Homa Bay on behalf of Homa Bay Citizens Association regarding a proposal to amend the Constitution to establish an elected Jury to end the exercise of sovereign power of the people by the Judicial Officers.

The Petitioner submits that Clause 2 of Article 1 of the Constitution clearly and unequivocally provides that only representatives democratically elected by the people are authorised to exercise sovereign power of the people on behalf of the people. He also contends that Judges and Judicial Officers of subordinate courts have not been subjected to democratic elections as provided for under Clause 2 of Article 1 of the Constitution and are therefore exercising the sovereign power of the people illegally.

The Petitioner contends that the new Constitution radically changed the legal landscape and in the case of the judicial system, Article 1(2) invalidated the previous constitutional order that empowered judicial officers to exercise judicial power solely by the virtue of delegation or vesting of sovereign power in the institution of Judiciary.

They also believe that the spirit of Chapter 1, Clause 3 of Article 1 of the Constitution, is to establish the three organs of the State and dividing sovereign power among them for purposes of creating a system of checks and balances and not empowering them in the exercise of sovereign power of the people.

The Petitioners are praying that the National Assembly proposes amendments to the Constitution to establish an elected jury system to take over the role of rendering verdicts and setting penalties from judges and judicial officials of subordinate courts in order to fulfil the requirements of Article 1(2) of the Constitution and makes such other amendments as it may deem fit to ensure that aspirations of the people of Kenya as enshrined in the Constitution prevail within the institution of the Judiciary.

Pursuant to the provisions of Standing Order 227, this Petition therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. I urge the Committee to engage the Petitioners, address the Petitioners' prayers and report its findings to the House in accordance with Standing Order 227(2).

I thank you.

There is a Petition by Hon. Didmus Barasa.

FATE OF FORMER STUDENTS OF KAMUKUYWA
CAMPUS OF THE EAST AFRICAN UNIVERSITY

Hon. Didmus Barasa (Kimilili, JP): Hon. Speaker,

I, the undersigned, on behalf of concerned citizens of Kimilili Constituency; draw the attention of the House to the following:

THAT, five years ago the East African University established a campus in Kamukuywa market within Kimilili Constituency under the management of Prof. Nicholas Simiyu Toywa;

THAT, the University was established with an objective of offering partial and full scholarships to local students willing to study in the University on need basis; THAT, the University was indefinitely closed leaving the fate of all the students who were studying in the University hanging in balance; THAT, the authenticity of diploma and certificates earned by some students prior to the closure of the university are also in doubt;

(Loud consultations)

THAT, the University ought to have been cleared and accredited by the Commission on University Education before being established; THAT, efforts to reach the management of the University on the matter on the fate of its former students did not bear any fruit; and THAT, the issues in respect of which this petition is made are not pending before any court of law, constitutional or legal body. Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Education and Research:

- a. Investigates how the University was allowed to operate having not met the minimum threshold required by the Commission for University Education;

(Loud consultations)

Hon. Speaker, there is a lot of noise.

Hon. Speaker: Hon. Members, allow the Member to be heard in silence.

Hon. Didmus Barasa (Kimilili, JP):

- b. Cause the management of Kamukuywa campus of the East African University to make public the audited accounts of the institution within the last five years of its operation; and
- c. Makes any other order or direction that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

Hon. Speaker: Very well, the Petition is committed to the Departmental Committee on Education and Research. Seeing no request for intervention, we will go to the next Order.

PAPERS LAID

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

The Judiciary Fund Regulations, 2018.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2017 and the certificates therein:

- (a) The National Treasury;
- (b) National Council for Population and Development;
- (c) National Youth Council;
- (d) Agriculture and Food Authority; and
- (e) Pyrethrum Processing Company of Kenya.

The Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30th June 2017 and the certificates therein:

- (a) Buuri Constituency;
- (b) Chuka/Igamba Ng'ombe Constituency;
- (c) Mwingi West Constituency;
- (d) Wajir North Constituency; and
- (e) Kitui East Constituency.

Hon. Speaker: The Chairperson, Departmental Committee on Transport, Public Works and Housing.

Hon. David Pkosing (Pokot South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Transport, Public Works and Housing on the Vetting of Nominee for Appointment as the Principal Secretary for the State Department of Transport.

Hon. Speaker: The Chairperson, Departmental Committee on Defence and Foreign Relations.

Hon. Katoo ole Metito (Kajiado South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Defence and Foreign Relations on the Vetting of Nominees for Appointment as Ambassadors/High Commissioners.

Hon. Speaker: Hon. Members, before we proceed allow me to recognise the presence of the following groups in the Speaker's Gallery: Pupils from Kiserian Primary School, Kajiado North Constituency, Kajiado County; Serve Academy from Sabatia Constituency, Vihiga County; Members of the County Assembly of Baringo and Research officers from the Parliaments of Namibia and Zambia, who are on an exchange programme.

The following groups are in the Public Gallery: Mutindwa Mixed Secondary School, Maara Constituency, Tharaka Nithi County; AIC Chepkemel Secondary School, Mosop Constituency, Nandi County; Sagamian Primary School, Narok South Constituency, Narok County; Kaboson Primary School, Chepalungu Constituency, Bomet County; and Queen Esther Primary School, Kabete Constituency, Kiambu County.

They are all welcome to observe proceedings of the National Assembly this afternoon.
Next Order.

NOTICES OF MOTIONS

APPROVAL OF NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY FOR TRANSPORT

Hon. David Pkosing (Pokot South, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the recommendations of the Departmental Committee on Transport, Public Works and Housing in their report

on the vetting of the nominee for approval as the Principal Secretary for the State Department of Transport, laid on the Table of the House on Tuesday, 7 August 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, this House approves the appointment of Ms. Esther Koimett as the Principal Secretary for State Department of Transport.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Katoo ole Metito.

APPROVAL OF NOMINEES FOR APPOINTMENT
AS AMBASSADORS/HIGH COMMISSIONERS

Hon. Katoo ole Metito (Kajiado South, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the recommendations of the Departmental Committee on Defence and Foreign Relations in their Report on the Vetting of the Nominees for approval as Ambassadors/High Commissioners, laid on the Table of the House on Tuesday, 7th August 2018, and pursuant to the provisions of Article 132(2)(e) of the Constitution, this House approves the appointment of the following persons as Ambassadors/High Commissioners:

1. Ms. Sarah Serem - Ambassador to China;
2. Lt. Gen. Samuel Thuita - Ambassador to Israel;
3. Mr. Francis Ndegwa Muhoro - High Commissioner to Malaysia;
4. Mr. Manoah Esipisu - High Commissioner to the United Kingdom;
5. Hon. Patrick Cornel Odero Ahenda - Ambassador to Qatar;
6. Amb. Peter Nicholas Oginga Ogego - Ambassador to Saudi Arabia;
7. Lt. Gen. Johnson Kimani Ondieki - Ambassador to Turkey;
8. Mr. Chris Karumba Mburu - Ambassador to South Sudan; and
9. Hon. Benjamin Langat - Ambassador to Namibia.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Ali Wario.

APPROVAL OF NOMINEE FOR APPOINTMENT
AS PRINCIPAL SECRETARY FOR YOUTH

Hon. Ali Wario (Bura, JP): Hon. Speaker, I beg to give notices of the following Motions:

THAT, taking into consideration the recommendations of the Departmental Committee on Labour and Social Welfare in their Report on the Vetting of the Nominee for Approval as the Principal Secretary for the State Department of Youth, laid on the Table of the House on Tuesday, 7th August 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, this House approves the appointment of Dr. Francis Otieno Owino as the Principal Secretary for the State Department of Youth.

Thank you, Hon. Speaker.

Hon. Speaker: Proceed to the next one.

APPROVAL OF NOMINEES FOR APPOINTMENT TO THE
NATIONAL GENDER AND EQUALITY COMMISSION

THAT, taking into consideration the recommendations of the Departmental Committee on Labour and Social Welfare in their Report on the Vetting of the Nominees for Approval as the Chairperson and Members of National Gender and Equality Commission (NGEC), laid on the Table of the House on Tuesday, 7th August 2018, and pursuant to the provisions of Article 250(2)(b) of the Constitution and Section 11(7) of National Gender and Equality Commission Act, 2011, this House approves the appointment of the following persons as the Chairperson and Members of National Gender and Equality Commission:

1. Dr. Joyce Mwikali Mutinda – Chairperson;
2. Hon. Priscilla Nyokabi Kanyua – Member; and
3. Dr. Murithi J. Chomba Munyi – Member (PWD).

Let us move to the Next Order.

STATEMENTS

Hon. Speaker: Hon. Vincent Kemosi.

INVESTIGATION INTO THE CAUSE OF SCHOOL BUS ACCIDENT IN MWINGI CONSTITUENCY

Hon. Vincent Kemosi (West Mugirango, FORD-K): Hon. Speaker, pursuant to Standing Order 43, I wish to make a statement concerning transportation safety of our children while in school.

First, before I make my statement, I wish, on my own behalf and the people of West Mugirango Constituency, to convey heartfelt condolences to the families and people of Mwingi Central Constituency following the untimely death of 10 pupils from St. Gabriel Primary School who perished following an accident involving the school bus they were traveling in from Mombasa where they had gone for a study tour. The school bus was involved in a head-on collision with a lorry at Kanginga Bridge about 1 kilometre from Mwingi Town on the Thika-Garissa Road at night.

It is worrying that there have been many accidents reported on our roads countrywide involving school buses, where we have lost many young promising lives. On 14th June 2018, a bus belonging to Starshine Blue School was involved in an accident at Karai on the Naivasha-Nakuru Highway. Four members of staff and several students were injured. On Friday 23rd February this year, one student from Rapogi Mixed Secondary School died while 19 others

sustained injures in a road accident along Bondo- Kisumu road at Kombewa, just to mention but a few.

It is unfortunate that these accidents are happening even after this House has put in place the necessary laws to govern such situations and also the Government banning night travel by students. I, therefore, call upon all stakeholders and the Government to undertake proper investigations regarding this latest accident, and a report made public to assist other schools to avoid such accidents. It is upon all stakeholders, including the relevant Ministry, to ensure that school buses are serviced, designed and properly fitted with safety equipment to ensure they are fit to transport school children.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, that statement by Hon. Kemosi is supposed to come at Zero Hour at 6.30 p.m., but I had received a similar request from the Member for Mwingi Central, Hon. Gideon Mutemi Mulyungi. Therefore, you will make your statement at 6.30 p.m. during the Zero Hour. That is the time each one will be allowed to speak for a maximum of three minutes.

There is also another request for a statement under the Zero Hour by the Member for Kajiado East, Hon. Peris Tobiko.

EFFECTS OF THE STANDARD GAUGE RAILWAY PHASE 2A
PROJECT TO RESIDENTS OF KAJIADO EAST CONSTITUENCY

Hon. (Ms.) Peris Tobiko (Kajiado East, JP): Hon. Speaker, pursuant to Standing Order 43, I wish to make a statement regarding the effects of SGR Phase 2A construction on the residents of Kajiado East Constituency.

Hon. Speaker, residents of Empaash, Tuala, Rongai and Oloosirkon areas in Kajiado East Constituency have raised concerns regarding effects associated with the SGR Phase 2A construction which include, among others, depletion of access roads in the said areas, disruption of existing roads, re-direction of storm waters and blasting causing damage to houses and noise pollution, thus infringing on their right to clean and healthy environment as stipulated in Article 42 of the Constitution.

Hon. Speaker, the provisions of Sections 111 and 120 (1) of the Land Act, 2012, provides that the National Lands Commission (NLC) or the relevant body only takes formal possession of the affected lands after an award for compensation has been made and the amount paid in full to the affected persons. Article 40(3) of the Constitution further affords every Kenyan the right to own property and prohibits the State from depriving any person of their property without compensation.

The said project has affected persons who have not been compensated by the NLC as promised, occasioning their suffering due to lack of a place to relocate.

Hon. Speaker, it is against this background that I rise to expeditiously seek the intervention of this House to address this challenge facing residents of Kajiado East Constituency.

Hon Speaker: Hon. Peris Tobiko, yours is a statement at Zero Hour. This is a period to just say anything under the sun. However, there was a Petition by Hon. Manje which is before

the Lands Committee. You will have 15 minutes on this one of yours, three minutes in the evening at or after 6.30 p.m. to also rise and make statements because that is the route you have chosen. So, do not say you are seeking intervention of the House because Standing Order 43 does not require any resolution. It is a period to just discuss and say a few things that you think may be of some excitement to your people.

So, the one by Hon. Gimose will take precedence at 6.30 p.m. for 15 minutes with each Member speaking for a maximum of three minutes. Yours will start at 6.45 p.m. for 15 minutes with each Member speaking for a maximum of three minutes. That is the direction which we will observe later in the day. Thank you.

Next Order.

MOTION

REPORT ON THE INQUIRY INTO FOREST RESOURCES MANAGEMENT AND LOGGING ACTIVITIES IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on the Inquiry into Forest Resources Management and Logging Activities in Kenya, laid on the Table of the House on Thursday, 3rd May 2018.

(Hon. Kareke Mbiuki on 31.7.2018)

(Resumption of Debate interrupted on 2.8.2018)

Hon. Speaker: From the records, Hon. Peter Opondo Kaluma was on the Floor and has a balance of eight minutes. Let us have the Hon. Member for Homa Bay Town. Member being absent not desiring to be present, he loses his balance of eight minutes.

Hon. Members, this is just to draw your attention to the fact that 45 Members have already contributed to this Motion and we may not spend any much time beyond a maximum of 30 minutes today debating it and so, any other Member contributing will be accordingly guided. I may need to ask for the record because there are many of you who have indicated you want to speak to this one. I suspect some of you like the Member whose name appears first on the list has contributed. Member No. 001 Hon. Sankok, I know you have already contributed. Several of you have put in your request, but I know many of you have contributed to this debate.

Let us have Hon. Kigano. He is not here. Hon. Member for Eldas.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Speaker. This is a very important Report. There are three things we must take into account as we talk about the issue of environment and natural resources and particularly forest resource management and logging activities in Kenya. As we experience serious population growth coupled with the depletion of natural resources, we must be prepared, as the leadership of this country at this stage, to seriously think out of the box and think of prudent and efficient environmental management practices that will not only add value to the current generation, but will also protect the resources that the next generation and future generations will require.

This country will not come to an end with the current generation. Therefore, as we plan for a population of 50 million, we must also think of a time when the population of this country will hit

over 300 million and yet, the land resources will still be the same.

I want to commend the committee for bringing...

(Loud consultations)

Hon. Speaker, Members are consulting loudly. I need your protection. I commend the Members of this Committee for bringing a very important Report at a time when this country requires serious institutional reforms on our forest resource management and logging activities.

Gone are the days when logging was the preserve of the Executive. I remember one time - and I am sure you also were in that Parliament - when logging used to be a very hot political issue. You would be told that if you made certain political decisions that were consistent with the thinking of the Executive, you would be allocated a piece of forest to harvest and that has depleted the forest cover.

(Loud consultations)

Hon. Speaker, Members are consulting loudly and I need your protection.

Hon. Speaker: Proceed.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, I was saying once upon a time, logging used to be a preserve of the members of the Executive. One time, we used to be told that, if you had to be assisted as a politician, you would be asked to identify a certain forest plantation where you would be asked to seek the assistance of the mighty individuals and you would be allocated somewhere to harvest. I want to go on record that the current generation must be prepared to think out of the box and plan for the wellbeing of our own legacy for future generations.

This is a good Report. I know that right now there are many emotive activities on afforestation matters, particularly the issue of Mau Forest and many others. It is a reality that the issue of land resources, particularly natural resources, must be guarded jealously by the current generation.

We experience drastic population growth. Whenever we conduct a population census, our conservative population growth rate has been between 3.5 and 5 per cent. Taking this into account, and the level of depletion of our natural resources, in particular forest resources, there is likelihood that in another 50 years, Kenya will either be bordering on desertification or will be a desert. Right now, there are many countries that attempt to say that there is no climate change. I am a firm believer, having experienced it. There is an element of climate change in every part of the world. Since the world has now become a global village, what we do on our environment will have serious effects in other parts of the world. The Committee, having brought this Report, I challenge the chairman and his team to translate the same into a legislative framework. If we really have to protect our forests, it is not enough to just come to this House, debate this Report, adopt and leave it. This is a beautiful Report. Can you translate the same into a Bill that will regulate how we use our forest resources?

Finally, what I want to talk about is very difficult but we must say that how we protect our resources, in particular our forest resources, clearly indicates how planned we are and how we can deal with future generations. Politics aside, we must be prepared to jealously guard our forest resources. Where I come from is almost semi desert. Over the last 15 years, through my own initiative, we have made tremendous improvement on the issue of afforestation in my constituency headquarters, which used to be called Wajir West but is currently called Eldas. We

appreciate that without forests, there will be so many environmental challenges. I ask colleagues here not to politicise the issue of forest resources conservation. Let us guard our forest resources. I also urge those who are in charge of Kenya Forest Service (KFS) to take their work seriously and also protect our forest resources.

With those remarks, I support and thank the Committee for bringing this good Report.

Hon. Speaker: Hon. Kigano.

Hon. Clement Kigano (Kangema, JP): Thank you, Hon. Speaker. This Motion has been exhaustively debated. Forty-six speakers have already exhaustively spoken on this Motion. I understand their sentiments but I would like to move, under Standing Order No.95, that the Mover of the Motion be asked to reply.

Hon. Speaker: Hon. Members, as you are aware, we had indication that around 45 Members have already contributed to this Motion. The question raised by Hon. Kigano is that, under Standing Order No.95, the Mover be called upon to reply. Hon. Members, as you know, it is your business to make decisions. So, I will put the Question.

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

Let us have the Mover.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Speaker. At the outset, I want to thank the Members who have contributed to this Motion for their overwhelming support. Issues of forest conservation are extremely important. Nature is very unforgiving if we destroy forests. It is the responsibility of each and every one of us to ensure that our forest cover target of 10 per cent and above by the year 2022 is achieved. The issue of climate change is real. We can attest to its effect in this country. I urge all the stakeholders to ensure that the targeted forest cover is achieved so as to mitigate the effect of climate change.

Having listened to hon. Members, I would like to say at the outset that this Report is a result of the inquiry that we did into forest resource management and logging activities in the country. However, by the time we completed writing this Report, the issue of Mau Forest was not as emotive as it currently is. I assure hon. Members that this Committee is currently seized of the issue of the Mau complex. On Monday next, the Cabinet Secretary (CS) in charge of environment and forestry will appear before our Committee so that we can start discussions on how to handle matters of Mau complex, so that this House can be seized of the matter comprehensively. The body which is seized of the matter of managing the forest in the country is KFS. The KFS needs to be properly funded. Issues of management need to be dealt with. One of the highlights of the Committee is that the current plantation forest should be converted into indigenous forests so that the private sector and the other Kenyans can have an opportunity of engaging in commercial forest activities.

During our interaction with this matter, we noted major conflicts in the mandates of the KFS, the Kenya Water Towers Agency and the Kenya Wildlife Service (KWS). The mandates of the three agencies are in forests. The Committee recommends that the Executive should streamline the mandate of the three agencies to mitigate the perceived conflict so as to enhance their effectiveness. The issue of the composition of the KFS Board was also raised. Under the current Forest Act 2016, we have provision for ensuring that loggers or saw millers are given slots in KFS. I remember the Leader of the Majority Party highlighting the issues of Mr. Rai,

who is one of the biggest saw millers sitting in the KFS Board. Therefore, as a Committee, we shall recommend amendment to the Forest Act 2016 so that people who take part in depletion of our forests do not sit in the KFS Board, which is mandated to preserve forests.

Hon. Speaker, allow me to register the Committee's appreciation to your office and that of the Clerk for the facilitation during the investigation into this matter. I also wish to appreciate the House for contributing to this very important Motion. I also wish to sincerely appreciate the Committee members for putting in a lot of time and effort during this investigation. I will not forget all the stakeholders that we engaged, whose submissions have informed this Committee.

Finally, allow me to also thank the Executive for listening and acting on all the matters that have been highlighted by this Committee, starting with the issues of logging. The action that has been taken with regard to the issue of logging was initiated by this Committee. Subsequently, it was taken up by the Executive. When, as a Committee, we toured Mombasa's Kibarani dumpsite the other day, we raised serious issues, including the issue of dumping solid waste into the Indian Ocean. Thereafter, the President requested the National Land Commission (NLC) to de-gazette all the land which had been seized in Kibarani. As late as yesterday, the National Environment Management Authority (NEMA) demolished buildings which had been constructed in riparian area. I thank the Executive for acting. We have quite a number of buildings which the Committee and the multi-agency team have identified for demolition. We call upon the Executive to move with speed and bring sanity in matters of encroachment into riparian areas.

With those many remarks, I beg to reply.

(Question put and agreed to)

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.) Soipan Tuya) took the Chair]

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order Members. We are in the Committee of the whole House to consider the Land Value Index Laws (Amendment) Bill (National Assembly No.3 of 2018).

Before we proceed, allow me to take time to recognise students who are here to witness our proceedings this afternoon. In the Speaker's Gallery, we have: Manyatta High School from Awendo Constituency in Migori County; and Queen of Peace from Turkana Central Constituency in Turkana County.

Welcome. Order Members.

In the Public Gallery, we have: Ndonyo Wasin from Samburu East Constituency in Samburu County; MCK Munse Academy from Kilgoris Constituency in Narok County; AIC Cheribisi

Primary School from Nandi County; and Nchurra Eshumata Primary School from Narok North Constituency in Narok County.

They are most welcome. *Karibuni.*

(Clauses 3 and 4 agreed to)

Clause 5

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 5 of the Bill be amended by deleting the words “establish the” appearing in paragraph (b) and substituting therefor the words “establish that the acquiring body has identified the”.

The Committee is of the view that this clause be amended by substituting in the words “establish that the acquiring body has identified the”. The justification for this amendment is to give powers to the acquiring body and not the National Land Commission (NLC). It came to the attention of the Committee when we met the stakeholders that some of the officers of the NLC were accused to be colluding with fake people who claim ownership for compensation. We felt that it was important to bestow responsibility to the acquiring body. It should take total responsibility in identifying the number of persons in actual occupation on the land for an interrupted period of 12 years and other improvement of the property.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I can see a list of Members. Let us have Hon. Ochieng Awuor.

Hon. Pamela Ochieng (Migori CWR, ODM): Thank you, Hon. Temporary Deputy Chairlady. I wanted to participate in a different Motion that passed earlier.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, please take out your cards if you are not lined up to contribute to this Bill.

Let us have Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM – K): Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. From what the Chair of the Committee has said, it is important that the acquiring body has the final word. As he has said, we have witnessed a bit of collusion when it comes to land matters. It is important that the acquiring body takes full responsibility so that even when we have issues like the Ruaraka land, we know where to place the responsibility.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, the Committee says that the burden of proof of who the beneficiaries are in a land transaction should be left to the acquiring entity and not the NLC. This amendment is very good. I support it. That is why today we see so many “ghosts” and people being paid for land in the compensation matrix because the NLC does not know. It is good that, that entity is given the powers to identify who the beneficiaries are.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, the amendment seems to be well-intentioned but probably we are simply punishing or want to abrogate the role of the NLC because of the management or the personnel challenges they are currently experiencing. The Constitution is expressly clear on the mandate of the NLC. My only fear is that as much as it is well-intentioned, anybody who has issues with that particular amendment might go to the High Court and seek its annulment. I hope we are well-guided so that we do not become an object of ridicule in that we passed a Bill without considering the express provisions or mandate of the NLC as stated in the Constitution.

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

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

(Clause 5 as amended agreed to)

Clause 6

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 6 of the Bill be amended—

(a) by deleting the words “jointly by the national government and county government” appearing in the proposed new section 107(A)(1) and substituting therefor the words “by the national government in consultation with the county government”;

(b) by inserting the words “the market value of the land and” immediately after the words “calculating the land value index” appearing in the proposed new section 107(A)(3); and

(c) by deleting the words “jointly by the national government and county government” appearing in the proposed new section 107(B)(2)(a) and substituting therefor the words “by the national government in consultation with the county government”.

As a Committee, we had deliberations and felt that it was important to have consultations between the county governments and the national Government when developing the land value index. The valuers in the county governments and the national Government should work closely together. Further, there was a very serious issue that was raised by the stakeholders. They asked whether the land value index will limit what people will get on the value of their property. The market value of the land must be considered, so that it does not deny the owner of the property the value after investing in the land. So, calculating the land value index must be based on the market value.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this amendment is bringing together the national Government and the county government in making a determination after consulting each other on the land value index. As Hon. Joshua Kutuny has said, the market value of any transactions must be decided based on the market price. So, that principle of determining the market prices is very key, so that the county government and the national Government will decide. The overriding factor is the market value at that moment in that particular area.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. The Chairman needs to give us some clarifications as a House because an index is a composite value which is calculated out of many other variables. I am not sure that out of those many variables, the market value will be missing to do a land value index. He needs to clarify that. Is he saying that out of the many variables which are considered to come up with a land value index, market prices are not part of that? We need to clarify that.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Chair, make the clarification.

Hon. Joshua Kutuny (Cherangany, JP): Thank you, Hon. Temporary Deputy Chairlady. If you read the Bill in totality, you will understand what the market value of land is. We over-emphasised on that because we realised that people could not understand what the market value is. People in Government can deny others the value of their property based on this. Remember that the Government will set the prices for the properties. For that case, we are saying that as much as the Government will set the prices as per the Bill, they must consider the market value of that property. If it is Kshs100million or Kshs20,000, then that market value must be considered. It is a principle factor.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Ouda.

Hon. Fred Ouda (Kisumu Central, ODM): Hon. Temporary Deputy Chairlady, I am sorry to contribute to this amendment. I must declare an interest. I have been a registered valuer for over 20 years.

As much as I said that the spirit of the Bill is timely because of the mess we have had in the compensation process, we seem not to be very clear. This begs the question that there was no adequate consultation or understanding of the principles at hand. If you allow me, I want to educate Hon. (Dr.) Makali Mulu. When we talk about the land value index, we are setting a basis for compensation for a fixed period of time. The question of the market value of land is expressly clear. It is stated in the Valuers Act Cap 532 and in the National Valuation Standards Council, 2015 Edition. There should be no debate on that because it is an international practice. The only challenge which we have is that the national Government or county government is not a registered valuer pursuant to the Valuers Act Cap 532. The Government cannot value land because it does not have the necessary qualifications to be registered as a valuer. I want to oppose the amendment that says that the land value index will be made jointly by the national Government and county governments or consultation between the two levels of Government because it is an illegality. The national Government cannot value land unless you are purporting to change the definitions of the Valuers Act and international practice that a body corporate cannot be registered as a valuer. It is an individual who is registered as a valuer, but he can work within a body corporate.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is your point of order, the Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I have listened to my colleague. I want him to cite the provisions of that Act which invalidate this amendment. We are making an Act of Parliament. So, he should cite for us that part in the Valuers Act which contradicts what the Chair is moving.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon Ouda.

Hon. Fred Ouda (Kisumu Central, ODM): Hon. Temporary Deputy Chairlady, I wish I can access the Valuers Act, so that I give you the particular section.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon Ouda, you can take time to get a copy of the law. I will give you a minute. Hon. Kiprotich, do you want to contribute to this amendment? You do not seem to be ready to contribute.

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to support this amendment because I believe that the two levels of Government need to consult. If one level of Government makes a decision, I believe that it can be very unfair. It is fair when the two levels of government consult.

I believe that the market value of the land should be upheld. I know that the Standard Gauge Railway (SGR) is moving towards western Kenya passing through Bomet. I wish that the market value of the payments would still continue. We do not want to have a situation where people on this other side were paid based on the market value of the land and then have a controlled price as the SGR moves towards western Kenya.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Chairlady. My understanding of this amendment is that you are developing a land value index. I like this Bill because it says it will be made jointly by the national Government and the county government. The amendment says the land value index will be made in consultation with the county government. That is putting the county government in a weaker position than if it was developed jointly. That is my point, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Are you supporting the amendment?

Hon. (Dr.) James Nyikal (Seme, ODM): I do not support, Hon. Temporary Deputy Chairlady. I prefer the initial clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, you oppose the amendment.

Hon. (Dr.) James Nyikal (Seme, ODM): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, I am seeking for clarification, so that I can make my decision. The more I listen to the debate, the more I get confused.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Please use the microphone.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, I am also saying the more I listen to the debate the more I get confused. Procedurally, an index has no

unit. It is just a factor. I am not convinced because when you talk about consumer price index, that is a factor. I am totally convinced that we can have a land value index without considering the market price of land.

Unless we are just trying to emphasise, this amendment might not add value. As Hon. Nyikal has said, the word used is “consultation” and earlier the word that was used was “jointly”. Most of the land in this country is under the custody of the county governments. They are the trustees. It is like making the person who has majority shares be the minority in decision-making and making the minority shareholder be the major decision maker. This amendment is not good for the county governments. On that basis, I reject it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have the Hon. Chairman and then I will give Hon. Oundo a chance to make his contribution.

Hon. Joshua Kutuny (Cherangany, JP): Let me make some clarification by reading Section 6(2). It says:

“For purposes of this part, “land value index” means an analytical representation showing the spatial distribution of land values in a given geographical area at specific time.”

Members need to read Part (a) and (b). Part (a) talks about consultation; national Governments and the county governments. But we are saying that one of the biggest challenges county governments have is that they do not even have valuers. So, we said that let there be a possibility of the national Government working with county governments by consulting. This is a precedent. We even borrowed from infrastructure and water. County governments consult with the national Government when it comes to funding them. We are not isolating the county governments from working with the national Government. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, I had wanted to give a chance to Hon. Oundo to make his clarification.

Hon. Aden Duale (Garissa Township, JP): I want to ask the Chair of the Departmental Committee on Lands to look at his amendment and mine. Section 6 in the Bill is stronger than the amendment he has proposed. The only thing he is trying to emphasise is market value. In my opinion, he is also diluting the role of the county governments. The two governments are distinct and have specific roles. In all the laws we have passed - the Community Land Act and the Land Registration Act - the role of county governments was well stipulated.

The Committee wanted to over-emphasise the market value as a principle standing alone. I would like to inform the Chair that what is in the Bill is stronger and important. So, let him withdraw the proposed amendment and then we move on.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Vice-Chairman.

Hon. Joshua Kutuny (Cherangany, JP): I want to make it very clear. In the Fourth Schedule of the Constitution, valuation lies with the national Government. It is not bestowed on county governments. So, we were even lenient to the county governments by introducing consultation. So, we have provided a leeway where county governments can engage the national Government when it comes to issues of valuation.

We went further than that, as a Committee, and in addition to any other principle that may be employed in calculating the land value index, the declared value of the land for purposes of payment of rates, rents or stamp duty shall be taken into account. We went further by ensuring that other factors are considered. So, I do not think there is any problem on this one.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, fundamentally, the amendment does not resonate with the practice. The Valuers Act, Chapter

532 reads in the preamble: “An act of Parliament to provide for the registration of valuers and for connected purposes.” It goes on to say in interpretation Section 2 that: “Practising valuer” means a person who carries out and prepares valuations in respect of any type of movable or immovable property.”

(Hon. Aden Duale spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, please give him a chance. He is responding in a roundabout way. Hon. Oundo, go to the point.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Let me complete. Secondly, the qualifications for registration as a valuer are stated in Section 12 and persons barred from being registered as valuers are stated in Section 21 which goes on to read that:

“After expiry of the six months from commencement of this Act or such further period as the Minister may, by notice in the *Gazette*, allow either generally or in respect of any particular person or class of persons –

- (a) no individual shall carry out business as a practising valuer unless he is a registered valuer;
- (b) no partnership shall carry on business as practising valuers unless all the partners whose activities include the doing of acts by way of such practice are registered valuers;
- (c) no body corporate shall carry on business...”

So, essentially,...

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, what is it?

Hon. Aden Duale (Garissa Township, JP): I have a lot of respect for Hon. Oundo. He is one of the first term Members of the 12th Parliament who are really keen on the Committee of the whole House. We gave him that voluminous legal book so that he can show us the specific Act. Let him not read the preamble. We do not want to know the functions of a valuer. We are dealing with Clause 6 and we have agreed with Hon. Nyikal and Hon. Makali that the only important element in this amendment is the principle of market value and diluting the functions of the county governments. It is different from how it has been put. Hon. Oundo is taking us to another level. We should pick from where I left when I asked the Chair that he is only trying to make it neater, but he is diluting it. The Committee has done a good job. Hon. Joshua Kutuny, this is your first day to move amendments at the Committee of the whole House. At this stage, it is give and take. If the majority of us feel the section in the Bill is better, please agree with us.

Put the Question and we dispose it off and we move to the next one.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Have you got your clarification from Hon. Oundo? He was contributing because of your point of order.

Hon. Aden Duale (Garissa Township, JP): No. Hon. Oundo is giving us the functions of a valuer. I am not interested in that.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What was the question again? Can you refresh it again for him so that he can go straight to the point?

Hon. Aden Duale (Garissa Township, JP): He said that this amendment contradicts a section of the Valuers Act. So, we gave him the book to show us the contradictory section. Instead, he is reading the functions of a valuer.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Go straight to the point.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, the genesis of my presentation is specifically the fundamental issue of how to determine, in the first instance, the land index precisely. Here, the procedure is clearly set out and none of these amendments in the Bill before us has made any attempt to repeal or amend the Valuers Act. But be that as it may, if, indeed, there is a feeling or a view that the national Government can value, let it go ahead because obviously, it has no capacity legally or otherwise to value. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Vice-Chair.

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, after consulting and before I say anything, I want to make clear the intention of the Bill. Once the Bill is enacted, it will standardise and harmonise land valuing across the country.

The Bill also seeks to regulate the long and protracted process of compulsory acquisition to harmonise and standardise the compensation. It is important to bring to the attention of the Members that, that is the reason people are fighting today in court. The National Land Commission (NLC) has issues. We have had matters coming to this House where there was over-valuation in Standard Gauge Railway (SGR) and others like the Ruaraka land. It is because there is no law that guides the issues of valuation. The hon. Member having over-emphasised the role of valuers, I want to tell him that we are trying to regulate Government's land acquisition. We want to standardise it so that people get value for money and, at the same time, proper utilisation of Government funds is enhanced where and when it is paid. The Government must also get value for money when it is acquiring it. So, I am tempted to withdraw the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Could you go beyond the temptation and just be certain?

Hon. Joshua Kutuny (Cherangany, JP): I was tempted but I am now convinced by the Members. I withdraw the amendment.

Thank you.

(Proposed amendment by Hon. Joshua Kutuny withdrawn)

(Clause 6 agreed to)

(Clauses 7, 8, 9 and 10 agreed to)

Clause 11

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 11 of the Bill be deleted.

The justification is that the amendment as proposed was carried out in the Land Laws (Amendment) Act, 2016. I do not have to belabour this one.

Thank you.

(Question of the amendment proposed)

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

(Clause 11 deleted)

(Clause 12 agreed to)

Clause 13

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 13 of the Bill be amended by deleting paragraph (a).

The reason is that the amendment as proposed was carried out in the Land Laws (Amendment) Act, 2016. So, it was a replica.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, it would be important to say, even where the amendment was made, what it meant and now what it means. That is not adequate to make us digest what is going on.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Vice-Chair, could you elaborate?

Hon. Aden Duale (Garissa Township, JP): He is consulting.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party!

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, because the Bill belongs to me and by extension the Government, the Vice-Chair is deleting Section (a) of Clause 13. Part (a) says: "...in the marginal note by deleting the phrase "Additional compensation where area found to be greater" and substituting therefor the phrase "Formal taking of possession and vesting.""

This is a very serious section of this Bill. The reason the Chair is giving is that it has been carried out in the Land Laws (Amendment) Act. So what? What does the Land Laws (Amendment) Act say? We need that explanation. If you are deleting it, you must give reasons, not just because it is in another piece of legislation.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We should not move on the assumption that Members have the provisions of substantive laws at the back of their minds. Hon. Chair, are you ready?

Hon. Joshua Kutuny (Cherangany, JP): The reason the Committee is deleting that section is that it is in the Land Laws (Amendment) Act, 2016. If we are going to put it in this Bill, it is going to be double legislation. The Committee was of the view that since it has already taken effect in the Land Laws (Amendment) Act, 2016, there is no need to import it here.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Is it verbatim in the law?

Hon. Joshua Kutuny (Cherangany, JP): Yes. It talks about Government acquisition of the land. It is explained in this section. We did not see any need to put it here because it is already captured in the Land Laws (Amendment) Act, 2016.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, procedurally, the Chair needs to take us slowly. Section 13(a) reads: "...in the marginal note by deleting the phrase "Additional compensation where area found to be greater" and substituting therefor the phrase "Formal taking of possession and vesting." The Chair is telling us that it appears like this in the Land Laws (Amendment) Act. Can we confirm? That is the first thing.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us give the Chair time. I want to give a chance to the Member next to Member for Seme. Hon. Member, please remind me your name.

Hon. Martin Owino (Ndhiwa, ODM): This is Hon. Owino, Member of Parliament for Ndhiwa.

I just want to reiterate what the Leader of the Majority Party is saying. For us to be more effective in this debate, the Chair needs reference where the deletion is taking place so that we get the stem before we go to the branches.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That is fair enough. We are giving the Chair some time. As we give the Chair time to clarify, let us have Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, there seems to be either some kind of miscommunication or some case of not being diligent enough. Section 120 is very explicit. Probably, the reason the amendments were necessary was to cure the mischief and unnecessary delays in compensation. Section 120 reads that it is only after the award has been made and the amount of the first offer paid. That supposes that the Government can pay you an installment, get into your land and wait before it pays you the rest. The spirit of the amendments here was to force the Government to pay in full and just compensation before taking possession. Obviously, I join my colleagues in opposing the amendments because they literally punish the land owner who has been deprived of his property. I totally oppose. Let us retain as it is in the Bill.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, are you ready?

Hon. Joshua Kutuny (Cherangany, JP): I can read the Land Value Index Laws (Amendment) Bill, Clause 120(a). It says that only after the award has been made and the amount of the first offer paid shall the commission take possession of the land by serving every person's interest in the land a notice that, on a specified day, possession of the land and the title to the land will rest in the national or county government, as the case may be. It talks about taking possession.

It says 'compulsory acquisition'. The law is that the Government takes possession of the property when it has decided it is going to acquire a parcel of land, even before it pays. Once the parties agree, the Government takes up the land. It restrains any other activity on that property.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, let us give Hon. Omulele a chance. What is out of order?

Hon. Christopher Omulele (Luanda, ODM): I think the Chair is misleading us. The inquiry is that they are proposing to completely delete what is provided for under Section 13(a); to completely take it out. His explanation was that that has been provided for elsewhere. So,

what we are waiting for him to do is to tell us the ‘elsewhere’ where it is provided. If you remove it from here, we shall be exposing the public from whom land is taken by the Government, from a statutory provision that compensation should be provided for them. So, it is for the Chair to point to us the letter of the law that is on all fours with this provision so that the public is protected. Otherwise, we must leave it as it is.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, do you want to have one more go at it then we can put the Question? Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): What is coming out is that we probably have the title being inappropriate. It is talking of ‘where greater than’. But if you read all that section, it is talking of ‘taking possession of’. So, if the Chair were to say that, that title is inappropriate for that section, it would make sense. Other than that, we will need more explanation. All it is talking about is ‘taking possession of’ all through. I would support it if it were to be as I have said. Unless we are given further information, it will look vague. If the explanation that the title as it is in the law is vague and it is not in line with what you are seeing, you can. If you look at Clause 120(1), after the award has been given, it is about possession. Clause 120(2) is about possession. If you go over and look at Clause 120(3), it is ‘taking possession’. If you look at Clause 120, additional compensation where the area is found to be greater, you do not find any information in the whole of that law. It is talking of what is to be done where the area is found to be greater. The Chair would help us if he told us where that would have fit - what is in Clause 120 now - as a title or a sub- title.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, I think we have belaboured enough on this.

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

(Clause 13 agreed to)

Clause 14

Hon. Joshua Kutuny (Cherangany, JP): I beg to move:

THAT, Clause 14(b) of the Bill be amended by deleting the proposed new subsection (3A) and substituting therefor the following new sub-section —

“(3A) upon the formal taking of possession of land by the Commission, no order stopping any development in the land may be issued by any court, if public funds have already been committed. Provided that due process has been followed in the compulsory acquisition of the land.

The Committee was of the view that the amendment was to delete Paragraph B on the jurisdiction of the tribunal. This is already provided in Clause 18, if you go through the Bill. Further, the amendment seeks to limit the discretion of the courts only in instances where due process has been followed by the commission in the declaration of an intention to acquire and taking possession of the property compulsorily.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you Hon. Temporary Deputy Chairlady for finally spotting me. I was worried that maybe the equipment is spoilt. That is why I moved to the next one. It is problematic getting to the intervention button on my side. We need to address that.

The issue that has made me stand is to say that when we are in the Committee of the whole House or Third Reading, this is the most important part of law making. Basically, Members would have read the Bills in advance, canvassed and discussed them in the Second Reading. In the Third Reading, we reach the point where we make decisions for it to be law. Unfortunately, it is in the Third Reading when Members and committees introduce these amendments. It is important, as we move forward, that all chairs of committees, because I have seen this happen in the past, clearly tell the House the import of the decisions and amendments they bring to the House. There are times amendments might just be passed here, saying that we delete for a reason or another.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Mbui, are you debating? What are you doing?

Hon. Robert Mbui (Kathiani, WDM-K): No. I wanted to say that chairs should be clear.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): You need to stick to Clause 14.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. On Clause 14, I am seeing a decision where we are saying that no order stopping any development on the land may be issued by any court. I do not know.

Is it possible for us to legislate in that manner or make a law that prohibits a court from carrying out its responsibilities?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Members, I will go on to put the Question.

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

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

(Clause 14 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. T. J.

Hon. T. J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I have just walked in and I would not profess a lot of knowledge where Members are going with this. But I kind of feel that we just need to wind back and bring a law which is good. The Chair was putting pressure over some clause earlier which was negated. The amendment which came in Clause 14 seemed to have followed where he was coming from. We will then end up with yes and noes, then come up with a legislation which if put to the public, will look very interesting and people will wonder whether the Leader of the Majority Party was in the House when this Bill was passed. The Leader of the Majority Party only sits when good Bills are passed not when bad laws are passed. As a matter of intervention, allow the Chair to digest where he is coming from. He can step back and understand where he is, so that he can guide us properly.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Fair enough Hon. T. J. We are giving the Chair enough time to breathe, internalise, get tempted until he gets convinced. That is the process he went through in the one he dropped.

The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): It is the Chair and the Committee that has brought the amendments just like any other individual Member. So, it is upon the Chair to convince all of us that what he is bringing is constitutional. In fact, like Hon. T. J has said, we do not want to throw the baby with the bath water. The Chair had an opportunity, he met the technical bench, and he is now before the House. In about three minutes, he must convince us. If we are not convinced, then we have the right to agree or disagree with him. Hon. T.J, we are not harassing the Chair. He has been given all the time. We are very few Members and we know what we are doing.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us move on. Hon. Omulele, you said you have a constitutional issue. What is that?

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Chairlady, I am looking at this proposed provision at Clause 14.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have finished that.

Hon. Christopher Omulele (Luanda, ODM): Are we done with that clause?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Omulele. We are moving to Clause 15. You have been overtaken by events.

(Clause 15 agreed to)

Clause 16

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 16 of the Bill be amended by deleting the words “after paying the first offer of compensation” and substituting therefor the words “after paying full compensation”.

Arising from other compensation that have happened, if the property is Kshs50,000, the Government pays about Kshs3,000 and it takes over the position of that property and it might take four or five years before they pay the balance. In this case, we are saying that it must be clear that the Government must compensate the owner of the property in full.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM- K): Even though people are saying this is a good one, it is a very tricky one. This House appropriates the budget. In a situation where the Government wants to undertake a project and the money might not be in the budget, are we then saying that we have to stall those projects until the money is there? What is important is that we need to get a way of making the Government to give commitment to make the payment. At least, when you are buying land, once you pay ten per cent, other processes should follow. This might actually look good from a perspective of the person getting the money, but it might stall all

the projects in terms of implementation. The Chair needs to consider this amendment to full payment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I do understand the import of that amendment. Section 124(3) of the Land Act states that at the end of the seven days of service ...

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, can you hear? There are very loud consultations.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I am at a loss. I need guidance on what we are amending in the principal Act yet there is reference to full compensation. I do not know what amendments we are making.

Secondly, I just want to bring in a fundamental issue of compulsory land acquisition, which falls in the realm of eminent domain, where somebody is deprived of his property, but the Constitution has safeguards, full and just compensation. My colleagues who want to oppose the amendment re-emphasising full compensation do not value the lives of the people who are being deprived because here is an involuntary loss of your land. You have not made any alternative arrangements to get an alternative place of abode. Just like what the Government is doing in the procurement process, it cannot procure for a good service unless it has made commitment for the funds. The funds are already secured waiting for the completion of the process before payment is done. We do not want the wanton and the miserable suffering land owners have been subjected to in this country.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Oundo, just go straight to the point.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I, therefore, need the Chair to tell us what amendments he is carrying out when he has already amended the principal Act. If he convinces me that it has not been amended, then I support the amendments fully.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Chairlady. I stand to support the replacement of the first offer compensation with full payment. If you have to compensate me, then, the Government will have to pay me in full. If that is the understanding, I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I stand to support this amendment. The issue here is pretty simple. If the Government acquires your land compulsorily, pays you part of the payment and takes the land, but pays you the rest of the money later, who is more likely to lose? Suppose a person was living in the premises and has been paid partly, then he is told to move and take his houses and everything away, how can he do that?

I support the move. Let them pay fully.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will give the Leader of the Majority Party and then the chair.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I do not want us to become populists. I want the Members to look at Clause 7. The amendment contradicts that clause. Clause 7 is about compensation for compulsorily acquired land. It states

the ways in which that can be done. It says that the Government can even pay within one year. A serious Member of the Departmental Committee on Justice and Legal Affairs, Hon. T.J., is seated here. Even where the Government is involved in buying land, for example, in the last Parliament the Departmental Committee on Justice and Legal Affairs brought a proposal to the Budget and Appropriations Committee to buy property for the EACC, the last payment we made on that property was in the 2018/2019 Budget. We allocated Kshs50 million. So, there is no way you will say that the Government must pay. If you go that route, then no project will be implemented.

More fundamentally, the amendment is in violation of Clause 7, which talks about issuance of Government bonds, grant of transfer of development rights as may be prescribed, monetary payments, either in lump sum or in instalments spread over a period of not more than one year. If you allow these amendments, then you will be contradicting Clause 7. We cannot legislate in vain.

So, I oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Oundo?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): With due respect to the Leader of the Majority Party, he is deliberately confusing or mixing up the two concepts. There is the issue of compensation and the issue of taking possession. What he is referring to is compensation. You can be compensated in very many ways, but the principle still remains that possession can only be granted after full compensation. You can spread your payment for however long you want within one year and take possession after full compensation.

What Clause 7 of the Bill talks about are the modes of compensation. You can give alternative land. You can pay money in lump sum or instalments, depending on your budgetary cycle. You can issue a Government bond, grant transfer of development rights as may be prescribed, issue equity-share in a Government-owned entity or any other lawful compensation. It does not talk about possession. Possession only happens after compensation has been done in full. What is acquisition? Acquisition occurs when the title passes and only after full payment.

Hon. Temporary Deputy Chairlady, we know.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, I think it is important we appreciate why a Government should acquire a facility compulsorily. The reason is for public good. It means an analysis has been done and it has been found out that public good outweighs private good. It means more Kenyans will benefit as a result of that compulsory acquisition. I want to give you an example. As we are talking, construction of Kitui-Kibwezi Road is going on and the Government has given commitment to compensate and pay fully as times goes by. Meanwhile, contractors are on site working on the road. If we pass this law, it means that the contractor must move out of the site for compensation to be done first. We need to be fair because compulsory acquisition is for the public good. At the end of the day, if the Government gives a commitment that it will pay fully, we shall not tie its hands.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will give the last person, Hon. T.J., and then we can put the Question.

Hon. T.J. Kajwang' (Ruaraka, ODM): Not that I am going to help you, Hon. Temporary Deputy Chairlady. As I sit here, my interest is that...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I do not need to be helped, Hon. T.J. Members just make their decisions.

Hon. T.J. Kajwang' (Ruaraka, ODM): I think we just want to make good laws. As I sit here, I feel like this Bill should be reported on and sent back to the Committee. If we are going to sit here and argue in vain as though we are debating a point at which we should be passing it...

The Temporary Deputy Chairlady Hon. (Ms.) Soipan Tuya): Hon. T.J., I have not heard you make a substantive contribution to any clause. You are just expressing pessimism. You should tell us your view on the particular clause.

Hon. T.J. Kajwang' (Ruaraka, ODM): There are two propositions. There is one person who is persuaded to protect the individual. There is another person who is persuaded to protect the Government interest. Both of us should understand that all these things are rights. There is a constitutional right to property, which is in the same force-tool with the right of the Government to develop. When you consider the right to land, the Constitution says that Parliament will develop laws on how to make compulsory acquisition possible. However, if you make it in such a way that it does not try to cover the right of an individual, we will end up in a terrible problem. I am persuaded to stand under the Standing Orders to request for the reporting of this Bill.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, this is your baby.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Hon. T.J. is playing with our intelligence. These Members are ready and the Committee is here. It is the House to decide at the Committee of the whole House, so put the Question.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I agree. I will go on to put the Question.

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

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

(Clause 16 as amended agreed to)

(Clause 17 agreed to)

Clause 18

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 18 of the Bill be amended—

(a) in the proposed new section 133A—

(i) by deleting sub-section (1) and substituting therefor the following new sub-section—

(1) There is established a Tribunal to be known as the Land Acquisition Tribunal which shall consist of five persons appointed by the Cabinet Secretary through a notice in the Gazette.

(ii) by inserting the following new sub-section immediately after sub-section (1)—

(1A) The members of the Tribunal shall consist of —

(a) one person appointed from among three persons nominated by the Judicial Service Commission, who shall serve as the Chairperson;

(b) two persons appointed from among five persons nominated by the Valuers Registration Board;

(c) one person appointed from among three persons nominated by the Surveyors Registration Board; and

(d) one person appointed from among two persons nominated by the Attorney-General.”

(b) in the proposed new section 133C by deleting the words “ninety days” appearing in sub-section (3) and substituting therefor the words “sixty days”.

The justification by the Committee is that the amendment seeks to provide for the appointment of the Members of the Land Acquisition Tribunal by the Cabinet Secretary and further shorten the period within which the tribunal should hear and determine a case filed before it from 90 to 60 days.

I am a Member of that Committee and I am one of those who opposed the 90 days period for the tribunal to sort out any issue that is before it. Time is of essence particularly when it comes to issues of property. So, the proposed 90 days was too long a period, in my view. Therefore, we felt that it was important to shorten it. If a matter is before the tribunal, it must ventilate and finish within 60 days.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): This is even bigger. We should take this almost line by line. If you look at the first one that we are amending, it states thus:

“(1) There is established a Tribunal to be known as the Land Acquisition Tribunal which shall consist of five members appointed by the Judicial Service Commission through a notice in the Gazette.”

What we want to replace it with states thus:

“(1) There is established a Tribunal to be known as the Land Acquisition Tribunal which shall consist of five persons appointed by the Cabinet Secretary through a notice in the Gazette.”

Now, that is a huge difference. We would like to be taken through it, one by one, discuss it and then agree.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chairman.

Hon. Joshua Kutuny (Cherangany, JP): It is very clear on the Order Paper, if only the Hon. Member can take his time and go through it. It is very clear and detailed. When it comes to the issue of the gazettelement of the tribunal, it is the CS who is mandated to do the gazettelement of the members of the tribunal.

If the concern is technical, allow me to take Members through Clause 18.

“(1A) The members of the tribunal shall consist of —

(a) one person appointed from among three persons nominated by the Judicial Service Commission, who shall serve as the Chairperson;

- (b) two persons appointed from among five persons nominated by the Valuers Registration Board;
- (c) one person appointed from among three persons nominated by the Surveyors Registration Board; and,
- (d) one person appointed from among two persons nominated by the Attorney-General.”

That is about the tribunal. So, every other board or player has been given an opportunity to appoint a member when there are issues arising at the tribunal. Section (b) states thus:

- (b) in the proposed new Section 133C by deleting the words “ninety days” appearing in sub-section (3) and substituting therefor the words “sixty days”.

The tribunal must ventilate and finish on a matter.

Thank you.

(Hon. Moses Kirima consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kirima Nguchine, you do not speak until you have the Floor. You can go on.

Hon. Moses Kirima (Central Imenti, JP): Yes, I have already interjected. Before we move to (b), we must clear with (a). I would wish to propose a further amendment especially in (b), where it is states, “two persons appointed from among five persons nominated by the Valuers Registration Board”. There are other serious stakeholders in this matter and the moment the matter is gazetted, it becomes law.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Kirima is a very good friend of mine. This Order Paper has been on the website since Friday. I agree with him, but he should have moved an amendment. If there are other stakeholders who have been left out, it is not for us to talk about it now. You should have read the Order Paper and moved a further amendment. You can approach the Chairman of the Committee and see whether you can convince him to move a further amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Kirima and we are not debating. So, just go straight to the point.

Hon. Moses Kirima (Central Imenti, JP): The point is that the Law Society of Kenya (LSK) has been left out in this matter altogether yet it is a serious stakeholder when it comes to land matters.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): But with the Judicial Service Commission, you have a representative.

Hon. Moses Kirima (Central Imenti, JP): It is not part of the LSK. The JSC is a different body.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, as you have been advised by the Hon. Leader of the Majority Party, you can approach the Chairman of the Committee if you have a further amendment to propose. Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I feel that by the fact that Members are usually very busy with multiple roles, sometimes it becomes very difficult for Members to move amendments as they wish. What the Member is doing is appealing to the good senses of the Chairman if he can consider taking on that amendment because the LSK, cannot be

equated with the JSC. Their roles are very different. So, the Chairman, if persuaded, could add the LSK. It is only the Chairman who can, at this point, bring that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chairman, and then we will move to conclude.

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, while I really want to agree with them, all the Members understand how the Committee works. This concern was in public domain and they should have appeared before the Committee when all other players appeared before it.

The Members of the JSC are also members of the LSK. We have even given them two slots. It is important for them to understand that one of the members of the JSC will serve as the chairperson. So, that sorts out their issues. They are part of the LSK.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Okay, Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): What the representative of the Committee on Lands is saying is that in the JSC, there are two members elected by the LSK. The JSC can appoint one of the LSK members. So, LSK is represented. Let us move on.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Okay, we have belaboured on this enough. I will go on to put the Question.

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

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

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

(Clause 18 as amended agreed to)

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

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I now call upon the Mover to move agreement with the Report.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 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

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Can we have the Chairperson to report to the House?

Hon. (Ms.) Soipan Tuya (Narok, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Mover of the Bill to move agreement with the Report.

Hon. Aden Duale (Gariisa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I request Hon. Joshua Kutuny, who is representing the Chair of the Departmental Committee on Lands, to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I second.

(Hon. Member walked into the Chamber)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Member! Let me just allow her to come in. Some Members walk and they do not watch the Speaker.

(Question proposed)

Hon. Members, I will not be in a position to put the Question on this Report. So, I order that the Question be put at the next opportune time.

Next Order!

(Putting of the Question deferred)

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, before I move, I really want the Clerk's Office to help me trace the Chair of the Justice and Legal Affairs Committee because he is the one to second and speak on behalf of the stakeholders.

Hon. Temporary Deputy Speaker, I beg to move that the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.12 of 2018) be read a Second time.

Hon. Temporary Deputy Speaker, with your consent, Members will recall that I withdrew all amendments with respect to the Kenya Revenue Authority Act 1995 (No.2 of 1995), which is on Page 280 of the Bill, and the one on the Office of the Director of Public Prosecutions Act 2013 (No.2 of 2013) on Page 345.

Hon. Temporary Deputy Speaker, you also did a Communication on the same. The relevant Committee, therefore, did not carry out public participation on these two Acts. These Acts will, therefore, not be considered for amendment at the Committee of the whole House. That Communication has been made by the substantive Speaker.

This Bill was published on 10th April 2018 and read the First Time on 18th April 2018. The Bill is in keeping with the practice of making various amendments which do not merit the publication of separate Bills and then consolidating them into one Bill. I am sure proper public participation was conducted on every Act in this Bill. The Chair of the Justice and Legal Affairs Committee, Hon. Cheptumo, is already in the House and he will explain the rationale and the views of stakeholders. That will also help us to set the ball rolling when it comes to the amendments.

The first Act to be amended is the Judicature Act, Cap 8. This Bill proposes to amend the Judicature Act to include the Employment and Labour Relations Court and the Environment and Land Court in the Act in line with Chapter 10 of the Constitution. It also seeks to include the High Court as a court dealing with matters related to land. The next Act is the Oath and Statutory Declaration Act Cap 15. The Bill proposes to amend the Oath and Statutory Declaration Act in order to remove references to offices and terminologies such as "District Registrar", which has been rendered obsolete. We no longer have districts existing. That amendment is a minor one. It deals with that matter.

The third one is the Advocates Act Cap 16. This Bill proposes to amend the Advocates Act to include reference to the disciplinary tribunal following the changes to that Act. It also seeks to amend Section 46 of that Act to outlaw agreements whereby an advocate receives more than 20 per cent of the general damages received for a suit handled by him.

I will just highlight the key ones. Of course, there is the Public Archives and Documentation Act Cap 16, which the Bill proposes to amend to define the term 'minister' as the responsible Cabinet Secretary in line with the terminology in the Constitution. So, it is changing the word 'minister' and substituting with the word 'Cabinet Secretary'.

This Bill proposes to amend the Civil Procedure Act Cap 21 to replace the term 'district' with the term 'county' in line with the Constitution. It also seeks to repeal Sections 21 and 40 to delete the words 'other than the magistrate court of the third class' that are also found in Section 65 since the third-class magistrate courts no longer exist in our current jurisdiction. This Bill seeks to amend the Act with respect to the composition and functioning of the Procedure and House Rules Committee.

The Bill proposes to amend the Foreign Judgements Reciprocal Enforcement Act Cap 83 to expand the definition of the expression 'superior courts of Kenya' to incorporate all courts provided for in the Constitution. This Bill proposes to amend the Extradition (Contagious and Foreign Countries) Act Cap 76 and replace the expression of 'the House of Representatives'

appearing therein with the expression ‘the National Assembly’. We do not have the terminology of ‘the House of Representatives’. So, we are replacing it with the expression ‘the National Assembly’ as the expression ‘the House of Representatives’ is obsolete. It also seeks to replace the words ‘Commissioner of Police’ or ‘Chief Officer of the police of district or city or town or area where the prisoner is in custody’ with the words ‘Inspector-General of Police’ or ‘officer commanding the respective police division of police station’. Those are just aligning certain terminologies with the current jurisdiction.

This Bill proposes to amend the Public Holidays Act Cap 110 to replace the term ‘Kenyatta Day’ with the term ‘Mashujaa Day’ and the term ‘Independence Day’ with the term ‘Jamhuri Day’ to make them in line with the Constitution of Kenya, 2010.

The proposed amendment to the Housing Act Cap 117 seeks to provide that the Chairperson to the National Housing Corporation (NHC) shall be appointed by the President as opposed to the current position where he is appointed by the Cabinet Secretary. It also proposes that the CS may appoint five to seven members as opposed to the six to eight he or she can currently appoint. The CS can appoint between five and seven and not the current six and eight.

There is an amendment to the Kenya Airports Authority Act Cap 393. This Bill proposes to amend the Act to provide that arbitrators in disputes under the Act shall be appointed by the Registrar of the National Centre for International Arbitration in place of the Chief Justice. We have that institution in place so any arbitration that would take place at the Kenya Airports Authority - if this Bill is passed - will be appointed by the Registrar of the National Centre for International Arbitration.

The Traffic Act Cap 403 has a number of small amendments. The Bill proposes to amend the Traffic Act to provide for the appointment of inspectors of motor vehicles and designation of authorised offices for the purposes of this Act. For the first time, we are putting in law the provision that we must appoint officers or inspectors of motor vehicles. It also seeks to amend Section 8 of the Traffic Act to create an offence and prescribe penalties on the issuance of insurance cover to a person who is not the registered owner of a motor vehicle. If you do not own that motor vehicle, you cannot secure insurance in your name.

The same Bill seeks to amend Section 57 of the Act in order to create an offence and prescribe penalties for driving a vehicle, which requires a permit prescribed under the East Africa Community Load Control Act. Without such permit, it would be an offence. It also seeks to create an offence and prescribes penalties for encroachment and damage to roads. We have seen the number of accidents we have and vehicles destroying our road infrastructure or the road itself. This Bill creates an offence and prescribes a penalty.

The Bill seeks to amend the Export Processing Zones Act, Cap 517 in order to create a conducive environment for investors in the manufacturing sector and to promote value addition. It creates a section where they will get incentives in terms of tax holidays and rebates so that we can attract investors and more so, in value addition and manufacturing so that the 15 per cent growth in the manufacturing sector as one of the four key pillars of the President and the Jubilee administration is achieved.

The Bill proposes to amend the National Council for Law Reporting Act, 1994, to provide that the National Council for Law Reporting shall be a body under the Office of the Attorney-General. Currently, it is under the Law Reform Council.

The Bill seeks to amend the Kenya Information and Communications Act, 1998, to provide for the mode of appointment of the chairperson of the Communications Authority of Kenya (CAK). The procedure and process of appointing the Chair of the CAK is provided for.

On the Kenya Roads Board (KRB) Act, 1999, the proposed amendment seeks to widen the number of professionals who may qualify for appointment as the executive director. They also prescribe additional requirements for the qualification of the appointment of the executive director of the KRB. The Bill suggests that the qualification should be a master's degree from a university recognised in Kenya and he or she should have served in a senior manager position for a period of at least five years. We did this in the Roads Bill and so, at the Committee of the whole House stage, I will withdraw it.

The Bill proposes to amend Section 23 of the Privatisation Act No.2 of 2005 to give power to the CS to direct the Privatisation Commission to implement a proposal for privatisation once it is approved by the Cabinet. It also requires the CS to submit annual reports on the implementation of the proposals to the National Assembly. The CS will approve and submit to the Cabinet that the final documentation and annual reports must be submitted to the National Assembly.

The Bill proposes to amend the Witness Protection Act of 2006 to require that the Director of the Witness Protection Agency (WPA) be given an opportunity to defend himself where a petition seeking his dismissal has been presented to the board, which is in line with the Fair Administrative Act that every person must be given that due process.

The Bill seeks to amend the Biodiversity Act of 2009 to make provisions relating to the composition of the board in order to align it with the Mwongozo Policy or principles of the Jubilee administration.

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

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) took the Chair]*

This Bill proposes to amend the Proceeds of Crime and Anti-Money Laundering Act, 2009, to include, in the definition section, employees of accountants, advocates, notaries, trusts, companies and service providers. The proposed amendment seeks to amend Section 48 of the Act, which expands the reporting obligation that will include even employers of accountants, advocates and others.

The Bill proposes to amend the Competition Act, 2010, to provide for the mode of appointment of the chairperson of the Competition Authority of Kenya. It only deals with how the chairperson is appointed. The Bill proposes to amend Section 23 of the Engineers Act, 2011, to provide for the extension of renewal of registration of foreign engineers where works have not been completed. Currently, temporary registration can only be awarded for a period of 12 months. This amendment seeks to amend Section 23 in order to provide for further extension in case of a renewal.

Madam Temporary Deputy Speaker.... Sorry, Hon. Temporary Deputy Speaker, you know I said that whenever there is change of guard on the Chair, there must be a ritual, so that all of us can know that power has transited from one person to another. Thank you very much, Hon. Temporary Deputy Speaker.

In the Land Act, 2012, this Bill proposes to align the definition of the word 'court' with the one which is in the Environment and Land Court Act, 2011. This Bill proposes to amend the

Act to introduce a new provision which provides that the lease for a licence for private land be issued by the Cabinet Secretary and registered by the Chief Land Registrar.

This Bill proposes to amend the Kenya Defence Forces (KDF) Act No.25 of 2012 to provide for an alternative to the death penalty following a court martial's judgement. In the same section, it also seeks to harmonise the provision of the Act which relates to the oath of allegiance, which will be taken by a person who joins the KDF. Finally, it also seeks to amend Section 304(1) to empower the KDF Council to make regulations with regard to the establishment of the Pension Assessment Board. When the KDF Council forwarded the regulations to the House, it was advised by both the Committee on Delegated Legislation and our Legal Department to amend Section 304(1). Unless they do that, the regulations will remain null and void. Once we make this amendment, then, they can bring those regulations in order to help them run the Pension Assessment Board and the Pensions Appeals Board for the KDF.

The Bill proposes to amend the National Transport and Safety Authority (NTSA) Act, 2012, to remove the corporate powers of the Authority. The Authority will not have powers such as owning property, suing and being sued in its name.

The Bill proposes to amend the University Act, 2012, to change the manner of the appointment of chancellors and vice-chancellors of public universities. The vice-chancellors will be recruited by the Public Service Commission (PSC) as opposed to the university council. This is because of what went wrong when the Vice-Chancellor of the University of Nairobi was being recruited. It took long and was tedious. The council members were compromised. That function is now being given to the PSC.

This Bill proposes to amend the Nairobi Centre for National Arbitration Act, 2013 to streamline the membership of its board of directors. It clarifies the role of the registrar and his term of office. It also deals with the matter of the conduct of the arbitral court. It also amends Section 25, which deals with the powers of the board to make rules and to give more scope to how they exercise their powers. The Bill seeks to amend the Wildlife Conservation and Management Act to provide for the protection of wildlife and wildlife trophies. It also provides for the administration of the Wildlife Environment Fund, which has been created.

The Bill proposes to amend the Bribery Act to make minor clarifications and corrections. The Bill proposes to amend the National Drought Management Authority Act, 2016, to provide for the appointment of the chairperson by the President and to remove those requirements of approval by Parliament. Of course, I have never seen that. The chairperson of the National Drought Management Authority is always appointed.

Finally, the Bill proposes to amend the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015. The designated State officers shall be entitled to an office and office equipment. This is in reference to the current position of the Deputy Chief Justice, which was left out in the previous amendments. So, we are adding the Deputy Chief Justice. Those State officers shall be entitled to an office and office equipment.

Thank you, Hon. Temporary Deputy Speaker. There are about 67 Acts where minor amendments are being done. I am sure that all respective committees conducted public participation, consolidated their reports and submitted them to the Chairman of the Departmental Committee on Justice and Legal Affairs.

(Hon. Amos Kimunya consulted Hon. William Cheptumo)

Hon. Temporary Deputy Speaker, request Hon. Kimunya to allow the Chairman of the Departmental Committee on Justice and Legal Affairs to prepare to second the Bill. I know that he is from the United States of America (USA). So, he seems to be asking what happened while he was away. There are many things that have happened. You need a full day to be told. While you were away, Dr. Chumo's name was rejected as the nominee for the position of chairperson of the Salaries and Remuneration Commission (SRC). While you were away, many other names were approved to various positions. We approved the Ombudsman and Mr. Stephen Kirongo as the Chairman of the PSC. There are many things that happened in the Chamber. You need to consult Hon. T. J. Kajwang' about what happened outside the Chamber. He is an expert in that.

There are 67 Acts which are being dealt with. I am sure that all the committees submitted their reports to the Chairman of the Departmental Committee on Justice and Legal Affairs who consolidated, checked and tabled them. I am sure that he will give us the views of the public.

I beg to move and ask Hon. Cheptumo to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Cheptumo.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. The Leader of the Majority Party has ably moved the Bill. I want to second it.

As I second, I wish to confirm to the House that the various committees dealing with the various statutes, indeed, prepared their reports and forwarded to the Departmental Committee on Justice and Legal Affairs, which I chair. As the lead Committee, we tabled before the House our Report together with reports from those various committees. Therefore, I want to confirm to the House that as the Committee, that is exactly what we have done.

Hon. Temporary Deputy Speaker, the Bills seek to make various wide-ranging amendments to various statutes. As the Departmental Committee on Justice and Legal Affairs, we dealt with 21 Bills. Out of the 37 mentioned by the Leader of the Majority Party, my Committee dealt with 21. Therefore, we were the lead committee and that is why we gathered the other reports and jointly tabled them before the House.

The mandate of the various departmental committees was to consider proposed amendments relating to the various statutes under their purview. My Committee was tasked to compile and then present to the House one Report on behalf of all committees which reviewed the Bills. I confirm that, that was done. The Leader of the Majority Party has taken us through the various proposed amendments to the various statutes. The business of the House will be to deal with those amendments guided by the Report by the various committees at the Second Reading.

One important thing the House needs to know is that public participation in law making process is mandatory. It is a constitutional requirement that the public must be invited to present memoranda to committees so that it helps the committees to incorporate the views and recommendations from the public in their reports. I confirm to the House that every committee has sections in their reports informing the House how they undertook public participation especially after the Clerk of the National Assembly invited the public through the newspapers to give their presentations and memoranda. The members of public, either individually, institutions or organisations, submitted memoranda which committees took into account while considering the proposed amendments. I confirm that in the Departmental Committee on Justice and Legal Affairs, we, indeed, receive memoranda from the public. We got tremendous response from the public by way of written memoranda and oral submissions. In some cases, apart from written memoranda, the Committee also found it necessary to invite some stakeholders to appear before it. This is true for my Committee and I can also confirm to the House that other committees also

confirmed to me that apart from receiving written memoranda and presentations, they invited institutions to clarify some of the proposed amendments so that we are able to move with the users of these laws.

Among the institutions which appeared before the Departmental Committee on Justice and Legal Affairs to make submissions include the Judiciary, the EACC, Office of the Director of Public Prosecutions, Office of the Attorney-General, Department of Justice and even the land sector. They gave views on areas which we felt it was good for them to clarify. The laws that are proposed to be amended are those that affect those institutions and it was important for them to give their views. They were able to do so.

The reports of the various committees, I want to confirm again, contain public submissions on the proposed amendments by the committee and even the rationale for the proposed amendments which are before the House for consideration for adoption. I encourage the Members that as we go to the Second Reading to debate the Bill, it is important for them to refer to the reports which have all the rationale from the committees and the public. This should enrich their contributions in the Second Reading as we move to the Committee of the whole House.

When dealing with the Statute Law (Miscellaneous Amendments), it is important to note that the amendments proposed should be of a miscellaneous nature. This means minor and general amendment to correct or align the law properly. These are very important points, which Members should understand. When we are making miscellaneous amendments, we should not undertake such amendments that alter the spirit of the law, but just to realign areas which are not properly realigned with the law. That is the essence of that.

As the Departmental Committee on Justice and Legal Affairs, we were alive to judicial pronouncements and High Court ruling in previous judgements, such as Constitutional Petition No.3 of 2016, concerning the Statute Law (Miscellaneous Amendments) Act of 2015, *inter alia*, in which the court held that when dealing with miscellaneous amendments, it is not meant to alter the law or the spirit of the law apart from what you are aligning. Just to quote, it says that:

“It is, therefore, clear that both on policy and good governance, which is one of the values and principles of governance in Article 10 of the Constitution, which values and principles form the foundation of our statute and nation as decreed in Article 4(2) of Constitution, omnibus amendments in the form of statute law miscellaneous legislation ought to be confined only to minor noncontroversial and generally house-keeping amendments.”

So, that is the essence of these kinds of amendments. Bearing this in mind, in my Committee, some of the proposed amendments in the Bill are not of miscellaneous nature, in that they were inherently controversial and, indeed, elicited quite some debate. Just to quote a few, for example the proposed amendment to the Office of the Director of Public Prosecutions that seeks to amend the definition of the term ‘investigative agency’ by deleting the expression ‘Ethics and Anti-Corruption Commission’. This amendment proposes to remove the EACC as an investigative agency on behalf of the DPP. This is, indeed, a major amendment because you deny the Office of the DPP the benefit of the investigative powers given under the law to the EACC. A case like that goes to the root of a serious provision of the law. In that case, we refused to accept and we proposed that we should not approve that amendment. That is just one of the ones that I say are not minor in terms of the ruling that I have just referred to.

The Committee received strong views from the Attorney-General, the DPP, Transparency International (IT), the LSK and the EACC, all of who opposed that amendment.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Cheptumo, you know our time limitations. Of course, you are doing a very important job today. I will allow you another five minutes to finish.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Speaker, I will now summarise. The other amendment, which is not of the nature of miscellaneous, was with regard to the amendment to Section 4(2) of the Kenya School of Law Act and Section (8)(1) of the Council of Legal Education Act. The gist of these amendments is the liberalisation of the Advocates Training Programme. The amendment proposes that it should not be offered exclusively by Kenya School of Law (KSL). We are dealing with a situation where we want to open the process of training lawyers to any institution that can provide that service. There is already a task force established by the Attorney-General to look into all these issues.

I am happy that the Chair is a legal mind. Recently, we had cases where there was massive failure of lawyers. It affects all of us. We have friends, relatives and children. This is an area we need to comprehensively address. We cannot do so through a miscellaneous amendment. The task force should be allowed to conclude the findings. They have already interviewed various stakeholders. These are the areas we feel that the amendments are not of miscellaneous nature. We should not allow, as a House, substantive amendments in those particular laws to be undertaken.

As I conclude, may I take this opportunity to express gratitude to the Committee Members for their resilience and devotion to duty, which made the review of the Bills easier. This is not just my Committee, but the other committees which did this work. I urge the Members to read the comprehensive reports in order to fully appreciate and enrich the debate when the Bill comes up for consideration in the Committee of the whole House.

I further urge Members to adopt the recommendations of the committees as contained in the Report. This is our moment, as a House, to follow the report carefully so that we support what committees have supported.

I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are not replying, Hon. Cheptumo.

Hon. William Cheptumo (Baringo North, JP): Hon. Temporary Deputy Speaker, I am sorry.

I beg to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I am glad Hon. T.J. Kajwang' heard you clearly because I have been hearing his deliberations with my namesake, Christopher.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): I will allow the first go at it to Hon. Odhiambo, Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I rise to support the Bill with proposed amendments.

I want to agree with the Chair of the Departmental Committee on Justice and Legal Affairs. He has referred to a court ruling on the issue of Statute Law (Miscellaneous Amendments) Bills and the form and format they should ordinarily take.

This is a matter we have canvassed in this House severally before. This Bill does not meet the requirement that was set by the court. Indeed, if some of these provisions are taken to court, they will be nullified. Time is apt for Parliament to provide a law that standardises the way we bring Statute Law (Miscellaneous Amendment) Bills. In the past, Statute Law (Miscellaneous Amendments) Bills were used for mischievous political reasons, especially when political issues come up. The law I am talking about should be Statute Law (Miscellaneous Amendments) Procedures Act, which should provide for the number of Bills that can be provided for meaningful input by Members of Parliament. Even though I heard the Chair say that the Bills that are being considered in the House are about 30, they are actually 59.

Hon. Temporary Deputy Speaker, I do not know whether we have five or 10 minutes. How many do I have?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Millie, you have 10 minutes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I just want to show how ridiculous it is. I am not very good in maths, but let us take 10 minutes and divide it by roughly 60 pieces of legislation. How much time do I have if I wanted to contribute to all the pieces of legislation? It is presumed that I will represent the people of Suba North on every single piece of legislation that comes before the House. Constitutionally, I will have been denied the right to talk to some pieces of legislation because of that provision alone. Such a law that I would be proposing should say how many sections of a Bill can be included in any given miscellaneous Bill.

Again, in reference to what the court said...

*(Hon. T.J. Kajwang' and Hon. Wafula
Wamunyinyi consulted loudly)*

The Temporary Deputy Speaker (Hon. Christopher Omulele): The consultations of the Members on my left are too loud. They are preventing me from getting the contributions of the Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): The Members are trying to eat up my 10 minutes when I am actually saying that already I do not have the time. Again, it should also provide what minor amendments are. We can use what has been provided by courts to input into that law as to what is considered minor amendment.

Because of time, I will not speak to every single Bill that I wanted to speak to. I will just give examples of why I am saying so. I would want to look at, for example, something that may look like a minor amendment. If you look at the Protection of Traditional Knowledge and Traditional Cultural Expressions Act, 2016, which is being proposed to be amended, the only thing that they are talking about is to clarify that the Cabinet Secretary is the Cabinet Secretary relating to matters of culture yet if you looked at the Constitution and even the legislative history of the parent provision in the Constitution, the issue of culture is not about how the Masaai dance. It is about issues relating to intellectual property of our culture in terms of how we protect our intellectual right to *kiondos*, *mwarubaini*, the knowledge that my grandfather had on curing snakebites and other intellectual rights. That is not just an issue of culture. It is an issue that should relate to the Cabinet Secretary relating to matters of law, which is the Attorney-General or a Cabinet Secretary on matters relating to industrial property. That is the home of intellectual property. Even though it might look like a minor amendment, it is not.

I thank the Chair of the Departmental Committee on Justice and Legal Affairs because for the more than 20 Bills that have been brought before them, they picked out those issues.

I am raising this because I know I may not reach all of them because of time. I want to give another example of the ones they may not have considered. It is the Children Act. First of all, for the last 10 years, the children sector has been working on a comprehensive amendment to the Children Act. We are bringing an amendment that looks minor to make the Child Welfare Society an adoption society and by the proposed amendment, it is going to kill all other adoption societies. By that proposed amendment, it will also kill the Children Department. Then, we need to know if that is the case. We are creating a semi-autonomous agency to kill a permanent department. I have nothing against the Child Welfare Society of Kenya.

My mother started her professional work at the Child Welfare Society of Kenya. I was a member of the Adoption Committee of the Child Welfare Society of Kenya. Currently, it is one of the adoption agencies in the country, but we cannot make a very weighty amendment and consider it as a minor amendment that should be coming by way of a miscellaneous one. There are some other weighty amendments which are welcome.

On the issue of legal education that the Chair of the Departmental Committee on Justice and Legal Affairs has spoken about, it is wrong if every Tom, Dick, Jack and Harry can be in a position to offer training that qualifies one to be a practising lawyer. I know you know it because you are a lawyer. I can even see you are laughing. The issue of qualifying and getting a degree is totally different from qualification as a practising lawyer.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Millie, I will add you a minute because of this. That is a very serious matter that I had hoped Hon. T. J. Kajwang' would have been in a good position to lead this House on. But, I can see he does not seem to be interested. What you are saying is true, these are fundamental issues. They are about how we train our children and how people become professionals in this country.

Proceed, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I think Hon. Mwaniki and Hon. T.J Kajwang' are consulting on these issues because they are lawyers. I also suspect they are thinking that this will proceed to tomorrow or any other day. I am sure they will give their contributions then.

That is such a weighty issue that you cannot purport to liberalise the training of lawyers. I went to the New York University after my degree in law at the University of Nairobi (UoN). Even after getting my Masters form New York University, I would not be allowed to practise in the US until I went through another rigorous set of exams by one certifying body, not by every Tom, Dick and Harry in the USA. I do not know what it is with Kenya that wants to over-liberalise university training and education, especially professional certification. I am seeing other professionals bringing Bills where they are getting one body to certify. We, lawyers, are being told to liberalise and get people training us in River Road. I will vehemently oppose this because, as you know, it is not easy to get a law degree. It is not just something. I know we have become very corrupt as Kenya, unfortunately. But, we will not extend that corruption even into matters of education. Sometimes when I pass and see the way we have put up private universities - I will not mention which one.

The other day just around Nairobi, not Nairobi, as I was going for the graduation of my security assistant who did his degree recently, I passed somewhere towards Thika and I saw a place with a whole university that does not even qualify to be a high school. We need to be serious. As much as I know we need to increase our education, we should not be at the level that

we used to laugh at one of our African countries that would offer degrees that are very questionable. Kenya has distinguished itself in terms of quality education.

Again, on the Civil Procedures Act, I am very happy for providing for the Rules and Procedures Committee. I was not happy with Federation of Women Lawyers (FIDA) in the recent past but, because it is the only women's organisation that also represents women lawyers, it would be good if we included it; not just the Law Society of Kenya (LSK). If that is not possible it should provide that the two of the three people that are going to be nominated by the LSK be women. That is because all the other people that are going to be nominated by the other agencies are, almost always, men. It would be good if two of them are women.

In terms of the Law of Contract, I have a big issue about the capping. I will be seeking issues with the LSK just to be clear. I had a lot of issues including provisions on a law that removes the death penalty from the Kenya Defence Forces Act. It seeks to provide alternatives to the death penalty.

We are not doing justice when we bring these many pieces. It is high time we came up with a law that regulates how we push miscellaneous amendments, otherwise I am feeling cheated. I have only spoken to three and my time is up yet I have prepared comments on more than 20 pieces of legislation.

I support but with amendments. I will be bringing some of my proposed amendments at the Committee of the whole House stage. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Well spoken, Hon. Millie. We shall have Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support some of the amendments.

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) left the Chair]*

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

Most importantly is the amendment on the Judicial Service Act, No. 1 of 2011, which proposes to delete the expression "within three days of receipt of the name" and substitute therefor the expression "within three days after approval by the National Assembly". Why? It is because, when you look at the final Report on the Constitution which was known as "*The Review Commission Final Report*" or "*The Ghai Report*", this is what was reported as to what the people said. On page 313 of the Report, it was stated that the Judicial Service Commission should have its membership drawn from the legal fraternity, the Judiciary, professional bodies and other interest groups and that the appointments of the commissioners shall be made by the President after Parliament's, in the form of a Parliamentary Judicial Committee's approval. These were the recommendations of that Ghai Report. The underlying principle was that sovereignty is the will of the people; it is inalienable. Indeed, the first nominees to the Judicial Service Commission such as Justice Lenaola, Emily Ominde, Ahmednasir, Florence Mwangangi amongst others were all vetted by the 10th Parliament. Glowing tribute was made on this vetting process by none other than the Hon. Martha Karua, Hon. James Orengo and the late Mutula Kilonzo. It, indeed, was the will of the people. However, I remain very disturbed because, even when we pass this amendment, it will be none other than Yash Pal Ghai who was the Chairman

of this commission and his various networks that will rush to court to challenge this amendment. Yash Pal Ghai and his organisation called Katiba Institute have gained enormously from the constitutional review process of our country. This gain has been private by ways of contributions to their organisations. He gets funding to file or be enjoined in what is known as strategic impact legislation.

No one to date has questioned this. We all know that *Maina Kiai vs Independent Electoral and Boundaries Commission (IEBC)* petition sought amongst other declarations that presidential results at the constituency level would be final and not subject to alteration other than by an election court. Yash Pal Ghai and his organisation were enjoined in the suit as *amicus curiae*. An *amicus curiae* is a friend of the court who is supposed to take no position whatsoever that will favour one party or the other. He failed to inform the court that it was his own recommendation that the electoral commission should be accorded the power to deal with certain electoral disputes and offences immediately. It should devise a way of resolving arguments that arise in voting processes without waiting until a full scale election petition hearing takes place.

I have used this example to show that in the redraft of Yash Pal Ghai lies the entire history of the Constitution-making process. It is, therefore, important that we must read it to understand what it is that the people of Kenya wanted. The Legislature and the President are vetted by the people of Kenya. The JSC appointments are vetted by this Parliament. Could it be that only the Judiciary and their appointment to the JSC that should not be vetted? I highly doubt it was the case. I, therefore, state very clearly that when the Constitution of this country was being formed, the people of Kenya did not want imperial presidency, legislature or judiciary. I, therefore, state very clearly that, indeed, when the Constitution of this country was being formed with the people of Kenya, they neither wanted an imperial presidency, an imperial legislature nor an imperial judiciary.

With those few remarks, I support. However, there are some amendments as was referred to by the Chair of the Justice and Legal Affairs Committee more specifically on the proposed amendments to remove the Ethics and Anti-Corruption Commission (EACC) as an investigative agency on behalf of the Director of Public Prosecutions (DPP).

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Rangwe Constituency.

Hon. (Dr.) Lillian Gogo (Rangwe, ODM): Thank you so much, Hon. Temporary Deputy Speaker. It is an honour to contribute to this Statute Law (Miscellaneous Amendments) Bill of 2018. It is an honour and pleasure to make contribution to the amendments to the Registrar of Persons Act. I rise to support the Second Reading of the Statute Law (Miscellaneous Amendments) Bill of 2018. However, I seek a clarification from the Chair of the Departmental Committee on Administration and National Security on whether the Committee ever discussed the proposed amendments to the Registrar of Persons Act of Chapter 109 of the Laws of Kenya.

Looking at the amendment, allow me to state that the amendment seeks to ensure that the citizens of Kenya are registered. Therefore, the proposals among other things, is to establish a national integrated identity management system which will be a good thing for the country and the House. You will also agree with me that any country requires a proper registration of its population. This is good for the current and future economic planning and for the statistics and monitoring of national security.

When I look at the amendment closely, I have concerns with the right to privacy and security of Kenyans among other portions of the amendment. In particular, the proposed amendment to Section 3 of the Registration of Persons Act, if passed, this is going to interfere with the privacy of Kenyans. It is important that the traditional way of identifying Kenyans like using certain constants like the fingerprints do not change. But the amendments that are proposed want to use indices for the identification of Kenyans. For example, there are proposals to use earlobes, retina and iris patterns and provide Global Positioning System (GPS) locations of the residences of Kenyans. When it comes to earlobes, there are certain practices among communities such as the Maasai community that have extension and stretching of ears. After that they adorn their ears with several beads that further extend their earlobes. When this is used as an identifier and is intended to change, I do not know how this will be achieved. I do not know how the measurements will be taken for purposes of identification.

When I look at the various Members' ears, including yours, Hon. Temporary Deputy Speaker, I do not know how you would be described with your earlobes. I do not know if they will say that your earlobes are floppy or they look like the ones elephants have. I am curious about this particular amendment. Why do we not use other methods of identification? Using the number of teeth as a way of identification also will keep changing. When it comes to the African culture, the ear is a very sensitive part. This particular amendment should be proposed such that these methods are used as modes of identification of Kenyans.

If we look at the GPS locations of residences, our residences keep changing. I could be in Rangwe and I have another residence in Homa Bay and another one in Nairobi or Mombasa, which one will be used for identifying me. So, as much as I support this amendment, I think it requires attention.

I also want to look at the amendment on the Traffic Act, Chapter 403. If we look at Section 8 Part II, it says:

“...any person who issues motor vehicle insurance cover to a person other the registered owner...”

This is a very nice piece of amendment and it will improve security. If traffic officers get the car that is used for insurance, they would definitely know the owner of that particular vehicle. This particular amendment is very interesting because it is a wakeup call for the sponsors and the recipients of the sponsors. There are people who are sponsored using vehicles. Now, when it comes to insurance of those particular vehicles, we will identify the real owners of the vehicles. Therefore, it is very important that the sponsors and the recipients of the sponsorship re-organise themselves because this one will bring very interesting dynamics in ownership of motor vehicles.

I also want make a contribution on the Higher Education Loans Board (HELB) 1995 at number three. I want to particularly look at the section that clarifies roles very well and separates the role of the CEO of the Loans Board and the company secretary. This is an interesting thing because it clearly shows that the work of the company secretary is to take minutes. When it comes to execution of the decisions that are made by the board, this is done by the CEO. When we have well coded roles that are done by the members of the Board, this reduces conflict and improves performance. The HELB has had issues several times whenever there is conflict between the company secretary and the CEO. So, this is a good amendment.

With those few remarks, I support the amendments to the three pieces of legislation. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Kathiani, Hon Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady, for the opportunity to debate this Bill. As the Seconder of this Motion stated, this is basically meant to deal with minor amendments to various laws. It also helps us to save time. I have gone through the Bill and I have seen quite a number of major amendments. The amendments are basically good and a lot of them seek to add value to the laws that exist. It is unfortunate that they have come as omnibus; they have all come together, so they may not receive the kind of attention that they require.

I have picked about five amendments that I think are major and require a lot of deliberations. The first one is the amendment on the registration of persons. My colleagues have also talked about it. I do accept and support the introduction of the National Integrated Identity Management System (NIIMS). It is a very good idea. In essence, it will help us to identify our people. Some of the amendments talk about the introduction of a single number to identify an individual, which is something that was in a Motion that was discussed in this House in the 11th Parliament, brought by Hon. Munyaka. It says that once one is issued with a birth certificate, the number on that birth certificate can be used as their identification number. It can also be used to get a driving licence. The NHIF and NSSF could use the same number too. Even banks could consider using that number when one is opening a bank account. So, this is a good amendment.

The second is the amendment to the Traffic Act, Cap. 403. This introduces punishment and outlaws certain things that probably were not expressly outlawed in the parent Act. This is one of the amendments that I think Members should have deliberated on specifically, so that we look at the Act in totality. There are issues that come up every day.

Recently, in Machakos County, the Governor brought in regulations – I do not know whether it is a policy decision - governing traffic within the county and yet there is the Traffic Act. The things that he has brought up are not negative, but they are clearly stipulated in the Traffic Act and could also be addressed using that Act. He has come up with different penalties and timings.

I will give you the example of school transport, which is supposed to operate, according to NTSA, up to about 9.55 p.m., but the regulations by the Machakos County Governor say 7.55 p.m. During the recent heavy rains, we saw bridges being washed away. I ask myself: What happens when bridges are washed away and children are in the buses on their way home and 8 p.m. reaches, are they going to be arrested because of a natural disaster? Some of these rules and regulations are good, but there seems to be some double legislation which, obviously, will lead to double penalty. If you are penalised by NTSA and the county government, that goes against rules of natural justice.

In the amendments to the Traffic Act, there is punishment for drunk driving, which is important because we have lost many lives on our roads because of people that drink too much and get behind the wheels and cause a lot of havoc. So, that is a very good amendment.

On the part of insurance fraud, generally, that has been against the law. I do not know why we are specifically talking about it. In the Insurance Act, you cannot insure something that does not belong to you. I do not know why we are putting this in the Traffic Act. I am certain that the Insurance Act is clear about who can insure. You can only insure what belongs to you. You cannot insure something that does not belong to you. It is actually one of the regulations within the insurance industry.

There is a new proposal about drivers who damage roads. I do not know and that is why I am saying these are major amendments that may have needed more time. What do we really mean by “damaging roads”? When you are driving and your car gets a tyre burst because of a

nail on the road and you scratch the tarmac, does that mean you are liable for a penalty of Kshs50,000? Some of the proposals require a lot more discussion.

I am happy about the amendments to the Children Act, in provision of temporary places of safety to ensure our children are in good hands and giving the CS the power to cancel licences of children's charitable institutions when the lives of the children in those institutions are in danger, or when the management in those institutions is unfit. Sometimes they do not act in the best interest of the children or contravene the Constitution. We recently saw some individuals who brought in small children and kept them in their homes.

I am assuming they were purporting to be a charitable institution yet they were trading with the children. In the morning they would ferry them to the streets of Nairobi, leave them there to beg the whole day and at the end of the day they would come and carry them back home. The children would be left without money or food. Some of them are disabled and are not able to purchase anything with the money that they are given. They tie the money around their bodies. So, I think this is a very good amendment, but again, just like I said on the other amendment, it is important that we be given an opportunity to discuss the Children Act in totality.

The power given to the CS over adoption in society is important because we have seen a lot of people trade in human beings. Modern slave trade is still going on. It is important that the CS is given authority so that there is no trading in children. If you allow adoption to be very easy, chances are that people who want to deal in the sale of children will just come in, buy them and export them for sexual reasons or as workers. It is important that this Act is amended in some of those areas.

The other amendment I saw has major changes is on the Labour Relations Act. It deals with the management of the relationship between trade unions, employees and employers. I have seen a raft of amendments on how the management is done. They are talking about trade unions not receiving dues unless they are registered. That makes sense. However, when it comes to the issues of employees and the dues they pay, it talks about an employee entering into a check off system which they have to approve for the deductions to be done. That makes sense. When there is alteration of the union dues, there is no mention of the employees and their input. Someone can join a union and say they are willing to be deducted Kshs500 and the union changes those figures. There is absolutely no discussion on whether the employees have a right. If we make these amendments, it means we are allowing trade unions to be able to alter deductions without discussing with the employees, which is really unfortunate.

The fifth and last amendment which I think is major is on the Anti-Counterfeit Act. It gives improved and clearer definition of counterfeits, which is very logical. Obviously, it helps to remove ambiguity. There are major changes that have been proposed to Section 32, which is basically meant to protect Kenyans from unfair trade practices and harmful and substandard importation of goods. Recently, you saw what happened in this country. We imported sugar which we have been told is laced with mercury.

So, this amendment will help us as we go into the future and import, we ensure that the goods coming into the country are standard goods that are properly checked, vetted and allowed. Since my time is up I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, let us have the Member for Turkana.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance. First, I would like to congratulate the Departmental Committee on Justice and Legal Affairs for working on this voluminous document. I support the

idea brought by Hon. Millie Odhiambo on re-looking at the structure, classification and volume of the Statute Law (Miscellaneous Amendments) Bill. As it is now, I was unable to scan through all the 59 amendments and only managed to do a general scanning.

Some of the amendments are to align the different terms with what we have in the Constitution for instance district for county, House of Reps for National Assembly, Kenyatta day for Mashujaa day and, Independence Day for Jamhuri Day just to mention but a few. The Statute Law (Miscellaneous Amendments) Bill has also streamlined the mode of appointments of boards and competitive recruitment of management of various boards with the inclusion of more qualified personnel, for instance, in the HELB, Kenya Roads Board (KRB) and Competition Authority of Kenya (CAK). These bring on board the import of expertise in these different government agencies.

The Statute Law (Miscellaneous Amendments) Bill also brings order and standards for instance in the Employment Act with regard to redeployment, deployment, re-assignment and even re-designation of job titles or grading and this will tame notorious and unscrupulous managers who employ unethical means in terms of grading promoting or even deploying staff and so this is a welcome amendment. This law also talks of agreements in the Employment Act and labour relations between trade unions, employees and employers on resolution of trade disputes, deductions of fees of the unionisable employees, breach of contracts and the penalties that are administered. In a situation where there is a breach of contract particularly whose consequences are injuries to human life, public health or expose valuable property to destruction, then that person will be liable to a conviction or a fine not exceeding Kshs 500,000 or imprisonment not exceeding three months.

I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Bomet Central.

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity to make my contribution on this Bill. I thought it would have been better to break it into many Bills because it is very big and may not be possible for us to go through it and adequately process it. The amendments which are there are substantive especially on the Labour Relations Act which cover about 10 pages of this Bill. I normally assume that the Statute Law (Miscellaneous Amendments) Bill normally takes care of minor corrections in Acts but in this one, massive proposals have been put forward that we ought to amend. Many of them may be unconstitutional in nature.

I want to comment on the Labour Relations Act which is being extensively amended. The Constitution of Kenya provides certain rights and one is the right to demonstrate and picket. However, the amendments proposed are meant to ensure that, that right is taken away. For example, when it talks of any trade union to engage in a strike in case they are being oppressed, two-thirds of their members have to sign to go on strike. Two-thirds is a massive number and that amendment if it is not unconstitutional, it is malicious and denies the workers the right to go on strike. Even in this House, we are not asked to have two-thirds of our electorates to sign before we make decisions in this House, we do make on individual level once elected. So, this one denies those elected in trade unions the right to make decisions. There are the issues of essential services. There is a blank cheque being given to the CS in charge of labour, that the CS can declare any service an essential service and once he does that all those employees who fall under that service will be told there is no strike and that right to go on strike will be effectively denied, which I have lots of reservations on and will propose some amendments on it.

Also, there is a section dealing with temporary employees. That during the period of strike the employer is given the right to employ workers on temporary basis. This effectively kills this right to go on strike because if you know you are going to be replaced immediately, why go on that strike which is provided for in the Constitution? I believe that is very unfair. In the same Act, there is a proposal that those who are planning to go on strike should provide security for property and personnel.

I believe provision of security is squarely given to the National Police Service. It is not up to the organisers of a strike and trade unions to organise for security as they know nothing about security. There are specialised personnel who deal with that. There are issues such as where the Employment Act is being amended to provide for what is called re-assignment and re-designation of job titles. I believe this is open to abuse where the employer can reassign or re-design an employee and subsequently abolish that position. In that way that employee will be rendered jobless and so I believe this may not be a very good part of this law.

On the National Hospital Insurance Fund (NHIF) Act, there is a proposal on Part 4 (1) (f) to remove representation of the workers and replace it with the appointees of the CS. The major contributors to NHIF are employees and individual members of NHIF. Those are the people who should be highly represented in NHIF and not majorly the Government. It is unfair to remove them. Representation of the workers of this country should be there in NHIF.

The National Social Security Fund (NSSF) Act is also targeted for amendment in this Bill. There is also a proposal that the CS be given power to appoint all the members of the Board of Trustees of NSSF. I believe this is also unconstitutional because NSSF basically operates on the funds of workers and not Government. So, if the Government does not have a single cent in NSSF, it may not have any business running NSSF. What it needs to do is to regulate the NSSF as a pension scheme through the Retirement Benefits Authority (RBA). It does not need to go in there to run the business. There is a story which was told of Hazina Towers, where about Kshs2.5 billion was lost during a period when the representatives of workers and employers were removed from NSSF. The representatives of Government misused Kshs2.5 billion. In any case, institutions which are fully Government-owned, like the National Youth Service (NYS), are the most corrupt institutions. Therefore, we need to bring in more people from the private sector to run such funds so that we can reduce corruption in some of these institutions.

Having said that, I believe this Bill is not timely. It is too voluminous for us to process adequately. I would propose that we reject it and propose to the Executive to propose a smaller Bill that can be processed.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Member for Bomet Central. I now give opportunity to the Member for Funyula Constituency, Hon. Oundo Ojiambo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I join my colleagues who have raised concern on the style and manner in which the miscellaneous Bill has been presented in this House. The basic and straightforward reading of the term “miscellaneous” or “minor amendments” should surely be done to rectify clerical and typographical issues or to align an Act of Parliament to any political or constitutional dispensation or any changes in some Acts that touch on that particular Act. What we have here touches close to 60 Acts, making it practically impossible for any reasonable Member to literally review, interrogate and make reasonable comments in respect of each and every Bill. The time

allowed is not adequate. It, therefore, means, as my colleagues have said, you choose to concentrate on a few. We read malice in the way the presentation or the issues have been brought to the House.

Hon. Temporary Deputy Speaker...

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Funyula, when there is a point of order, you resume your seat.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I want to go on record as saying that the Member cannot go unchallenged. In fact, he is questioning the institution of Parliament. This Bill was tabled in April. It went to all Committees. All Committees presented their reports to the Chair of the Justice and Legal Affairs Committee. The Member for Funyula has had the Bill on the website of Parliament, and in the Table Office, for the last four months. If he did not have time to read it, he cannot cast aspersions on the voluminous nature of the Bill. He is not in order to challenge a process of this House. All that he needs to do is that going forward, he can ask the House not to bring the Committee of the whole House so quickly. Maybe, we should give him time to prepare amendments. However, you cannot go on record and say that this Bill has been rushed. It has stayed in this House for four-and-a-half months.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Ouda, what is your take on that? The Leader of the Majority Party has tried to explain.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, the Leader of the Majority Party does not have the benefit of my opening remarks. He got me in between. He might not have understood what I said initially and what other colleagues have talked before we reached here. We have said we are representatives of the people. I am a representative of Funyula. The various amendments touch on the lives and daily activities of the people of Funyula. You cannot interrogate the 59 Acts being amended here. It is not practically possible to interrogate 59 Acts in less than 10 minutes. Nevertheless, I will try my best to pick a few here and there so that I can make reasonable comments. However, we still urge that in future, please, give us an omnibus amendment that allows us to interrogate within the 10 minutes we have been given.

Quite a number of the Acts of Parliament being amended through this miscellaneous amendment Bill generally are so fundamental that they alter the structure of the particular Acts. I want to give an example of the Higher Education Loans Board Act. It changes the composition of the board and qualifications of the executive officer. I do not think that is a miscellaneous or minor amendment. Fundamentally, the requirements limiting the term for a Vice Chancellor of a university to only one term of five years, again, is a fundamental change that requires to be considered. Generally other positions in various government agencies have an option of renewal for a further term. Limiting to only one term is specifically unfair.

On the Industrial Property Act of 2001, the amendments being done are just so many. Thirty-five sections are being amended yet you want to call those miscellaneous amendments. I beg to differ. When you look at the Anti-Counterfeit Act, the intention is clear. In view of the very many counterfeit and contraband goods in the market, changing it from an agency to an authority is most welcome. It is long overdue. It is hoped it will give them enough power to rein in cases of contraband and related counterfeit goods and services in the country. However, expanding the mandate of the Anti-Counterfeit Authority for its inspectors to have the same

powers as those donated by officers under the East African Community Customs Management Act 2015 – that is an amendment to Section 32 – generally makes it difficult to believe that these are minor amendments. There are other amendments that require serious discussions. I am not so sure whether we have it right.

The Registration of Persons Act Cap 107 makes interesting amendments. I think a colleague has raised the same. For example, there is a provision that you can identify somebody by the physical forms that one can see and touch. I find it very hilarious. How many more will you touch to identify the physical form? It is against some cultures and traditional religions to touch someone who does not belong to you, so I do not know how you will touch. One of the 10 Commandments is explicitly clear - thou shall not covet. Imagining that you can see and touch sounds and looks hilarious and I find it very interesting. I thought some of those provisions should have been subjected to some serious interrogation in view of our culture, religion and general practice.

On the same Registration of Persons Act, I completely agree that the time is nigh for us to have an integrated registration system. I have different numbers for my ID, NHIF, (NSSF) and all the universities I have gone to. It becomes a challenge to keep tabs on all the numbers you have been given. You have a different personal identification number (PIN). If you engage in trade, you have a different value added tax (VAT) number. It becomes practically impossible to remember all those numbers. We welcome the amendment. We hope it will come to fruition.

Nevertheless, under the same Act, there is the requirement of identifying a place. The amendments being proposed are not necessary because the same have already been covered under the Land Registration Act, Sections 7, 8 and 15.

Finally, I have a small comment on the Traffic Act. If we remember the arrangements under leasing and leases, it becomes very punitive to deny somebody an insurance sticker simply because he is not the original owner because I could have a lease of six or so years that should confer benefits to me. That is the principle of insurance.

With those few remarks, I beg to support the Bill but we will make amendments at the right time.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Central Imeni. There are Members who leave their cards in the House and go for consultations. Next one is the Member for Kitui Central, Hon. Mulyungi. Sorry, Mwingi Central.

Hon. Gideon Mulyungi (Mwingi Central, WDM – K): You are right, Hon. Temporary Deputy Speaker. It is Mwingi Central. I wanted to speak during the Zero Hour Statement.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other request to speak to this I, therefore, call upon the Mover to reply.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I want to thank all the Members who contributed to this important Bill. I see the sugar people are coming in.

*(Hon. Godfrey Osotsi, Hon. Simba Arati and Hon. Daniel Maanzo
walked into the Chamber)*

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Duale, you are out of order. Are they sugar people?

Hon. Aden Duale (Garissa Township, JP): The Members of Parliament dealing with the sugar. The two musketeers - Hon. Arati and Hon. Maanzo. They are known for dealing with sugar barons. I thank Members for their immense contributions.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Duale, before you contribute, you mentioned one of the musketeers. I do not know what the word “musketeers” means.

Hon. Aden Duale (Garissa Township, JP): I did not say musketeers. I said the Members who are dealing with sugar. Hon. Temporary Deputy Speaker, you cannot just walk in and then you want to rise on a point of order. He should cite the point of order itself.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Maybe he is unsatisfied with the name. What is out of order? You just walked in a minute ago. Unless you are...

Hon. Simba Arati (Dagoretti North, ODM): Hon. Temporary Deputy Speaker, I have bigger dossier on some Members. Is it in order for the Leader of the Majority Party to call us the sugar people?

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Dagoretti, that was not in order but the Speaker protected you. The Leader of the Majority Party did very well.

Carry on, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. They are not the sugar people. They are the Members of Parliament dealing with the sugar matter. They are busy with amendments but little do they know it is the House that will ultimately decide the fate of that Report in either way.

The Statute Law (Miscellaneous Amendments) Bill, 2018 was introduced in the House for the first time on 18th April 2018. I want the Member for Funyula to listen. This Bill was subjected to serious public participation. It was put in the newspapers. If you pick a copy of the Report of the Departmental Committee on Justice and Legal Affairs, you will see that there was serious public participation. All is not lost. This is just the Second Reading stage. We will have an opportunity to deal with amendments. The Member for Funyula is serious when it comes to the Committee of the whole House stage.

This is a very important Bill. It has stayed in the House for the last four months. I am sure that this afternoon, the Members who are present subjected it to serious public participation giving their views and preparing amendments. The Member for Funyula was calling it a Bill. He said we are dealing with 59 Bills and I was getting irritated but they are 67 Acts which are either in one way or another - in a very minor way - being corrected. I am sure the House Business Committee will give the House until next week Tuesday - which is seven days - to prepare amendments and then table it during the Committee of the whole House stage.

With those many remarks - so that we give a chance to the Members who are dealing with the sugar to tell us why they came back to the House - I beg to move.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, you beg to reply.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Thank you, Leader of the Majority Party. Hon. Members, what is out of order? He has already replied. There is nothing out of order. I felt the Leader of the Majority Party was out of order to call you sugar people. You are Hon. Members of Parliament.

(Hon. Godfrey Osotsi spoke off record)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me hear from the Member. Not you, Hon. Arati. Let us have Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, this is a very important piece of legislation but looking around, there are no numbers.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Just resume your seat. You cannot do that. Today is exactly one year since we were elected. You are so aware of the procedures of the House. We are making ourselves look like we do not know what we are doing. You cannot speak after the Mover has replied. After he replies, we are through with that business. Leader of the Majority Party, being nominated is also a way of becoming a Member of Parliament, but it was on a light note. We cannot debate anything after the Mover has already replied. There is nothing out of order.

The time being 6.30 p.m., pursuant to Standing Order No.43, there are Members of Parliament who had proposed to move the Zero Hour Statement. I call upon the Members for the Zero Hour Statement. Let us start with the Member for West Mugirango, Hon. Vincent Kemosi. According to the Standing Orders, you have three minutes to move your Statement.

ZERO HOUR

INVESTIGATION INTO THE CAUSE OF SCHOOL BUS ACCIDENT IN MWINGI CONSTITUENCY

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to move my Statement.

Pursuant to Standing Order No. 43, I wish to give a Statement concerning the transportation safety of our children while in school. First, before I give the Statement, I want to convey my heartfelt condolences to the families and people of Mwingi Central Constituency, following the untimely deaths of 10 pupils from St. Gabriel Primary School in Mwingi Central who perished following an accident which involved their school bus which was travelling from Mombasa where they had gone for a study tour. The school bus was involved in a head-on collision with a lorry at Kanginga Bridge, about one kilometre from Mwingi Town, on the Thika-Garissa Road at night.

It is worrying because there have been many accidents on our roads countrywide which involve school buses. We have lost many young promising lives. On 14th June 2018, a bus belonging to Starshine Blue School was involved in an accident at Karai on the Naivasha-Nakuru Highway. Four members of staff and several students were injured.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member, you have three minutes. Please, plan within your time.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Hon. Temporary Deputy Speaker, it is unfortunate that these accidents happened after this House put in place strict measures to curb the menace. If the Traffic Amendment Act, 2017 which was passed in this House was

implemented, these accidents and many others could have been avoided. The painting of school buses in yellow colour was not meant for cosmetic purposes but to identify school buses which flout the traffic rules that were put in place by the Ministry of Education, Science and Technology. It was spelled out that the school buses must travel between 6 a.m. and 6 p.m. at night. The school management and the police should be held responsible for the accident that led to the death of pupils of St. Gabriel Primary School. The school management was well aware that the school bus should not travel past 6 p.m. This accident occurred at exactly 11 p.m. which is past the 6 p.m. time set by the Ministry of Education, Science and Technology. Therefore, I submit that the school management and the police should be held responsible for the accident.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have spent your time well. The next Member on the Zero Hour statements is Member for Kajiado East but she is not in the House. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, this Member must be indicted. She stood on a point of order and read her statement. The substantive Speaker directed her to be here at 6.30 p.m. She cannot take this House for a ride. Members are playing around with the proceedings of this House. We need you to read the riot act so that a Member should never again leave the House after she requests to contribute on a certain matter. You should read it to her unless Hon. Emanikor is standing in for her.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, thank you for giving information to the House. The next Member is Member for Kajiado East. The substantive Speaker directed the Member to be here, but she is not present. Her statement is stood down. The next Member who has a Zero Hour statement is Member for Mwingi Central, Hon. Mutemi Mulyungi. He has a very special name which is not registered here.

INVESTIGATION INTO THE CAUSE OF SCHOOL BUS ACCIDENT IN MWINGI CONSTITUENCY

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Pursuant to Standing Order No. 44, I wish to make a Statement regarding the road accident which involved a truck and a school bus that was transporting pupils of St. Gabriel Academy in Mwingi Central Constituency, Kitui County on Saturday, 4th August 2018.

The pupils were returning from a trip in Mombasa when their bus collided with a truck at Kanginga bridge, about 1km from Mwingi Town on Thika-Garissa Road at around 10 p.m. and not 11 p.m. I was at the scene of the accident. Eight pupils died on the spot. Two others succumbed to injuries on their way to hospital while one died in the hospital. In total, 10 pupils died. Four pupils were referred to Kenyatta National Hospital (KNH) for specialised treatment. A total of 26 pupils were injured in the accident and treated at Mwingi Level 4 Hospital. I am aware that 23 of them were discharged. The rest remain admitted in hospital. Among the pupils who passed on, seven were from Mwingi Central Constituency, one from Mwingi North Constituency, another one from Manyatta Constituency and another from Rongai Constituency. The likely cause of the accident, after we went to the scene, was the narrow nature of the road where heaps of murrum have been left by the contractor who is repairing the road.

I implore on the relevant Government agencies and the Committee of the House to investigate this matter with a view to unearth the cause of the accident and put measures in place to avert a repeat of such unfortunate loss of young lives. Further, I urge both the national

Government and the county government to support the bereaved families during the funerals and even in footing hospital expenses. On 9th August, we will have a memorial service at Mwingi Central Constituency. I urge those who can manage to come and help us.

On my own behalf and the people of Mwingi Central Constituency, I wish to convey my heartfelt condolences to the bereaved families and friends. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I thank the Hon. Members who have stood pursuant to Standing Order No. 44 on the Zero Hour Statements. Hon. Members, I was asking about the Member for Kajiado East because the Statements from the Member for West Mugirango and Hon. Mulyungi are similar. We will debate them together. Member for Kajiado East, the directions were that she should be in the House at 6.45 p.m. for us to move a statement at Zero Hour which was on a different issue. We will debate the two together because both of them are on the safety of school children. Hon. Manje.

Hon. Joseph Manje (Kajiado North, JP): Hon. Temporary Deputy Speaker, I had come to purposely contribute to that Motion by Hon. Peris because she mentioned something but I do not know the situation.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The directions were that Hon. Peris is supposed to be in the House for us to prosecute her Zero Hour statement by 6.45 p.m. If she is not here, she will still have a chance to move her Statement at 6.45 p.m. We are debating the Zero Hour Statements by the two Members. I hope that it is clear.

For that matter, Hon. Members, please, let us have a minute of silence for those school children who perished in the tragic accident at Mwingi Central Constituency.

(The Members stood in their places and observed a minute of silence)

Thank you. We are now contributing on the two Zero Hour Statements which are on the safety of school children. The first one on my list is Edith Nyenze, Member for Kitui West.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary. I stand to condole with the families, the Catholic Church, the sponsor of the school, Kitui County and the country as a whole. It is extremely saddening that such young learners met their untimely death in a road tragedy when they had much hope, expectations and promise, especially for the families and for the country. I pray for strength for the families who were eagerly waiting for their children.

I also want to note that the school administrators could have done something more. In future, this should be looked into especially the fact that it was only one driver who drove the bus all the way to and from Mombasa. That is a very long journey. I know schools employ only one driver, but in future when they are going for such long trips, they should hire an extra driver. Imagine coming all the way from Mombasa with one driver. I guess when the accident occurred the driver was very tired and maybe all his passengers were asleep. Maybe he was the only one who was awake. In future, all laws should be enforced and they should include an extra driver.

I also note that the time of the travel was against the rules. I am sure they passed through sections where there were policemen and were allowed to pass at the wrong time.

Another thing I have noted is the narrow bridge. Roads in Mwingi and Kitui counties should be expanded because they are narrow.

With those remarks, may the good Lord rest the souls of the young ones in eternal peace and console the families and the school fraternity.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Mogotio.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. I also rise to contribute to the Motion on the accident which occurred in Mwingi. It was a very terrible accident and unfortunate loss of lives. I pass condolences on behalf of the people of Mogotio.

I think the accident was mainly caused by the status of the road. As we have been informed, the road was actually narrow. We call upon the Ministry and Kenya National Highways Authority (KeNHA) to make sure that such a road should have clear road signs. The contractors doing road construction should be cautions on roads and provide all the necessary signs to make sure that users of roads can safely do so. Drivers also should take caution especially at night whether they are transporting people or goods. They should do defensive driving at night so that we do not have loss of lives to this extent.

The laws in force that stipulate that school children should not travel at night should be enforced strictly so that they only travel at day time.

It is unfortunate that the accident occurred. I stand with the people of Mwingi in this particular incident.

Thank you.

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

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me also join my colleagues in sending my sincere condolences to the people of Mwingi Central, more so to the parents of the children who lost their lives and pray for those in hospitals to recover as soon as possible. At the same time, I extend my condolences to the people of West Mugirango through their MP who is here. They have also lost their children and at the same time lost a former Member of Parliament. On behalf of the people of Kitui Central and on my own behalf and my family, I send my sincere condolences.

This is not the time to blame, although I know there are people who are responsible for what has happened. It would be good for this House, if possible, either we have a select committee to look into this matter in detail or our Departmental Committee on Transport, Public Works and Housing creates time to look at what really happened. At the end of the day, it would be clear to us as a House and to Kenyans in terms of what happened and who was wrong. We have blamed the police who allowed the bus to move at night. We have also blamed the management of the school. It will be good if this matter is looked into in detail so that as Kenyans we are guided on who was on the wrong. As a way forward, nothing can be done by the House to restore the lives of those children. The truth is that they are gone and gone forever. But we can learn important lessons so that as we move into the future, we do not have a repeat of what has happened.

With those remarks, I say *pole* to all the families. Our prayers are with those in hospitals. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, as I said, the substantive Speaker had given Hon. Member for Kajiado opportunity to make a Statement at 6.45 p.m. It is now 6.46 p.m and she is not in the House, the Statement is stood down. I order that we carry on with debate on the two Zero Hour Statements by Hon. Muriuki and the Hon. Member for West Mugirango.

Hon. Member for Funyula.

(Statement by Hon. (Ms.) Peris Tobiko deferred)

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, on behalf of the people of Funyula Constituency, Busia County and on behalf of my own self and family, I send my sincere condolences to the families of the young souls that perished in the unfortunate road accident in Mwingi. I know it is painful for a parent to lose a Standard Eight candidate who is full of hope and expectations. It is sad. I sincerely commiserate with the family that lost two children: a boy and a girl. I feel sorry for them.

Indeed, accidents happen, but their history in this country point to a very worrying case. Many times they are caused by human error, sometimes due to mechanical failure and negligence by road contractors and all other road users.

In short, most accidents that occur in this country are preventable. I urge school administrators to be vigilant and careful in the way they hire, manage and treat drivers and the way they manage vehicles to ensure they are road worthy.

Our police service has had challenges through the years. It requires the intervention of Jesus Christ, the Lord to help us save the situation. If they enforce the regulations, they will ensure that school buses do not travel at night. The driver needs to know timing to ensure that they arrive in god time.

With those few remarks, I condole with the families.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Isiolo North, Hulufu Oda.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker. I would like to start by condoling with the families of the 10 pupils who lost their lives in the Mwingi accident.

School transport plays a very key role in the lives of our children while they are in school. I am sure most of us are parents. We also lead those who have children in school. We need to take safety of school children seriously. The Traffic Act of 2016 requires all school buses to be painted yellow. The purpose of painting them yellow is for vehicles providing school transport to be monitored easily. Of course, not all the schools have adhered to this requirement. I am aware that some people who provide school transport have gone to court. I feel it is not good. If you choose to provide transport for students, you should focus on that rather than providing services to other clients.

It is also important to realise that most of the accidents which have occurred in the recent past have occurred outside the stipulated time for transporting school children. Of course, the guidelines that exist require that school transport be done between 6 a.m. and 6 p.m. It is important that head teachers and school managements stick to this timeline.

On behalf of Isiolo North, I say *pole* to the parents who have lost their children.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, you will be speaking for two minutes each.

Member for Kitui East, Hon. Mbai Mbithuka.

Hon. Nimrod Mbai (Kitui East, JP): Thank you, Hon. Temporary Deputy Speaker. I stand here to share the pain with the people of Mwingi and the St. Gabriel fraternity for the loss of the innocent souls. On my behalf and the people of Kitui East, I join my brothers in Mwingi Central in condoling the families. It has been said that it is an accident. Accidents can be

prevented. Administrative measures have been taken to prevent accidents. They include painting school buses yellow and imposing a night travel ban for school children. One of the issues I would advise school administration and the Ministry of Education, Science and Technology to look into is the qualification of the drivers being employed by schools. An adult can judge the capacity and the capability of a driver and alight from a vehicle which is being driven dangerously, but a young child has no capacity to do that. Therefore, proficiency test for drivers being employed to drive school buses should be of a high threshold. This will save innocent souls.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Manje.

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to condole the family of pupils of St. Gabriel, Mwingi. Accidents are caused, they do not just occur. Drivers should take care, especially when they are carrying children. Drivers across the country are not following the laid down traffic rules. Even in normal situations, vehicles overtake carelessly. For example, in Nairobi, vehicles crisscross roads. That means the rules are not being obeyed. Also, head teachers should obey the directive from the Ministry that pupils should be carried between 6.00 a.m. to 6.00 p.m. If they are carried at night, they are at the mercy of what one of the Members said. I condole with the families who lost their loved ones. I also wish the ones in hospital quick recovery.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Seroney, Wiper nominated Member.

Hon. Sammy Seroney (Nominated, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity in order to pass a word of condolence to the families of those children who perished in a road accident in Mwingi Central. It is painful to lose a loved one, particularly a young one. In my observation, school managements need to consider the experience of drivers when employing. They should also not consider drivers who do not travel long distances. When they get an opportunity to drive, it is so difficult for them because they are not used to driving every day. They get tired. Sometime they do no sleep on time. They are overworked. There must be a time limit to be able to concentrate on the road.

The other problem is the contractors. Some contractors have turned out to be rogue. They do not put road signs within a construction area. For example, on Friday, I arrived home at 11 p.m. because of a contractor who could not provide a diversion. They had blocked all the roads. There is no diversion. Imagine if it was a school bus and there was rain. Accidents can easily occur.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Your time is over. Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I wish to pass my heartfelt condolences to the families, relatives and friends of the young ones who lost their lives in the grisly road accident. Road safety is extremely important. Unfortunately, as a country we are very reactive. Whenever things happen, we come together and shout as loud as possible. It is important that as we look at our loss, we figure out how to address the issue of road accidents. There are three key issues when it comes to road accidents.

The first one is drivers. How do we ensure that drivers are of the right temperament and have the right qualities? We have noticed that people who have gone through Form Four are the

ones who want to go and do driving for a few days – maybe, two weeks, and end up being given a driving job, which is a huge responsibility.

The other issue, of course, is the condition of our roads. The roads that we drive on have issues. Contractors do not always do a good job. Many times, you find chippings and skiddy roads. The other issue is the condition of vehicles. It is important that we address these issues, as a nation. I ask my colleagues not to crucify school transport unnecessarily because we are not very sure about what exactly happened. We do not want to start saying it was the driver or the school. It is important that we just say it was an accident. We will get a report on exactly what happened.

On the issue of time, which people keep talking about, time does not cause accidents. If you drive past 6.00 p.m., it does not mean that you will have an accident. We need to address these issues. We know that even our children in Nairobi sometimes go to school past 6.00 p.m. or 7.00 p.m. because of traffic jam. This is something that needs to be addressed.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Turkana County, Hon. Emanikor.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I will take one minute.

On behalf of myself and the people of Turkana, I condole and send our words of comfort and sympathy to the people of Mwingi and Kitui at large. As a mother, I put myself in the shoes of those mothers who were waiting for their children that evening only to be met by wails and screams only two kilometres away from home. It is so painful to lose young ones.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Janet, one minute.

Hon. (Ms.) Janet Sitienei (Turbo, Independent): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I would like to condole with the people of Mwingi. I feel pained because losing young people through a grisly road accident was very painful especially to me because at one time I lost a daughter through a bad road accident. I feel for them. I condole with the families. We feel and pray for them. At the same time, the school management should adhere to the timelines because of the safety of the children of this nation.

We also want to encourage school managers to follow the rules. The law enforcers should ensure that the road regulations are followed. Rules should be followed, especially on the roads. We have lost so many people because of road accidents.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Your time is up. The last one because of time is Hon. Maanzo, one minute. You are the last one on the request list.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you Hon. Temporary Deputy Speaker for giving me an opportunity. First, I want to condole with the people of Mwingi. Road accidents are caused by carelessness.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Maanzo, we are on West Mugirango because it was a Statement. We have a Statement in the Zero Hour from the Member for West Mugirango.

Hon. Daniel Maanzo (Makueni, WDM-K): We have to come up with a solution for this. In this case, the lorry driver was blamed and taken to court. That is not enough. We have to make sure children do not die on the roads and that drivers are competent enough, do not overwork and do not sleep on the way.

I thank you, Hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Members, this was Zero Hour where Hon. Vincent Kemosi, Member of Parliament for West Mugirango and the Member for Mwingi Central, Hon. Mulyungi, made statements on safety of school children.

Hon. Members, the time being 7.01 p.m., the House stands adjourned until tomorrow Wednesday, 8th August 2018, at 9.30 a.m.

I thank you all.

The House rose at 7.01 p.m.