

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 18th June 2015

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

HALTING OF DAM CONSTRUCTION ALONG SUO RIVER

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, Standing Order No. 225(2)(b) requires that the Speaker reports to the House any petitions other than those presented through a Member. I, therefore, wish to convey to the House that the Office of the Speaker has received a Petition signed by one Geoffrey Elphas Kokonya, on behalf of Bukhayo Council of Elders, regarding construction of a dam along Suo River, among other prayers. The Petitioner is praying that the National Assembly recommends that the Ministry of Environment, Water and Natural Resources halts the construction of the water dam along the Suo River wetland as this will lead to water shortage in Busia Town and its environs.

Hon. Members, this Petition stands committed to the Departmental Committee on Environment and Natural Resources for consideration. The Committee is required to consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order No.227(2).

Thank you.

On petitions again, Hon. Members, we have received a request from Hon. (Dr.) Chris Wamalwa. Please, proceed and prosecute your petition.

NULLIFICATION OF APPOINTMENT OF MABONDE LOCATION CHIEF

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Speaker. I rise to present the following Petition on behalf of the residents of Mabonde Location of Kiminini Constituency over the deployment of the area chief.

I, the undersigned, on behalf of the residents of Mabonde Location of Waitaluk Ward, Kiminini Constituency, Trans-Nzoia County, draw the attention of the House to the following:-

(i) That, administration unit in locations, in particular chief offices, are very important in the grassroots as they facilitate various services required by the residents, among them issuance of national identification cards;

(ii) That, chiefs and assistant chiefs appointed to represent a location or sub-location must be residents of that particular area;

(iii) That, in 2014, the former chief of Mabonde Location was promoted to the position of Assistant County Commissioner after attaining his degree;

(iv) That, in May 2015, a chief by the name of Mr. Dennis Ikonga was appointed as the Chief of Mabonde Location without due diligence, noting that the said chief is not a resident of Mabonde Location;

(v) That, the petitioners lodged several appeals with the County Commissioner of Trans-Nzoia County for intervention regarding the matter but efforts to resolve the matter have been futile;

(vi) That, multiple follow-ups by the residents of Mabonde Location have not received any redress to date;

(vii) That, the matter presented in this Petition is not pending in any tribunal or court of law.

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

(a) Ensures that the Petitioner's plight is addressed and ensures that the people of Mabonde Location get a chief from the locality appointed.

(b) Makes any other order or direction that it deems fit in the circumstances of the case.

Your Petitioners will ever pray.

Hon. Speaker, I request that you allow hon. Members from that area to ventilate on this matter. That is because people have been demonstrating over it. As we speak, the Office of the Chief at Mabonde Location has been locked and its access route blocked. There are demonstrations all over. There are purported allegations of corruption involving the Assistant County Commissioner. We have tried to talk to them but nothing is being done. People are crying and it is my humble request that you allow hon. Members from the area to ventilate on the matter.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): It is okay! I will give a chance to two more Members, starting with Hon. Janet Wanyama Nangabo representing Trans-Nzoia County. I had seen a request by Hon. Wafula of Saboti but it looks like he has just removed his card. Those are the Members from that particular region.

Hon. (Ms.) Wanyama: Thank you, Hon. Temporary Deputy Speaker. I just want to support Hon. Chris Wamalwa on the Petition. It is true that the people from Trans-Nzoia County and, especially, those in Mabonde Location are in trouble. That is because they had asked for a chief and an assistant chief from their area. Last time we had the same problem. Therefore, what Hon. Wakhungu has said, on behalf of the Petitioners, is true. The Chief who has been appointed does not hail from Mabonde area. The residents of that location are crying, so that this House can assist them.

We have been having a lot of problems in Trans-Nzoia County. With regard to boundaries, they were given to certain areas. They dealt with the community from that area. Trans-Nzoia County is a cosmopolitan place and we should balance all the tribes that are found there.

Hon. Temporary Deputy Speaker, we need your direction on this issue, so that the residents of Mabonde can enjoy the fruits of this country.

The Temporary Deputy Speaker (Hon. Cheboi): Well, I will obviously not be giving any direction. I have already directed the matter to the relevant committee. The Committee will consider the matter and bring a report to the House.

Let us hear Hon. Wafula, after whom I might give chance to an extra Member, who will be from a different region. This is something that is fairly generalized.

Proceed, Hon. Wafula.

Hon. Wekesa: Ahsante sana, Mhe. Naibu Spika wa Muda, kwa kunipa fursa hii ili nami niunge mkono malalamishi ambayo yamewasilishwa na Mhe. Chris Wamalwa Wakhungu. Sisi sote tunajua kwamba Serikali na watu wetu wanategemea machifu na manaibu wao kwa kazi nyingi, kama vile kupata vitambulisho na mambo mengine. Hao ndio wanawatambua wakazi wa sehemu zao kwa sababu wanakaa nao.

Maandamano ambayo yalikuwa kule Mabonde yalisababisha hasara kubwa. Mali nyingi iliharibiwa. Kwa hivyo, ni muhimu machifu wakiajiliwa ama kupandishwa vyeo, wawe wanatoka sehemu ambazo wamezaliwa.

Kwa hayo machache, naunga mkono.

The Temporary Deputy Speaker (Hon. Cheboi): Top on the list is the Member for Juja. He will be the last person to speak on this particular Petition.

Hon. Francis Waititu: Thank you, Hon. Temporary Deputy Speaker, for allowing me to be together with my brother, Hon. Chris Wamalwa. This has been a problem not only in their county, but in other counties as well. If you take the case of Juja Constituency, which is in Kiambu County, I have problems with chiefs and assistant chiefs. Ruiru District is between two districts - Thika District and Kiambu District.

Thika Constituency has two assistant county commissioners while Juja does not have even an assistant county commissioner. The Chief and Assistant Chief in that area only gave plots, then they were promoted. We have so many learned young men who were born there, and who live there. The residents of some wards in Juja Constituency have been there for only five years. They bought land and settled there. However, today, they are the chiefs and assistant chiefs.

So, I think it is in order - when the county commissioners are sitting - to verify and vet the chiefs and assistant chiefs. Members of Parliament and county assemblies should be included so that they can understand who is given which position. I really agree with my brother Hon. Chris Wamalwa. I thought I was the only one who had a problem in Juja. But I can see it is cross-cutting.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. That is it. We will go to the next Order.

PAPERS LAID

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to lay the following Papers on the Table of the House today 18th June, 2015:-

The Budget Implementation Review Report for the Third Quarter for the Financial Year 2014/2015 from the Office of the Controller of Budget.

The Transition Authority Progress Report for the Month of January 2015.

The Report of the Auditor-General on the Financial Statements of the Judiciary for the year ended 30th June 2014, and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Examination and Audit of the Revenue Statement of the Judiciary for the year ended 30th June 2014, and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Ministry of Sports, Culture and Arts for the year ended 30th June 2014, and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Roads and Drains Account under the Ministry of Land, Housing and Urban Development for the year ended 30th June 2014, and the Certificate of the Auditor-General therein.

Lastly, the Report of the Auditor-General on the Financial Statements of the National Humanitarian Fund for the year ended 30th June 2014, and the Certificate of the Auditor-General therein.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the next one by the Vice-Chairman of the Departmental Committee on Transport, Public Works and Housing, Hon. Mahamud.

Hon. (Eng.) Mahamud: Thank you, Hon. Temporary Deputy Speaker. I beg to lay the following Papers on the Table of the House today, 18th June 2015:-

The Report on the consideration of the Convention for the Suppression of Unlawful Acts relating to the International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft.

The Report on the consideration of Bilateral Air Services between the Government of the Republic of Kenya and the Governments of the Republic of Ghana and Niger.

The Report on the Petition regarding the erection of pumps and foot-bridges at the Kangoro Bus Stop on the Embu Highway presented on the behalf of the Petitioners by Hon. Onesmus Muthomi Njuki, the MP, Chuka/Igamba-ng'ombe.

Thank you.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON RATIFICATION OF CONVENTION FOR
SUPPRESSION OF UNLAWFUL ACTS

The Temporary Deputy Speaker (Hon. Cheboi): On this particular one, we have Hon. Mahamud again.

Hon. (Eng.) Mahamud: Hon. Temporary Deputy Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Transport, Public works and Housing on the consideration of the Convention for the Suppression of Unlawful Acts relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft laid on the Table of the House today, 18th June 2015 and, pursuant to Section 8 of the Treaty-Making and Ratification Act 2015, approves the ratification of the Convention for the Suppression of Unlawful Acts relating to International Civil Aviation and the Protocol Supplementary to the Convention of Seizure of Aircraft.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, what is it Hon. Mahamud? Have you done your bit?

ADOPTION OF REPORT ON BILATERAL
AIR SERVICES AGREEMENT

Hon. (Eng.) Mahamud: I have another one, Hon. Temporary Deputy Speaker. I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Bilateral Air Services Agreement between the Government of the Republic of Kenya and the Governments of the Republics of Ghana and Niger laid on the Table of the House today, 18th June 2015 and, pursuant to Section 8 of the Treaty-Making and Ratification Act 2012, approves the Ratification of the Bilateral Air Services Agreement between the Government of the Republic of Kenya and the Governments of the Republic of Ghana and Niger.
Thank you, Hon. Temporary Deputy Speaker.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 23RD TO 25TH JUNE 2015

The Temporary Deputy Speaker (Hon. Cheboi): On Statements, do we have any? I was expecting Hon. Jamleck to make a Personal Statement. He had made that request but I cannot see him.

Hon. Duale, the Leader of the Majority Party, I thought you were supposed to make a Statement on what we are expecting from you next week, but you have kept quiet. I thought you probably---

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, Hon. (Ms.) Kajuju was asking the whereabouts of Hon. Moses Kuria and I said that he is there. Today he is present. She was looking for Moses.

The Temporary Deputy Speaker (Hon. Cheboi): Well, if it is Hon. Kajuju, proceed.

Hon. A.B. Duale: Yes! He is here and he is very fine.

Hon. Temporary Deputy Speaker, pursuant to Standing Order No.44(2)(a), on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding the business appearing before the House the week beginning Tuesday, 23rd June 2015.

As usual, the HBC met on Tuesday this week to give priority to business that will appear next week. The HBC has scheduled several pending Committee reports and seven sessional papers.

On Tuesday next week, the House will consider the Second Reading of the following Bills:-

(i) The Private Security Regulation Bill, 2014.

(ii) The Health Bill, 2015.

(iii) The Business Registration Bill, 2015.

(iv) The Special Economic Zones Bill, 2015.

(v) The Warehouse Receipt Systems Bill, 2015.

The House will consider in the Committee of the whole House:-

(i) The Transfer of Prisoners Bill, 2014.

(ii) The Prohibition of Anti-Personnel Mines Bill, 2014.

(iii) The Fisheries Management and Development Bill 2014.

The HBC will also give priority to the consideration of the Appropriation Bill, 2015, which ought to be passed on or before 26th June 2015, which is only a week away. This is in accordance with the Public Finance Management Act (PFM) and our own Standing Orders. Should the House not meet this timeline, then we will have to go the route of the Vote of Account meaning giving Ministries half of the funds proposed to be allocated.

Also scheduled for consideration next week is the Supplementary Appropriation Bill, No.2 of 2015 which ideally should have been passed at the end of this Financial Year. Regarding Cabinet Secretaries appearing before Committees on Tuesday, 23rd June 2015, the schedule is as follows:-

The Cabinet Secretary for Lands, Housing and Urban Development will appear at 10.00 a.m. before the Departmental Committee on Lands to answer Questions from Hon. Andrew Mwadime, Hon. Wilberforce Ottichilo and Hon. Philip Rotino.

The Cabinet Secretary for Labour, Social Security and Service--- This CS did not turn up on Tuesday this week. We expect that CS or the acting CS to appear before the Committee next week. He will appear before the Departmental Committee on Labour and Social Welfare to answer Questions from Hon. Kamoti Mwakale and Hon Joe Mutambu.

The Cabinet Secretary for Devolution and Planning will appear at 11.30 a.m. before the Departmental Committee on Finance, Planning and Trade to answer to questions from Hon. Francis Mwangangi, Hon. Ronald Tonui and Hon. Abdullswamad Shariff Nassir.

Finally, the HBC will meet on Tuesday 23rd June 2015 at the rise of the House to consider the business for the rest of the week. At this juncture, with your permission, I want to

thank all hon. Members. I wish, particularly the Muslim Members of this House, *Ramadhan Kareem and Saum Makbul*. During this Holy Month of *Ramadhan*, the Muslim Community should pray for the nation and pray for each and every one of us. They should also pray for the National Assembly. *Ramadhan Kareem and Saum Makbul*.

I beg to lay the Statement on the Table.

(Hon. A.B. Duale laid the document on the Table)

The Temporary Deputy Speaker (Hon. Cheboi): What is your point of order, Hon. Gumbo?

Hon. (Eng.) Gumbo: On a point of order, Hon. Temporary Deputy Speaker. I want to thank the Leader of the Majority for laying the agenda of the House.

The Temporary Deputy Speaker (Hon. Cheboi): That is obviously not a point of order.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, the point of order is that last week, the Leader of the Majority gave the agenda of the reports that were to be looked at by this House. As the Public Accounts Committee, I am concerned that some of our reports have been pending before the House Business Committee for a long time. I intended to raise it last week but as you know, we had special circumstances. I would just request that, as the House Business Committee considers their matters, to adopt a policy of “first-in-first-out.”

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Gumbo, that is a perfect point of order. Which are the reports that are pending?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, we have the Report, for example, on the hire of the jet by the Office of the Deputy President, which has been pending since early last year. That Report was tabled by the Committee that was before me. We really need to debate that Report and dispose of it. That is the particular one. In general terms, if we could have a way where reports are given priority in the order in which they are tabled here, it would help us to set the agenda and help the Members to prepare for the debate.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Duale, do you wish to respond to that?

Hon. A.B. Duale: Yes, Hon. Temporary Deputy Speaker. The House Business Committee has decided - and I am sure the Minority Whip and the other Members of the House Business Committee including Hon. Kajuju, Hon. Cheptumo and Hon. Mahamud will agree with me - that we have slotted reports of committees for particular afternoons. That is why this week we have disposed of three reports, two of them from the Public Investments Committee. Yesterday, we did two reports from the Lands Committee. I am sure we will put more in the pipeline.

I want to ask the House Business Committee that we put the “Hustlers” Jet Report first. It is a small Report, but it is becoming a political potato. Every time people run away with it. I can assure the Members that the “Hustlers” Jet Report will be debated as soon as possible and as early as next week. I will not say any more because I am fasting.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members should be informed that it has been agreed that reports will be debated for one hour. We want to dispose of as many reports as possible. So, the Members should be ready to move very quickly.

I will give a chance to Hon. Musyimi to respond to that, so that we do not lose out on the response. If there will be any points of order, I will entertain them after Hon. Musyimi has finalised.

Hon. Musyimi: Most obliged, Hon. Temporary Deputy Speaker. As indicated by the Leader of the Majority, the Budget and Appropriations Committee has concluded with the Appropriation Bill, 2015. This Bill has since been forwarded to the Government Printer for publication. For the avoidance of doubt, the Bill will be published showing the various allocations made by this honourable House to the respective Votes and programmes during the last Special Sitting of the House.

I want to report that the Committee has since received a letter from the National Treasury requesting for amendments to the said Bill. The amendments affect Ministries and Departments under the purview of the following Departmental Committees:-

Agriculture, Livestock and Co-operatives, Finance, Planning and Trade, Transport, Public Works and Housing, Education, Research and Technology and Environment and Natural Resources.

In keeping with the requirements of the Public Finance Management Act, 2012 and our Standing Orders, my Committee, in its meeting held today, 18th June 2015, requested that the various proposed amendments be referred to the relevant Departmental Committees for review and consideration. In this regard, I request you to allow me to table the letter containing the amendments for conveyance to the relevant Departmental Committees even before the Bill is read the First Time in view of the tight timelines.

May I also request, through you, that those Committees submit their recommendations to the Budget and Appropriations Committee on or before Tuesday, 23rd June, 2015.

(Hon. Musyimi laid the document on the Table)

The Temporary Deputy Speaker (Hon. Cheboi): Before we proceed, I want to recognise the presence of students at the Speaker's Gallery, the ones in beautiful games attire, from the ACK, All Saints Kebulonik Primary School from Mosop Constituency, Nandi County.

At the Public Gallery, we have Moi Siongiroi Girls High School from Chepalungu, Bomet County. We also have Kathituni Boarding Primary School from Chuka, St. Joseph's Boarding Primary School from Magumoni, Tharaka Nithi County, Manunga High School from Naivasha, Laini Saba Primary School from Nairobi and Mount Kinangop Girls High School from South Kinangop. They are all welcome to the National Assembly.

(Applause)

I can see that Hon. Jamleck Kamau, the Member for Kigumo, is here. He had made a request specifically to give a Personal Statement. I will give you the opportunity now, Hon. Kamau.

PERSONAL STATEMENT

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VOTE ON NOMINATION OF MONICA JUMA FOR POSITION
OF CABINET SECRETARY

Hon. Kamau: Thank you very much, Hon. Temporary Deputy Speaker. I rise under Standing Order No.84 to make a Personal Statement. This is with respect to the nomination process that was before this House, of Monica Juma.

First of all, I would like to say that it is the right of every Member of this Parliament to vote whichever way he or she wants. That right is in the Constitution and Standing Orders. On that day, I rose to second the Motion by Hon. Duale on the extension of time. When the voting took place, I do not understand how it happened, but I was seen like I voted against the same Motion that I had seconded.

Hon. Duale can even confirm that. I was with him behind there when, apparently, the Bars were closed and I could not vote. It is possible that somebody, indeed, voted for me. I want to set the record straight that after I seconded that Motion, my conscience and integrity could not allow me to vote against the same Motion.

I just wanted to issue that Personal Statement and assure the entire House and the nation that I did not vote. I have seen quite a number of people trying to say that I seconded the Motion and then voted against it. I want to make everybody aware that, indeed, I never voted, but somebody somewhere voted. I want to ask the Leader of the Majority Party or the leadership of the House to find out exactly who voted against the Motion on my behalf.

The Temporary Deputy Speaker (Hon. Cheboi): First, I will not open that to debate. Secondly, it is needless for the Majority Leader to corroborate your situation. Having looked at the clips it is, indeed, true that Hon. Jamleck Kamau was out of the Chamber at that particular point in time. Again, we cannot specifically point out that there is any Member who could have used your card to vote for you.

That is because the system in this House is such that it takes the picture of this place generally. It is not specific to particular sitting areas of Members. However, a very critical bit of what you have said is the fact that the Speaker has, many times, asked Members to leave with their cards. It is unfortunate that we are not able to pinpoint any specific person. However, as you have said, you could have voted one way or the other and it would not have been taken against you. You have confirmed that, at that particular time, you did not vote. That is taken by the House. That matter should be left to rest there. We really do not want to open it up for debate. You have said that you did not vote. It has been proved that you were actually out of the Chamber. So, you did not vote. That marks the end of that particular issue. We will stop at that. I will not take any points of order on that particular one.

Hon. Members: On a point of order.

The Temporary Deputy Speaker (Hon. Cheboi): We will not allow that. It was a personal statement. You are overruled, hon. Members. Let us proceed. I am not taking any points of orders on that particular one. I take what the hon. Member has said. He has said that he did not vote. That marks the end of it. Hon. Members, you cannot tell me that you want to hear anybody seconding a Member on a Personal Statement!

Next Order.

MOTIONS

REPORT ON IMPLEMENTATION OF
HOUSE RESOLUTIONS

THAT, this House notes the Report of the Committee on Implementation on Status of Implementation of House Resolutions from May 2013 to February 2015, laid on the Table of the House on Thursday, 2nd April 2015.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, as I said earlier, this particular Motion had been debated and what remained was the Question to be put. I will proceed to put the Question.

(Hon. (Ms.) Tuya on 16.6.2015)

(Resumption of Debate interrupted on 17.6.2015)

(Question put and agreed to)

ADOPTION OF REPORT ON DISPUTED KAREN LAND

THAT, this House adopts the Report of the Departmental Committee on Lands on the disputed Karen Land (LR 3586/3), laid on the Table of the House on Thursday, 11th December 2014.

The Temporary Deputy Speaker (Hon. Cheboi): What remained on this particular one was for the Question to be put. Order, hon. Members! I will proceed to put the question.

(Hon. Mwiru on 17.6.2015)

(Resumption of Debate interrupted on 17.6.2015)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairman]

(Hon. Kajwang') took the Chair]

AMENDMENTS RECOMMENDED BY H.E. THE PRESIDENT
TO THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL

The Temporary Deputy Chairman (Hon. Kajwang'): Order! Can I have some order in the Chamber? I see three ranking Members sharing felicitations. Member for Nairobi, ask your colleague to resume her seat. That is okay. There is this Member in the gangway who is comfortably handling his phone. Order, nominated Member, Hon. Wangamati! Can you tell that Member to get back to his seat? Sit down.

Member for Rarieda, what is out of order even before we begin?

Hon. (Eng) Gumbo: Thank you hon. Temporary Deputy Chairman. We are about to embark on the Committee of the whole House to mainly deal with Memoranda from His Excellency President.

With regard to the matter we are just about to discuss, particularly the Public Procurement and Asset Disposal Bill and the Public Audit Bill, but more particularly the Public Audit Bill, I would kindly request that you consider giving us more time so that this House can make an appeal to the President to reconsider this Memoranda. I am saying so---

The Temporary Deputy Chairman (Hon. Kajwang'): Order, Member for Rarieda! Are you not pre-empting debate? Are you not presupposing that the Chair is oblivious to the fact that you need enough time to debate any particular thing?

Hon. (Eng) Gumbo: Hon. Temporary Deputy Chairman, I wish you could just give me the microphone.

The Temporary Deputy Chairman (Hon. Kajwang'): No. Let us first of all go this way so that we are in order. Resume your seat. Let me announce for the HANSARD that this is the Committee of the whole House convened to consider the amendments recommended by His Excellency the President to the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014). Having announced that, Member for Rarieda, you now have something to talk about. You cannot talk about anything in the void before we begin an agenda. There must be an agenda before us. So, can you expound on what you are saying?

Hon. (Eng) Gumbo: Hon. Temporary Deputy Chairman, with utmost respect to His Excellency the President, I have just looked at the recommendations that have been given by the President and it is my submission that some of the recommendations actually bring constitutional conflicts. I thought that it would be good if we would get more time so that--- I am particularly concerned with the matter we are going to consider under Order No. 10 (2). In his recommendation--

The Temporary Deputy Chairman (Hon. Kajwang'): Order, hon. Gumbo, Member for Rarieda! You are a ranking Member. The agenda before us is to consider the Public Procurement and Asset Disposal Bill. When it comes to where you think your interests lie, you will raise it when that agenda is before the House. Do not pre-empt debate in this House. Just hold on and the Chair will give you as much time as you need to ventilate on whatever it is that you want to ventilate.

Hon. Members I want to remind you about the provisions of Article 115 of the Constitution. Each one of you must know what that Article is saying, the voting threshold and things that you need to know as you consider the amendments that have been proposed by His Excellency the President. With that background, we want to begin with the Public Procurement and Asset Disposal Bill, National Assembly Bill No. 40 of 2014.

Clause 51

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 51(3) of the Bill be amended by inserting the words “and licensed” immediately after the word “registered”.

The President is just adding an extra word “licenced”.

The Temporary Deputy Chairman (Hon. Kajwang’): Leader of the Majority Party, that is very brief. You are economical with words. Are you able to bring these Members to speed so that we understand exactly how the amendment by the President will impact on the legislation?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, the amendment is very simple. There was a word “registered” in that Clause. So, the President is just adding “licensed” to cover more people.

The Temporary Deputy Chairman (Hon. Kajwang’): All right. That is his explanation.

(Question of the amendment proposed)

Chair of the Committee, can you press your intervention button so that we are able to fish you out? Yes, please.

Hon. Langat: Hon. Temporary Deputy Chairman, thank you very much. My Committee considered this amendment earlier today in the morning. We agreed with the President that we carry the amendment. This section deals with procuring agents for the Government. It provided that those agents must be registered. But this House had passed an amendment to delete the words “registered” and “licensed”. The argument of the President says other than being registered, they must be licensed so that they can be monitored and controlled. They can also be subjected to continuous control and monitoring, other than registering. You will also register their names and other details, but licensing means that you will check further. That is the reason and the Committee agreed with the President on that.

The Temporary Deputy Chairman (Hon. Kajwang’): All right. I think that expands it enough for Members to follow where we are. I see many requests, but I am not sure whether they are for this particular amendment that we are looking at. So, if any of you wants to be recognized, would you, please, put on your intervention button? That way, I am able to see you more. Member for Kibwezi East and then Member for Kitui Central in that order. I see your interventions.

Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Chairman. I stand to support the recommendation by the President to amend and add the word “licensed” after “registered”. We have procuring agents who can be registered and not licensed. This is welcome to the House

and to the Bill. Just like the way we have lawyers, you can be registered but not licensed. This is valid. It is welcome and I support.

Hon. Mulu: Thank you, Hon. Temporary Chairman. I also want to support this amendment. I think the import of this amendment is that those procuring agents are going to have a very big responsibility and registration is not enough. I think what the President is saying is this: Once you license, to some extent you must also make them confirm their competence in terms of what they will be doing. So, I want to support. This is an important amendment.

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

(Clause 51 as amended agreed to)

Clause 124

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 124 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause:-

Selection method for Request for proposals	(4). Subject to the foregoing provisions of this section, in the evaluation of tenders by public entities, the criteria for assessing the technical and financial capability of the tenderers shall as may be prescribed by the accounting officer in the tender documents.
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Hon. Temporary Chairman, if you remember what the House passed - the other House, the Senate – it said that it should be 50/50. The Senate brought an amendment for 50/50. I want to make it very clear that Hon. (Eng.) Gumbo may have all the technical and financial capability, but in this case, where you have the technical being 80 per cent evaluated, the financial being 20 per cent bit is also being evaluated. That discretion should be left to different projects and different accounting officers. I think that is what the President has said and this is the wish of the House and that Committee. So, we do not want to dwell much on this. It was our original---

(Hon. Abass crossed the Floor without bowing to the Chair)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Abass, how have you come from the left side of the Chair and you are now at the right side of the Chair? I know you are so excited to talk to the Chairman of the ruling party, but you must go by the rules of this House before you talk to the Member.

Hon. A. B. Duale: Hon. Temporary Deputy Chairman, you know the Chairman of TNA or the Jubilee Coalition is very popular. So, Members are flying when they want to see him.

This was National Assembly and Committee’s original amendment. The President has returned the amendment and the justification is very clear.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): When I see ranking Members making voice calls so as to confuse the Chair, it is very unfair. I have to propose a Question before you can be able to debate. Chair of the Committee, let us, first of all, hear you.

Hon. Langat: Hon. Temporary Deputy Chairman, the Committee looked at this and supported the President's recommendation. This was also a big issue prior to the passing of this Bill in this House. The question was whether we should make it 50/50 for both technical and financial evaluations. This was a proposal from the Senate which went for mediation and we had to climb down to accommodate our brothers in the other House. This is an opportunity to correct the mistake. You cannot put in law that it should be equal. The valuation process depends on situations. So, the Committee supports the recommendation by the President.

Hon. Nyamweya: Thank you, Hon. Temporary Deputy Chairman. I stand to oppose this amendment and I have reasons why I am saying that.

The Temporary Deputy Chairman (Hon. Kajwang'): To support this amendment or to oppose it?

Hon. Nyamweya: I am opposing it.

The Temporary Deputy Chairman (Hon. Kajwang'): Oppose. Yes.

Hon. Nyamweya: I have the reasons for doing so. Hon. Temporary Deputy Chairman, this will give room for wheeler-dealers to come into the market. When there is an open tender – and I want to give the case of Hazina Towers, which is a living example – the procuring entity can sit with the wheeler-dealers and come up with certain technical specifications which no other bidder will be able to meet, except one person. So, it is a dangerous move if we pass this. If we pass it, it means that the people who have interest will determine how that document is framed. Therefore, there will be no fair play in that kind of evaluation because one can decide to go financial. You could look for a company with resources. For sure, they know that if it is a construction company, somebody can come and tell the tenderer to show financial value of Kshs10 billion. If he does not provide that, he is kicked out. Therefore, we will not be helping this country. All the effort we have put in this Bill will come to a nullity. This is going to set a very dangerous precedent for this country if we allow this kind of amendment to pass through. It looks very innocent but how about its implementation? That is the issue here. How do you implement it? People with deals will come. I have given you an example of Hazina Towers where they clearly decided to put a financial aspect to be more important than any other thing. So, Members, it is upon us to see whether we want to help this country and whether we want to fight corruption. If we allow this, we will be perpetuating corruption in this country.

Thank you.

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Igembe Central.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Chairman. I rise to support this amendment by His Excellency the President. I am a Member of the Committee. Initially, when this matter went for arbitration, we got a lot of pressure on it. But we ceded because of other issues. It has, however, come back to us again. I support the same and feel that not all procurements are of the same nature. Every procurement should be looked into on its own merit and the prevailing circumstances, situations and the monies concerned. If we put it at 50/50 that will be dictatorship because somebody could be financially stable but on the other side, he is not capable technically. If we leave it to the accounting officer to procure as per the given

circumstances, it will be prudent and uniform. It will give everybody an opportunity to get into clean business.

I support.

The Temporary Deputy Chairman (Hon. Kajwang'): All right. Could I hear voices from outside the Committee? Members of the Committee, you have discussed this thing for a very long time. There is a ranking Member on my right here, but I do not see him on my intervention button. I do not know what happened to it.

An hon. Member: Hon. Temporary Deputy Chairman, it is like you have given me the microphone.

The Temporary Deputy Chairman (Hon. Kajwang'): No. Just a minute, please.

Hon. (Eng.) Mahamud: Hon. Temporary Deputy Chairman---

The Temporary Deputy Chairman (Hon. Kajwang'): Make it very short, please.

Hon. (Eng.) Mahamud: Hon. Temporary Deputy Chairman, I will make it short. I support the amendment by the President. Clause 124 of the Bill requests for proposals from qualified persons. It is not tenders. We are talking about request for proposals from experts. Experts will bring their submissions in two envelopes; one technical, and the other financial. So, what is proposed here is that the waiting should not be equal the way the Senate has done. We left it to the Accounting Officer to develop that criterion, which is quite normal. So, it is not the tenders that we are talking about but rather, we are talking about requests for proposals which have financial and technical implications.

Thank you.

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Kiminini.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. I am happy that the engineer has clarified because it was bringing a lot of confusion. Otherwise, I was opposing. After that clarification, I am supporting it.

Hon. Temporary Deputy Chairman, it is obvious that there is no way you can put technical score at the same level with financial score. When you look at the opportunity cost, it is totally different. Even in the world of research, if you are doing a research that is scientific in nature, you find that the confidence interval is normally very high because of the opportunity cost. However, in this case, if it is an issue of expression of interest, you have obviously set a criterion and people have met the threshold of the technical requirements. Now, you are going to the second phase of requirement for proposals from the people who have met the threshold. In this case, we do support. My only worry is this: If you leave it at the discretion of the accounting officer--- We know very well that there is a lot of corruption in procurement. If it is a Government tender which requires billions of money, those people could have a conspiracy. That is my worry. They might collude and put it at their discretion for purposes of, maybe, fixing that particular person from China Wu Yi, or wherever. That is my only worry. So, unless we come up with some regulations that are going to check this issue of leaving it at the discretion of the accounting officer, we will not have done anything to help. Otherwise, I support after the explanation from the engineer.

I support.

The Temporary Deputy Chairman (Hon. Kajwang'): The last one on this is the Member for Ugenya. Please, make it very short.

Hon. Ochieng: Thank you very much, Hon. Temporary Deputy Chairman---

An hon. Member: One from this side!

The Temporary Deputy Chairman (Hon. Kajwang’): Which is “this side”? The Standing Orders do not know “this side” my friend. There is only the majority side and the minority side. Let me go back to where I was.

Member for Ugenya, please.

Hon. Ochieng: Thank you very much, Hon. Temporary Deputy Chairman. You know, even the President is from the majority side. So, they should not want to speak when the President has already spoken. Sometimes, it is always good--- The law says that when the President refers a matter to this Assembly, he gives reasons. I am so convinced about the reasons given by the President. We live in this country. There are some contracts that money is not the problem. So, you cannot talk about equal weight. Most of the time, what you want to do is delivery. For example, in those days when we had local contractors tarmacking roads, someone would take 20 years to do a road and yet, another person would take one year only. If you were to follow what the President is saying in his Memorandum, parameters always differ depending on a case by case basis. I want to agree with him on that.

Secondly, the idea that this will be prescribed by the accounting officer in the tender documents for me is good enough. Once it is prescribed in the tender document, then it cannot be changed subsequently. The best thing to do is that when we appoint accounting officers, we should be clear that we appoint them to act according to the law and we appoint them knowing that they know what to do. So, we cannot always start everything assuming that someone will abuse it. We should start by giving the officers we entrust the benefit of the doubt.

I support.

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

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

(Clause 124 as amended agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): Mover, do I hear you on a point of order?

Hon. A.B. Duale: No, I am moving. Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Memorandum from His Excellency the President on Reservations to the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): Let us now proceed to the next Order in the Order Paper.

Hon. Members, let us re-order the sequence of the considerations and take---

Hon. Sakaja: On a point of order!

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Sakaja, allow the Chair to finish his job then I will allow you to raise the point of order. So, we want to re-schedule (ii) so that we consider it after (iv). Therefore, we will now be considering (iii).

Before we go to that, let us hear what the nominated Member has in mind.

Hon. Sakaja: Thank you very much, Hon. Temporary Deputy Chairman. Kindly indulge me. The reason I have insisted on this point of order is a matter of interest to many Kenyans because of ambiguity. I would like to clarify one or two things before moving to the next Order because this is about the Public Procurement and Asset Disposal Bill amendments.

If you remember well, there were two Bills that came before the House. One was my original amendment to the Public Procurement Bill, 2005 which secured a lot of gains for the youth, women and people with disability of this country with respect to 30 per cent procurement policy. Many have been asking why it was returned and if those gains have been locked in. I would like to assure Kenyans that the reason that Bill was returned initially was because of this new one which has fully catered for all those interests of the youth, women and persons with disability. The 30 per cent procurement policy is there. In addition, we have set up a secretariat that will monitor and ensure that county governments and the national Government are giving the youth, women and persons with disability the tenders as prescribed. So, I wanted to clarify that to all those who have been worried. Many have come to my office and others have called me from the women and youth movement. I want to confirm that even as we have approved the reservations of the President, those gains are secure and have been locked into this Bill.

Thank you for your indulgence, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): All right. Thank you for those clarifications. Let us move to amendment (iii) as recommended by His Excellency the President; the Central Bank of Kenya (Amendment) Bill, No.32 of 2014. Let us start.

Hon. Members, this is a Bill with two clauses - the title and Clause 2. The President is seeking to amend Clause 2 of that Bill. The consequence is that the only thing which will be left of it is the title. When it is the title, it is a head without a leg and so, it cannot stand on its own. So, I think you need to know that as we proceed. Let us begin.

AMENDMENTS RECOMMENDED BY H.E. THE PRESIDENT
TO THE CENTRAL BANK (AMENDMENT) BILL

Clause 2

The Temporary Deputy Chairman (Hon. Kajwang’): The Mover, who is the Leader of the Majority Party, do you have this?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, you have disorganised me. I was going through the sequence.

The Temporary Deputy Chairman (Hon. Kajwang’): We have re-ordered. We are on the Central Bank (Amendment) Bill.

Hon. A.B. Duale: Most obliged. Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 2 be amended by deleting Subsection (2).

Subsection (2)(1) of the Bill provides for the amendment of Section 45 of the Central Bank Act by doing the following:-

By re-numbering the existing provisions as Subsection 1;

By inserting the following new subsection immediately after Subsection 1;

“Subject to Subsection 1(c), the Bank shall put in place mechanisms to enable the public to participate in Government securities through electronic means and lower minimum investment in nominations.”

This provision, in the opinion of the President, is not necessary because the purpose can be achieved through administrative matters. The legal framework for the payment through electronic means is already in place through the National Payment System Act and the Kenya Information and Communication Act, 2013. In addition, the lowering of the minimum investment denominations is usually done administratively by the Central Bank of Kenya (CBK). Therefore, it does not need to be legislated in the opinion of the Executive and the President. So, the CBK is in the process of introducing Treasury Mobile Direct which is a system that will enable the public to trade in Government securities. So, there is a new system that will make every citizen to participate in the trading of Government securities through electronic means which shall be launched by July, 2015.

This Treasury Mobile Direct System will enable more retail investors to access the trading in Government fixed income securities. So, in the foregoing, the President has recommended that, that Clause 2 be deleted. As you said, if that clause is deleted, then we remain with the title.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Let us hear from the owner of the Bill. Member of Mukurweini, are you in the Chamber?

Hon. Kabando wa Kabando: Thank you very much, Hon. Temporary Deputy Chairman. At the outset, I would like to say that on this particular clause, I was convinced directly by His Excellency the President who had the courtesy to give me a call on 27th May. Despite the initial hesitance that I had--- When I introduced this Bill, there was unanimity in this House. The Budget and Appropriations Committee and the Departmental Committee on Finance, Planning and Trade endorsed this legislative proposal unanimously. On the Floor of the House, the endorsement was overwhelming without any single dissent or hesitation from any side.

There was initial polite opposition to the Bill by the then Governor of CBK and throughout the process of lobbying, I also came across some polite opposition from the Cabinet Secretary (CS) who chose to speak to the media more than to the Committee or directly to the House. There was also some kind of polite opposition from the Principal Secretaries themselves. Dealing with pragmatism and reality, I would like to say that the fact that we have now in place a decision through an Executive order that, within the next three weeks, the Government of Kenya

is launching that very programme that I sought to put in place and anchor it in law, no one can say that it may escape in future. That is somebody who may not want to deal with benevolence and the prerogative of the President.

However, realistically to finish is that the fact that they have lowered--- The announcement was made by the CS in his Budget Statement that in fact in July, they are lowering from Kshs50,000 to Kshs3,000 so that small lenders will be able to access Government securities. Therefore, with all humility, I acknowledge, accept and agree with the request by the President. I look forward to the revolution that is unfolding. I may be denied the political goodwill but the result is the same - benefit to Kenyans and a revolution in the mobile banking of this country.

The Temporary Deputy Chairman (Hon. Kajwang'): Thank you for your earnestness. I will put the Question. What is it that you want to debate when the owner of the Bill himself has conceded to the merit of the Presidential recommendation? Shall I put the Question? What issues will arise when a Member who is seized--- I know that it is a property of the National Assembly, but when a Member has spent time to explain himself, why should we misuse the time that we have? Shall I put the Question?

Hon. Members: Yes.

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

(Clause 2 as amended agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Leader of the Majority Party, do I hear you on intervention?

Hon. A.B. Duale: I beg to move that the Committee do report to the House its consideration of the Memorandum from His Excellency the President on Reservations to the Central Bank of Kenya (Amendment) Bill, (National Assembly Bill No.32 of 2014), and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): Let us step on, therefore, to (iv). These are the amendments recommended by His Excellency the President to the Retirement Benefits (Deputy President and Designated State Officers) Bill, National Assembly Bill No.38 of 2013.

Let us begin.

AMENDMENTS RECOMMENDED BY H.E. THE PRESIDENT TO THE RETIREMENT
BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL

Clause 2

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

THAT, Clause 2 of the Bill be amended by-

- (a) deleting the expression “the 15th January, 2008” and substituting therefor the expression “the 1st January, 1993”; and
- (b) deleting the definition of “retired Deputy Prime Minister”

In Clause 2, there is the definition of “retired Speaker” which has been brought on board by opening the date to 1st January. “Retired Speaker” means a person who has held the office of the Speaker of the National Assembly or the Senate at any time after January 2008.

First, in the title, we have opened it up. Once we have opened that up, then we have Clause 2, which gives the cut-off date of this definition of “2008”. It will exclude the Speakers who served in the Government before this cut-off date. In the opinion of the President, this is unfair, discriminatory and it gives some stated circumstances. Because of these reasons, the President recommends that Clause 2 of the Bill be amended by deleting the expression “the 15th of January 2008” and substituting it therefor with the expression “the 1st January 1993”. This Clause now gives power to bring in Speakers who served from 1993 to date.

Clause 2 (b) is deleting the “retired Deputy Prime Minister”. In the Bill, “retired Deputy Prime Minister” means a person who having held Office of the Deputy Prime Minister has ceased to hold office. The definition here is not necessary given the fact that the Bill has not conferred any benefits on this office.

If you look at the Bill, this particular office or retired Deputy Prime Minister has not been conferred any benefits. If there are no benefits, then it is not necessary for it to be in the Bill. In the view of benefits not having been conferred in the Bill, the President recommends that the definition of “retired Deputy Prime Minister” under Clause 2 of this Bill be deleted.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): If I remember correctly, this was also one of those Private Members’ Bills. Is the Member for Suba here? He is not in the Chamber. All right! Can I hear from the Chairman of the relevant Committee?

Hon. Langat: Thank you, Hon. Temporary Deputy Chairman. We considered these recommendations by His Excellency the President and my Committee agreed with the President that there are people who served this country very well during difficult times. The argument of the President was that during the first multi-party elections, many Kenyans served this country very diligently during that very difficult moment. It would have been very unfair to ignore those people. So, the Committee agreed to open up the dates so that we can begin from 1st January 1993, which was the beginning of the multi-party democracy.

It would be very unfair to leave a Speaker who has served for three terms and confer benefits to a Speaker who served for only one term. It would be totally out of order.

The Temporary Deputy Chairman (Hon. Kajwang’): All right. We hear you. Let us have the Member for Kitui Central.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman for giving me this chance. If I had a chance, I would have opposed this amendment, but I know I cannot raise the numbers. It is time the Jubilee Government stopped sending mixed signals to us.

I am a Member of the Budget and Appropriations Committee and the reason why we had the date of 15th January 2008 is because the Cabinet Secretary for the National Treasury wrote to the Committee saying that if went beyond that, we might not afford the cost. This is a situation where we are being taken back by the same Government. Those of us who are in what I will call “the alternative Government”, were saying that there is no need of excluding anybody from this Bill, but we were told that if we go beyond this date, automatically, the Government may not afford. We went by that.

Today, the same message is coming back to us and we are getting confused. I think Duale and his team need to put their House together.

(Laughter)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Mulu, can you rise on the microphone and refer to your colleague as Hon. Duale?

Hon. Mulu: Hon. Duale, Hon. Temporary Deputy Speaker. I apologize. He is my friend.

The Temporary Deputy Chairman (Hon. Kajwang’): Okay! That rests it. Allow me to recognize the teachers and students of Nginda Girls High School from Murang’a County who are sitting at the Speaker’s Gallery. Give a round of applause for those little people. Thank you very much. Let us have the Hon. Member for Igembe North.

I am looking at my intervention list. I am not looking at my request list. It is so long such that I cannot tell who wants to speak to what. You cannot raise your hands particularly when children are watching from the Speaker’s Gallery. They are here to learn good practices. One of those is to use your digital console. Member for Igembe North.

Hon. M’uthari: Thank you, Hon. Temporary Deputy Chairman. I rise to support this recommendation by the President. It also considered the question of justice to those who have been there even before - not only during the time of crisis, but even those who served before the crisis.

For this reason, I support this particular recommendation by His Excellency the President.

The Temporary Deputy Chairman (Hon. Kajwang’): I am drawn to put the Question. However, the Chief Whip of the Majority Party---These are constitutional offices in the National Assembly.

(Hon. Kajwang’ consulted with the Clerks-at-the-Table)

No! The Chief Whip of the Majority Party.

Hon. Katoo: Thank you so much, Hon. Temporary Deputy Chairman. I also want to add my voice in support of this proposal.

Although this House got the independence it is enjoying now in 2003 during the establishment of the Parliamentary Service Commission (PSC), it is also very important to agree

with the Chairman of the Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Langat, that there are people who served in very difficult times, even prior to 2003. This is when the multi-party system started; in 1993. I want to convince my good friend, Hon. Makali Mulu, that between 1993 and 2003, we are only adding one Speaker. There was only one Kenyan who became a Speaker during that time, namely, Hon. Francis ole Kaparo.

In terms of the Vice-Presidents we have had during that time, it is the Late Hon. George Saitoti and Hon. Musalia Mudavadi. Between 2003 and 2008, we had two; namely, the Late Hon. Kijana Wamalwa and Hon. Moody Awori. It is good that we take into consideration the great service that those Kenyans have given to this country.

For that reason, I support this amendment.

The Temporary Deputy Chairman (Hon. Kajwang'): Shall I put the Question?

Hon. Members: Yes!

Hon. Angwenyi: No!

The Temporary Deputy Chairman (Hon. Kajwang'): Shall I put the Question?

Hon. Members: Yes!

Hon. Angwenyi: No!

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Angwenyi, shall I put the Question?

Hon. Angwenyi: No!

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Angwenyi, I am compelled to recognize you.

Hon. Angwenyi: Thank you, Hon. Temporary Deputy Chairman. I rise to support the President's amendment to this Bill. I can tell you from experience that the work done towards democracy in this country by the former Speaker, Francis ole Kaparo, cannot be estimated. It was so much work. Remember the Inter-Parties Parliamentary Group (IPPG), which brought a lot of democracy in this country. Remember the work that was done by Hon. Awori, our former Vice-President, Hon. Saitoti, the mathematician and the Englishman, Kijana Wamalwa...

The Temporary Deputy Chairman (Hon. Kajwang'): I hear you now.

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

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

(Clause 2 as amended agreed to)

Clause 3

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

THAT, Clause 3 of the Bill be amended by deleting the expression "the 15th January, 2008" and substituting therefor the expression "the 1st January, 1993".

This amendment just seeks to open the bracket. You can imagine the immense work that the Hon. Speaker, Francis ole Kaparo did during the multi-party politics of 1992 to 1997 and 1997 to 2002. You can imagine what Hon. Moody Awori, our *mzee*, went through during the turbulence of the National Alliance Rainbow Coalition (NARC) Government. The spouse of our late Vice-President Wamalwa, if we open the bracket to 1993, will get 50 per cent of the retirement benefits. This is a very straightforward matter.

I beg to move.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Clause 4

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

THAT, Clause 4 of the Bill be amended by adding the following new paragraph immediately after paragraph (c):-

(c) has, since ceasing to hold office, held office in, or actively engaged in the activities of any political party:

Provided that this provision shall not come into operation on the date of commencement of this Act.

I know that this is a very controversial Clause. However, under Article 115 of the Constitution, the President is returning that Clause with that amendment. If I can take the Members through Clause 4--- Hon. Abass, this is the month of *Ramadhan*. Section 4 (1)(b) of the Presidential Retirement Benefits Act, 2013, which Act appears to have largely informed the contents of this Bill, specifies active engagement in the activities of any political party as one of the circumstances under which the benefits under the Act may be forfeited. Section 6 (1) of that same Act, and I have a copy, further defines “engagement” as holding office in any political party for more than six months, after ceasing to hold the Office of the President.

In contrast, this Bill contains no bars from such engagements. The Act that I am citing is the one that gave the pension and retirement benefits to former Presidents Moi and Kibaki. That was a Government-led Act. Who was the Leader of Government Business then? It was none other than my very good friend, Hon. Stephen Kalonzo Musyoka. The previous Government and leaders passed those Sections 4 (1)(b) and 6 (1)(b) that bar the holders of political party positions from accruing those benefits. This Bill has a fundamental contrast. It does not bar the beneficiaries from such engagements. I want to be very clear.

The Temporary Deputy Chairman (Hon. Kajwang'): You know, Leader of the Majority Party---

Hon. A.B. Duale: Let me finish.

The Temporary Deputy Chairman (Hon. Kajwang'): Just a minute. It is all right. However, let me give you direction. We are not debating this afresh. We are just looking at the Presidential Amendments. Make it as short as possible.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, if the President signs this Bill into law, Hon. Francis ole Kaparo must resign as the Chairman of the National Cohesion and Integration Commission. If my colleagues agree with me, Clause 4 should be amended by adding the following sub-clause ---

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Duale, I am insulating you from points of order. I want you to be as brief as possible, so that Members can have time to contribute.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I am giving reference to the Act and the sections passed by this House in 2013. The explanations are in the Memorandum. Some hon. Members have explained. That is why I am saying that even today Hon. Francis ole Kaparo must resign from that position. Of course, it is a very good retirement package.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): What is it, Member for Ugunja?

Hon. Wandayi: Thank you, Hon. Temporary Deputy Chairman. Mine is a contribution.

The Temporary Deputy Chairman (Hon. Kajwang'): Are you on a point of order or contribution?

Hon. Wandayi: I am on both, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang'): Order, Member for Ugunja! I control what you are using to speak. I can shut you out. Just be in order and resume your seat.

Hon. Wandayi: Hon. Temporary Deputy Chairman, I was on a point of order when Hon. Duale was pontificating.

The Temporary Deputy Chairman (Hon. Kajwang'): You now have the opportunity.

Hon. Wandayi: Hon. Temporary Deputy Chairman, Hon. Duale was misleading the House. You cannot compare a retired president and a retired prime minister. The Act was referring to Mwai Kibaki, Jomo Kenyatta and Daniel arap Moi, who were presidents. Once you retire as a president, there is no office you can aspire to hold in this country.

The Temporary Deputy Chairman (Hon. Kajwang'): Order, Member for Ugunja! You may be having some very good things you would want to put across to the Assembly but can I hear what is out of order so that I allow the Member who is out of order to respond? Do it very clearly.

Hon. Wandayi: Hon. Temporary Deputy Chairman, what I am saying is that Hon. Duale is misleading the House by insinuating that you can compare the status of a retired president with that of a retired prime minister, deputy prime minister and vice-president. My point is that once you retire as president, there is no position you can aspire to hold in this country.

The Temporary Deputy Chairman (Hon. Kajwang’): I have listened to it but I do not find anything out of order. Who else is on a point of order? Member for Kitui East, are you on a point of order?

Hon. Muluvi: No, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Bomet Central, are you on a point of order?

Hon. Tonui: No, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Kipipiri, are you on a point of order?

Hon. Gichigi: No, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Kiharu, are you on a point of order?

Hon. Kang’ata: No, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Rarieda, what is your point of order? Make it very crisp so that we know where you are leading.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairman. I want to ask whether some of these proposals do not contravene our Constitution. Article 38 of the Constitution states that every citizen is free to make political choices---

The Temporary Deputy Chairman (Hon. Kajwang’): I know where you are going, Member for Rarieda. That is not a point of order but a contribution. A point of order must be related to the proceedings of the House rather than whether what we are considering is constitutional or unconstitutional. I will, however, give you time to ventilate the issue, but not as a point of order. For now, let us hear the contributions. I will come back to you, Member for Rarieda because I know where you are headed.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. I rise to oppose the amendment for two main reasons. Firstly, the provision is unconstitutional, under Article 38 of the Constitution. Everybody has a political right, including freedom to join and participate in any political party. Secondly, as we make law, we should not do so from a vindictive perspective. We need to think as Kenyans and move beyond the now. Let us be pragmatic, nationalistic and legislate for our leaders.

Finally, one of the reasons as to why I have consistently objected to all the proposals that my good friend, Hon. Duale, has brought is that we are moving on a very thin line between the role of the Executive and the Legislature. The Legislature’s role is to legislate. What we are doing is making the President legislate through the backdoor. I suspect that this is a role being played by some technocrats who want the National Assembly to pass this law in this manner. They want to use the President’s veto powers to make laws through the backdoor. This is a dangerous practice. It is failure by the Leader of the Majority Party, Hon. Duale, to do his work effectively. If Hon. Duale was doing his work properly, he should be advising the Government that the mandate of vetoing the work of the National Assembly should be used sparingly, and on serious issues only. I am seeing very pedestrian things brought here as work of the President. Let the work of the President be Executive and not legislative.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Bomet Central.

Hon. Tonui: Thank you, Hon. Temporary Deputy Chairman. I oppose this amendment because I believe that this is a form of discrimination. In this House, there are hon. Members who have worked in the public service. They are enjoying their pension and are in Parliament. I believe this Bill is targeted at specific people – those who hold different positions from those they are going for. Once they are out there, they are simply aspirants. They are yet to attain their objectives. Once they attain those other positions, they will forego the pension.

I believe this amendment is discriminative and, therefore, I oppose it.

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Kipipiri.

Hon. Gichigi: Thank you, Hon. Temporary Deputy Chairman. For the benefit of this country, it is high time we, as leaders, and others inculcated a culture of saving for our own future. Instead of people getting what are clearly handouts they should, from the time they begin working, join a contributory pension scheme so that they can retire based on their contributions and the contribution of their employers.

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Ugunja, I now give you opportunity to make your contribution.

Hon. Wandayi: Thank you, Hon. Temporary Deputy Chairman. I have one specific issue I want to raise, as I object to this unfortunate amendment proposed by the President. When one retires, he retires from a specific role. Let us be frank. The persons targeted by this amendment are Hon. Raila Odinga and Hon. Kalonzo Musyoka. Insinuating that when you retire from the position of Prime Minister or Vice-President you cannot aspire to occupy other positions in society is unconstitutional and unfortunate.

Hon. Temporary Deputy Chairman, the fact that the President can attempt to use this House to eliminate his potential opponents is something unacceptable. It is an issue that can actually call for the impeachment of the President. You cannot use the Legislature to eliminate your would-be opponents.

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

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Ugunja, there is a point of order by the Leader of the Majority Party.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, it is not about how loud you raise your voice. The Constitution---

The Temporary Deputy Chairman (Hon. Kajwang'): Order, Leader of the Majority Party! I have allowed you to raise a point of order. Would you just get to it?

Hon. A.B Duale: Yes, I am raising a point of order. The President is exercising his powers under Article 115 of the Constitution.

The Temporary Deputy Chairman (Hon. Kajwang'): Order! What is it that the Member said that is out of order?

Hon. A.B Duale: I am coming to it.

The Temporary Deputy Chairman (Hon. Kajwang'): You need to get to it, please.

Hon. A.B Duale: The President is exercising his powers.

Hon. Wandayi: Can I respond?

The Temporary Deputy Chairman (Hon. Kajwang'): There is nothing to respond to because---

Hon. Wandayi: (*Inaudible*)

The Temporary Deputy Chairman (Hon. Kajwang'): Order! You will get out of this Chamber before you know it.

(Hon. Wandayi stood up in his place)

Yes, you will get out. Sit down. Member for Ugenya

Hon. Ochieng: Hon. Temporary Deputy Chairman, I would want to approach this in a very sober manner. If you live in this country and in this world, you will remember that on 5th September 2012, President Clinton delivered one of the best speeches he had ever delivered on earth, supporting the re-election of Obama, the current President of USA. American Presidents have the very best that you can ever get in the world in terms of retirement packages, but they still participate in politics every day.

This whole proposal by the President has been done in bad faith. I can tell you this for sure, and the President should know this. Hon. Duale should tell the President that this will not pass the test of our courts' scrutiny in terms of constitutionality. You can pass it because we do not have the numbers to reach the two-thirds threshold for rejecting it, but you can be sure that I, David Ochieng, will go to court.

I oppose.

The Temporary Deputy Chairman (Hon. Kajwang'): All right. I want to give the last chance to the Member for Suba.

(Loud consultations)

This seems to be a very interesting conversation you are having here, but I will urge you Members to have order. We have had this discussion before because this Bill was here with us. We have debated it. So, all those emotions will fly. There will be lawyers who will go where they must go. There are others who will support or not support. So, let us not take too much legislative time on issues that are mundane. However, I want to listen to Hon. Mbadi because this was a Private Member's Bill. I just want Members to know that if you have done all the research over the years to midwife a Bill, you need to have the chance to speak to it. So, please, Member for Suba.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Chairman. I am standing here this afternoon a very disappointed man. In the Constitution, the President of the Republic of Kenya is a symbol of national unity. Actually, he is given a responsibility that is very heavy. No one else in this country has a responsibility similar to that of the President. That is why he has the power to veto a Bill. However, that power is supposed to be exercised with a lot of caution. In fact, I had been listening to media reports about the President's Memorandum until I saw it. I could not believe that what the media was reporting was actually correct until I saw the President put in writing what I thought was a joke. I am saying so because I am wondering who the real advisers of our President are. They let him down big time in terms of legal and political advice. If I were the adviser of His Excellency President Uhuru Muigai Kenyatta, I would do a better job. Thank God I am not because I would not do such a shoddy job. What am I saying? The President should

have shown this country that he is not petty, that he is a President for all Kenyans and that he respects those who have offered service to this nation.

When the President quotes the provisions in the retirement---

The Temporary Deputy Chairman (Hon. Kajwang'): Order! Member for Suba, speak to this amendment. Do not go to extraneous issues which are not before us.

Hon. Tongi: On a point of order, Hon. Temporary Deputy Chairman.

Hon. Ng'ongo: I wonder what point of order Hon. Tongi would have again on me.

The Temporary Deputy Chairman (Hon. Kajwang'): Please, Member for Suba, I am giving you this opportunity because you are the originator of this Bill. Now take less than 30 seconds to finish.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Chairman. I was just wondering because Hon. Tongi is---

The Temporary Deputy Chairman (Hon. Kajwang'): No, you are using your time to do other things which are not important.

Hon. Ng'ongo: I would urge him to sit down and listen to me.

The Temporary Deputy Chairman (Hon. Kajwang'): If you continue that way, I will cut down your time. Please, proceed.

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, looking at what the President is quoting for rejecting this Bill with regard to elective office, I want to advance the following two arguments. Firstly, the President has quoted the Presidential Retirement Benefits Act, 2013. For those who may not know, this Act was passed in 2003, but it was amended in 2013. This very offensive clause was inserted in 2003 when we did not have the current Constitution. The reason why that clause that is asking the beneficiaries of the Presidential Retirement Benefits Act to quit politics was inserted was because those people were targeting one, Daniel arap Moi. They did not want Daniel arap Moi to continue as the Chairman of the Kenya African National Union (KANU), which was equally wrong even without the current Constitution.

However, I want to let this House know that once you have become President in this country, there is no other office you would aspire to hold. Therefore, if the Presidential Retirement Benefits Act prescribes that you cannot hold another office then it is a bit reasonable, but not really so reasonable. I say so because no one under our laws, and it is in the Bill of Rights and my colleagues have mentioned it, can stop anybody from participating in political activities. That is the most basic human right that one can enjoy. In fact, I thought Hon. Duale would not support this. However, it appears to me that Hon. Duale is part of the people who advise the President.

The Temporary Deputy Chairman (Hon. Kajwang'): Order! That is uncalled for.

Hon. Ng'ongo: He is because I see him quite often standing next to the President as he assents to Bills. I have no doubt in my mind that this bad---

The Temporary Deputy Chairman (Hon. Kajwang'): Order, Member for Suba! With all the challenges you have with the Leader of the Majority Party, I do not think that he has any other role other than to bring to the National Assembly what has come from the Executive. That is his job. So, to insinuate that he is part of the advisory team of the President is not in order.

Hon. A.B. Duale: (*Inaudible*)

The Temporary Deputy Chairman (Hon. Kajwang'): Just take it easy, the Leader of the Majority Party, so that we proceed. Nominated Member, can you be the last one on this?

Hon. Sakaja: Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang'): Just one minute, nominated Member. This is exciting emotions for what is obvious and those emotions will not die here. They will go wherever they are. So, do not be excited about this thing.

Hon. Sakaja: Hon. Temporary Deputy Chairman, I stand to oppose this amendment for very good reasons.

(Applause)

I would even like to advise my colleagues on the Jubilee coalition side. Number one, we have a Constitution with third generation rights that are due to each and every person in this country. If you look at Article 38(3) of the Constitution it says that every adult citizen has the right, without unreasonable restrictions to be a registered voter, to vote by secret ballot in any election, to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected to hold office.

Hon. Temporary Deputy Chairman, this is unreasonable restriction. I just would like to advise my colleagues that the little money that is due to go to the former Prime Minister or the former Vice-President, them getting it or not getting is not how we will beat them in an election. Those people who are misadvising the President to look petty and vindictive are not doing us any service in this amendment.

(Applause)

Honestly, the Government loses nothing by being magnanimous or by giving someone what is due because your right is not what is given to you, your right is what cannot be taken away from you. On this one anybody, including the Leader of the Majority who knows the President very well and I also do, this does not look like him and I oppose it.

The Temporary Deputy Chairman (Hon. Kajwang'): Alright. Order! Leader of the Majority Party, you will be the last. Let me get one or two people. Member for Mukurweini.

(Hon. Kang'ata stood up in his place)

Order, Member for Kiharu! Member for Kiharu, this is the last warning I am giving you. If you continue in that direction, you will be out of this Chamber. Member for Mukurweini.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Chairman, I have been itching to speak because exactly what Hon. Sakaja has said is exactly what 48 hours ago I posted on my Facebook wall. We must borrow from global best practice and we must not be captives of our present benefits and convenience and escape from standing firmly on an inconvenience or uncomfortable position and show courage.

You have seen what has happened in Russia. We have seen leadership at the top moving out for 10 years and coming back. You have seen what has been happening in Israel where you have seen prime ministers moving out and coming back. They have been accommodated.

In this House, exactly behind me, I see Members who have stayed out of this House for 10 years. In those 10 years they had been receiving their pension. We have a Member in this House who left in 2002, he was a Member for Maragua, he just came back nearly 15 years later. What we are trying to do and we may think that we in Jubilee are doing very good, let me tell you my colleagues, we are creating a very bad picture of the Leader of Jubilee.

(Applause)

A few minutes ago, allow me to complete, you saw me with humility ceding a lot of ground because of political realism; being pragmatic.

The Temporary Deputy Chairman (Hon. Kajwang'): Alright, thank you very much. Leader of the Majority Party, you will all have a fair chance to debate this thing very soberly, so you do not have to be excited.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, at the outset, I want to confirm that I have no regrets that I am the advisor of one of the best presidents in the world. That one I have no regrets.

(Hon. Wandayi consulted loudly)

If you would ask Hon. Wandayi to be very civil because he has been misbehaving with Governor Rasanga, I would be glad. The best democratic practices, even in the US--- This must come out very clearly. Nobody is denying you all your democratic and political rights. For example, the former President of the US, Bill Clinton is allowed, under that constitution, to campaign for his wife and for the Democratic Party.

Our country is very unique. We have a political parties funding mechanism which party leaders can use. So, what we are saying is that the President, in using Article 115 - out of the 67 Bills he has assented to since the beginning of the 11th Parliament, rarely has the President used Article 115. You cannot use taxpayers' money. This House has the obligation to protect it and that is why we are saying if Hon. ole Kaparo accepts these retirement benefits, the moment he signs, he must resign as the Chair of the National Cohesion and Integration Commission (NCIC). So, let us not make this a political contest. I am sure the President is not abusing any part of the Constitution. There is leeway within the Constitution, as Hon. Ochieng said, for people to go to court but this particular action we are doing today is within the parliamentary procedure and within Article 115 of the Constitution. Members of Parliament have the right to raise the two-thirds majority.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang'): Thank you very much. Member for Igembe South.

Hon. Linturi: Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity. At the outset, let me say that I honestly and sincerely oppose that mischievous amendment.

(Applause)

I am doing so because of my basic understanding of retirement benefits and that is why I want to plead with this House not to apply the law or any rule selectively. From this particular House, we have had Members who have retired from the public service who have a pension, they are elected to Parliament where they may serve for two terms and get appointed somewhere else and still continue earning those pensions. I do not find anything unique from this particular person. In any case, when we pay pension dues, we recognise what that particular gentleman had done for this country at that particular time when he was in office.

It will be dishonest, as Members of Parliament today, to stand and say that the people who served in the offices of the Vice-President and Prime Minister at that time, did not do anything meaningful. If Article 38 of the Constitution is a right that you can never take from anybody, let us not offend the Constitution---

The Temporary Deputy Chairman (Hon. Kajwang'): I am afraid I am not going to open this for debate. Member for Kitui East, within one minute, what is it please?

Hon. Muluvi: I wanted it to be on record that personally, as far as pension is concerned, it is for services earned. I am on pension and I am a Member of this House. I served in the armed forces. It is only 10 minutes ago that we had managed to renegotiate for Hon. Moody Awori and Hon. Kaparo for what they did during multipartism. There is no Kenyan alive who has contributed to democracy of this country more than Raila Odinga.

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

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Hon. Kajwang'): I will help you. I do not see two-thirds.

(Hon. Wandayi consulted loudly)

Member for Ugunja, what has happened today? Do not respond to the Speaker.

You have no power to do that. Let me explain that Article 115 expects us to have two-thirds to be able to negative the President's amendments. Do not tell me what to do. Those of you who are on the Noes, we will ring the Division Bell and see if the House will be filled, so that we are able to verify the voice call. I, therefore, order that the Division Bell be rung for only 10 minutes.

(The Division Bell was rung)

Order! Serjeant-At-Arms, when the House is in Division, nobody leaves the Chamber.

I order that the Division Bell stops ringing. Order! Resume your seats. We are waiting for those who are standing.

Pursuant to Article 115 of the Constitution and pursuant to Standing Order No. 70 read with Standing Order No. 73, I will have to determine whether there is quorum within the terms of the constitutional threshold. We will do a roll call. Hon. Members, as you know, the Standing Orders do not have any way of determining the threshold other than by taking a roll call. So, I order that there be a roll call of all Members present to determine that question.

Can you therefore remove your cards wherever you are and log out? Have you logged out? Now log in starting now. The question is on the display. This is not voting. It is to take a roll call. The process is electronic. I am waiting for my systems to tell me how many you are in the Chamber. This is not voting at all. This is to take a roll call. You have 60 seconds. You know I am in touch with the technical people. I am waiting for 60 seconds to expire.

Hon. Members, I am being faithful to Standing Order No. 70, which only gives me an opportunity to go digital. However, if the digital systems fail, we will go back to the manual system as the Member for Kigumo and I are analogue. I have technical problems. We will go the way Member for Kigumo and I are used to.

(The Clerks-at-the-Table counted hon. Members manually)

Hon. Members, this is a House of records. For the HANSARD purposes, I announce that the Members present are 84, which is far less than the threshold set by Article 115 of the Constitution. As you know hon. Members, I had ordered that the “Ayes” had it. I now confirm that the “Ayes” have it.

Let us go back to where we were.

Next clause.

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairman (Hon. Kajwang'): Mover, make it quick now that we have taken so long on determining the threshold.

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

THAT, Clause 5(1)(b) of the Bill be amended by deleting the words “one and a half years’ salary” and substituting therefor the words “one year’s salary”.

Hon. Temporary Deputy Chairman, this is basically to harmonise that section with the Presidential Retirement Benefits Act 2013, which talks about one year and not two years in terms of calculating the lump sum payment on retirement. It is calculated as equal to one and a half years. So, we are harmonising it with the Presidential Retirement Benefits Act 2013.

I beg to move.

(Question of the amendment proposed)

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

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

*(Clause 5 as amended agreed to)
Clause 6*

The Temporary Deputy Chairman (Hon. Kajwang'): Let us have the Mover.

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

THAT, clause 6(b) of the Bill be amended by deleting the words "one and half years' salary" and substituting therefor the words "one year's salary".

(Question of the amendment proposed)

(Hon. Ng'ongo consulted loudly)

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Mbadi, I appreciate that you are the owner of the Bill, but you also know Article 115 of the Constitution. Hon. Mbadi will be heard and he will be the only one to be heard on this just because he is the owner of this Bill. Sorry, he is the sponsor. I should not be using the word "owner" because nobody owns anything. The House is the owner but the sponsor is Hon. Mbadi. Proceed.

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, I wanted to contribute to this amendment. I had my objection to this amendment.

The Temporary Deputy Chairman (Hon. Kajwang'): Objection?

Hon. Ng'ongo: I wanted to go on record that there was a reason. The proposal for one and a half years' salary came from the Treasury. If you look at the Presidential Act and this Bill there is a difference. Whereas in the Presidential Act, the one that confers retirement benefits of the President, the payment is pegged on the salary of the current President, in the case of these other officers, it is on the last salary earned; historical figures. For example, if you are going to give these benefits to Hon. Moody Awori, you will tie it to what he earned when he left office. There is a totally different scenario. They are incomparable and that is why I do not understand who was advising the President. I keep on repeating this that he completely misadvised the President, but because I know we cannot get the numbers he will have his way. I repeat that I saw my friend Hon. Duale standing next to the President. I wish he did a better job. Thank you.

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

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

(Clause 6 as amended agreed to)

Clause 7

Hon. A. B. Duale: Thank you, Hon. Temporary Deputy Chairman. I will be standing next to the President for many days to come.

I beg to move:-

THAT, Clause 7 (b) of the Bill be amended by deleting the words “one and half year’s salary” and substituting therefor the words “one year’s salary”.

Again, this is just to harmonize it and make it conform to the provisions of the Presidential Retirement Benefits Act, 2013 and Section 5(a). I therefore propose that Clause 7(b) be harmonized with that retirement.

(Question of the amendment proposed)

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, as we proceed and in accordance with Standing Order No.70 and Article 115 of the Constitution---

The Temporary Deputy Chairman (Hon. Kajwang’): Standing Order No?

Hon. (Prof.) Nyikal: Standing Order No.70 and Article 115 of the Constitution on when a Bill is brought back by the President. We have just gone through a process in doubt as to whether we had two-thirds or not. The assumption there is that when you are starting the process, you then must start the process with full knowledge that you have two-thirds, so that if there is need for a division you go through division. That is why we started. I do not understand the process that took place that having decided to know whether we have two-thirds and without a clear decision being made whether we have two-thirds, we proceeded to say we had the ‘Ayes’. If the “Ayes” were there from the beginning, would we have needed to even attempt to know whether we had two-thirds in the House? Therefore, I am seeking your guidance on that matter because we started a process and I did not see how it was followed.

The Temporary Deputy Chairman (Hon. Kajwang’): All right, that is very easy, although I have been struggling to find the area at which you are challenged to understand the process. You do not have to repeat.

I am also trying to understand whether you are discussing a ruling which has been made by the Chair because Standing Orders would not allow you to do that. Anyhow, I will make it simple. The process we went through is because in the Chairman’s direction, the “Ayes” had it. Then there was the voice call. It is necessary for the Chair to establish that we have the threshold of the two-thirds. In the other Questions that we have put in Clause 6 and so on, it was very clear to the Chair that the “Nays” did not have it. So, when the Chair has to confirm, in terms of Article 115, then we go through the process of not division, but confirming that we have the quorum necessary to take that vote. That is the point. It is just that simple.

(Hon. Ng'ongo stood up in his place)

The Temporary Deputy Chairman (Hon. Kajwang'): No, you will not be able to be heard to dispute or---

Hon. Ng'ong'o: Give your guidance!

The Temporary Deputy Chairman (Hon. Kajwang'): I have given the guidance. Where were we? We were putting the Question. Member for Seme, I was putting the Question before you derailed my thought process.

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

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

(Clause 7 as amended agreed to)

Long Title

Hon. A.B. Duale: Sorry, Hon. Temporary Deputy Chair. I forgot that, that was remaining. Long title on which Bill?

The Temporary Deputy Chairman (Hon. Kajwang'): There is an amendment to the long title as I can see from page 507 of the Order Paper.

Hon. A.B. Duale: There is no page 507 on the Order Paper.

The Temporary Deputy Chairman (Hon. Kajwang'): Are you holding the same Order Paper that I am holding?

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

THAT, the long title of the Bill be amended by deleting expression "the 15th January, 2008" and substituting therefor the expression "the 1st January, 1993".

This was very clear. It was just meant to open up to senior citizens who have served this country and who have retired, including Hon. Francis ole Kaparo, who served between 1992 and 2002; Hon. Moody Awori, who served as a Vice President in NARC Government; the spouses of Hon. George Saitoti who served as Vice President and Hon. Late Wamalwa Kijana. So, I think it is just harmonization to bring more people into the bracket.

(Question of the amendment proposed)

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

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

(Long Title as amended agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): Mover, are you on intervention?

Hon. A. B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Presidents Amendment to the Retirement Benefits (Deputy President and Designated State Officers) Bill, National Assembly Bill No.38 of 2013 and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): Let us handle the last of this in the series. Alright, this is convened for considering the amendment recommended by His Excellency the President to the Public Audit Bill, National Assembly Bill, No.38 of 2014.

Member for Ainamoi, you are the Chairman of the relevant Departmental Committee. I can see you are on intervention. What is it?

Hon. Langat: Thank you very much, Hon. Temporary Deputy Chairman. I am seeking your indulgence that we postpone the consideration of this Public Audit Bill to next week on Tuesday. I have consulted the Leader of the Majority Party on this issue. We received the Memorandum in the morning in the Committee and actually the Report is being worked out. There are serious issues that we may want the House to note from our Report on this Bill. I am seeking your indulgence that we postpone it until Tuesday next week. I had consulted the Leader of the Majority Party unless he wants to change the position now.

The Temporary Deputy Chairman (Hon. Kajwang’): Leader of the Majority Party, this is your call.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I want to confirm on the HANSARD that he has not consulted me.

(Laughter)

That one, I confirm. I am fasting and I must speak the truth. It is between me and my God. He has not consulted me.

Hon. (Dr.) Simiyu: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): No! Let the Leader of the Majority Party be heard first of all. I will come to the point of order later.

Hon. A.B. Duale: Secretary-General of FORD (K), I thought we were friends! The Chairman of the Departmental Committee on Finance, Planning and Trade has said that he had some issues with the Public Audit Bill. However, those issues can only be resolved if between now and Tuesday, he is able to marshal the two-thirds majority to refuse the Memorandum of the President in accordance with Article 115 of the Constitution, 2010. So, I agree that we defer consideration of the Public Audit Bill so that my good friend Hon. Gumbo, the Chairman of

Public Accounts Committee (PAC), can also do some more consultation and more lobbying. So, we should go to the next Order.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Tongaren?

Hon. (Dr.) Simiyu: Hon. Temporary Deputy Chairman, is the Leader of the Majority Party---

(Loud consultations)

The Temporary Deputy Chairman (Hon. Kajwang’): Listen to how what is out of order is framed from ranking Members. Please, proceed.

Hon. (Dr.) Simiyu: Is the Hon. Leader of the Majority Party in order to impugn such dangerous and not-right attitude to the good religion of Islam by saying that because he is fasting, he has to say the truth? He is implying, therefore, that when he is not fasting, he will not say the truth. That is what he is implying.

The Temporary Deputy Chairman (Hon. Kajwang’): I am impressed by how that phraseology has been made. That is from ranking Members. That is how what is out of order should be framed. Leader of the Majority Party, now this attitude can we hear the attitudinal aspect of this Muslim business so that we know where we are?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, even you cannot say “this famous Muslim.” I wish to notify my friend that the holy month of *Ramadhan*, of the 12 months in the Islamic calendar, is a special month. There are times that I can play politics, but this month I want to confirm to everybody that the honourable Chairman of the Departmental Committee on Finance, Planning and Trade did not consult me. However, because he is my very good friend, I have agreed to his request. As for the honourable Secretary-General of FORD (K), which is a junior political party, he needs to know that I command 76 Members in this House and he commands only I think, 16 Members. He needs more tutorials on Islam.

The Temporary Deputy Chairman (Hon. Kajwang’): Confine yourself to the order. We will let that go.

Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, first of all, let me thank the Chairman of the Committee for requesting that we defer consideration of this one. Would I be in order to request that as we consider this matter, we also consider possible constitutional conflicts? If you allow me, I will take you through. If you look at the Memorandum from His Excellency the President, it deals mainly with the provision--- Under Clauses 4 and 8 he is referring to Article 234(5) of the Constitution on the Public Service Commission (PSC). If you just indulge me, I will read.

“The Commission may delegate, in writing, with or without conditions, any of its functions and powers under this Article to any one or more of its members, or to any officer, body or authority in the public service.”

You go to Article 252 (c) of the Constitution on general functions and powers of independent offices. It says the following:-

“Each Commission, and each holder of an independent office—
(c) shall recruit its own staff.”

There is a precedent to this. In this same House, we have passed the law governing the Independent Electoral and Boundaries Commission (IEBC) which recruits its own staff. The import of the President's Memorandum is that the Office of the Auditor-General will be required to recruit its own staff in consultation with the (PSC). This is fundamental. As we go into this consideration, what happens when we have two Articles of the Constitution which seem to be in conflict? More fundamentally, if you look at the President's last Memorandum, he is recommending that the regulations governing the Public Audit Bill shall be prepared by the Cabinet Secretary (CS) responsible for matters related to finance. This is a dangerous conflict. Why do I say so? It is a dangerous conflict because CS in charge of Finance is one of the auditees of the Auditor-General.

(Loud consultations)

No! No! I am just giving direction on what to look at. One of the entities being audited by the Auditor-General is the Cabinet Secretary for the Ministry of Finance. Would it, therefore, be in order for an entity which is the subject of an audit to make regulations that will govern how it is audited? These are the things we need to watch out for as we consider going forward.

I thank you.

The Temporary Deputy Chairman (Hon. Kajwang'): Thank you very much. The Departmental Committee Chairman rose in his place to request that this matter be deferred to another date for consideration in the Committee of the whole House. Members have also contributed variously and in particular Member for Rarieda has raised issues amongst them the fact that there are conflicts in the Constitution and in the proposed amendments.

I now order that this Order be taken out of the Order Paper today and be listed on the Order Paper of Tuesday when we will have the next Sitting. This is so that all those issues can be looked at. I urge Members, in the course of the weekend, to think through the issues that have been raised by the Member for Rarieda and many other issues that are surrounding this Memorandum from the President. I do not think there is any provision to withdraw this Bill from the Assembly. The only thing is to persuade as many of you as possible to appear in the House so that you are able to return whatever verdict you want on this Bill.

You should know that these Bills, that is, the Public Procurement and Asset Disposal Bill as well as the Public Audit Bill are Bills that concern counties. So, the decisions you make here will still travel to the other brother House or is it a sister House? The other House will subject them to a similar treatment and they may come back here to be subjected yet again to whichever treatment that you people may want to subject them to. So, you should know that. Thank you very much.

(The House resumed)

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

CONSIDERATION OF REPORTS

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THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL

The Temporary Deputy Speaker (Hon. Cheboi): Order, Members! We will start with the Presidential Amendments to the Public Procurement and Asset Disposal Bill, No. 40 of 2014. Let us have the Chairperson to report to the House.

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the President’s Amendments to the Public Procurement and Asset Disposal Bill, No. 40 of 2014 and approved the same without amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Then we can have the Mover of the Bill.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Washiali to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Washiali seconded.

(Question proposed)

(Question put and agreed to)

THE CENTRAL BANK (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Cheboi): Next, we will proceed to the Presidential Amendments to the Central Bank of Kenya (amendment) Bill, No. 32 of 2014. I give the opportunity to the Chairperson to report to the House.

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the President’s Amendment to the Central Bank (Amendment) Bill No. 32 of 2014 and approved the same without amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Mover.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Washiali to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. Cheboi): Proceed, Hon. Washiali.

Hon. Washiali: Hon. Temporary Deputy Speaker, I wish to second.

(Question proposed)

(Question put and agreed to)

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT
AND DESIGNATED STATE OFFICERS) BILL

The Temporary Deputy Speaker (Hon. Cheboi): We will proceed to the President's Amendment to the Retirement Benefits (Deputy President and Designated State Officers) Bill No. 38 of 2013. Let us have the Chairperson to report to the House.

Hon. Kajwang': Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the President's Amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill No. 38 of 2013 and approved the same without amendments.

The Temporary Deputy Speaker (Hon. Cheboi): The Mover.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Washiali to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. I second.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wandayi, what is your point of order?

Hon. Wandayi: I wish to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wandayi, I will give you an opportunity to speak to it if you want. Is it an issue?

Hon. Wandayi: Hon. Temporary Deputy Speaker, I wish to move for re-committal of a specific clause. Therefore, I wish to move that the Motion of agreement with the Report of the Committee---

The Temporary Deputy Speaker (Hon. Cheboi): That is an ambush. I have got absolutely no idea.

Hon. Wandayi: I presented my Motion to the Clerk's Table, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Let us hear you anyway.

Hon. Wandayi: Hon. Temporary Deputy Speaker, what I am trying to say is that I wish to move that this Motion of agreement with the Report of the Committee of the whole House be amended by inserting the words, "subject to re-committal of Presidential recommendation on Clause 4." If you allow me, I will ask my friend, Hon. David Ochieng, to second it.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have Hon. David Ochieng seconding. You can see the excitement in the House. There is also something that I wanted to say to that but let us have Hon. Ochieng to second first for it to be properly before the House.

Hon. Ochieng: Hon. Temporary Deputy Speaker, as you would know more than I do, laws can never be made in vain. You cannot make a law whose operation you know would in a way lead to disobedience of the law itself. What Hon. Wandayi is saying is that continuance with Clause 4 as it is now would lead to a material breach of the law to the extent that it limits the enjoyment and exercise of the rights of some of the intended beneficiaries of the Bill. I, therefore, second the Motion to amend Clause 4 of that Bill to ensure that it complies with the Constitution and the laws of the land. I second.

The Temporary Deputy Speaker (Hon. Cheboi): Even before I propose the Question, I wanted to hear--- I can see a few Members who are on a point of order. Let me start with Hon. Metito Katoo.

Hon. Katoo: Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): For purposes of good order, let me propose the Question first and then I give you the first shot in terms of your point of order.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): Let us hear Hon. Katoo.

Hon. Katoo: Thank you, Hon. Temporary Deputy Speaker. I want to have your ear.

The Temporary Deputy Speaker (Hon. Cheboi): Continue.

Hon. Katoo: Hon. Temporary Deputy Speaker, I want to invite you to rule that, that amendment is unprocedural for a very simple reason that if you want to ask for a re-committal, you should have asked when the House was still in the Committee of the whole House such that by the time we go to the full House, when the Speaker now comes to the Chair, it is already known that there is a clause which has been recommitted. Therefore, it is unprocedural and it is time barred.

The Temporary Deputy Speaker (Hon. Cheboi): I will give a few more Members as I consult. Let us have the Leader of the Majority Party. I will give a few more Members to speak to it and then we will make a decision.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, this is a complete abuse of the Standing Orders of this House. The Majority Party Whip has said what I wanted to say very well. I will forgive my good friend, Hon. Wandayi, because he is a first timer. We have done a lot of Third Reading in this House and more than 100 Committees of the whole House since the beginning of the 11th Parliament. Re-committal is allowed and in the process, you must notify the Members before the Chairman of the whole House leaves the Chair. I want you to read the Standing Orders. This is the most mischievous abuse. The ship has left under Article 115 of the Constitution. It has been assented to. The ship can only dock if a Kenyan goes to the Judiciary and challenges it.

Hon. David Ochieng is one of the great leaders from Siaya County and a man I respect a lot. Unfortunately, they come from the same county with my good friend, Hon. Wandayi. A Parliamentary process cannot be interfered with.

An Hon. Member: What is unfortunate?

Hon. A.B. Duale: I will tell you what is unfortunate once we leave the Chamber. Hon. Temporary Deputy Speaker, we have a serious matter before us. Just rule on it and give us direction. This is an abuse of the process. If Hon. John Mbadi was here, a seasoned Member of this House, he could have advised. This month of *Ramadhan* I will spend more time in my office and I am calling you to come and I will coach you on the procedure of the House.

The Temporary Deputy Speaker (Hon. Cheboi): The intervention slot is full and so, I cannot identify who wants to rise on a point of order and who just wants to contribute. From the list, I can see that Hon. Benjamin Langat is top on the list. Then I can see Hon. Irungu Kangata and Hon. Nicholas Gumbo. We can take those ones very quickly.

Hon. Kanga'ta: Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Probably your microphone went off because you were supposed to be the second one, but let us start with Hon. Langat.

Hon. Langat: Thank you very much, Hon. Temporary Deputy Speaker. The proposed amendment by Hon. Wandayi is out of order. I stand here having suffered the same fate. I was once ruled out of order because I did not seek for the re-committal when the House was still in the Committee of the whole House. So, this House must stand by its previous precedent. We must observe standards. I sympathise with his position, but whatever he wants to do has been overtaken by events. He only needs to live by it for now. I can advise him that six months from now, he can still come with another amendment to that clause. For now, I invite you to rule, so that we can go to the next business, which is very important. I invite you to rule that he is out of order, so that we can move to the next business, which is very important to this House and country.

The Temporary Deputy Speaker (Hon. Cheboi): If I am not wrong, Hon. Langat, I do not think that you were ruled out of order. I thought it was Hon. Midiwo who either convinced or muzzled you into withdrawing. Probably you could apply that tactic now and it might be useful. I am trying to look at the Standing Orders and as the rest of the membership are contributing, I want you to refer to Standing Order No.136(1), (2) and (3), so that we proceed. We can quickly dispose of this matter without necessarily having to raise many issues. Let me give a chance to Hon. Gumbo and probably two other Members as you refer to that Standing Order. This is something that we can dispose of quickly and proceed to other business.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, first of all, I would request you to encourage Members to desist from this habit of bamboozling others by always claiming “when we were in the 10th Parliament”. Sometimes that is misleading.

The Temporary Deputy Speaker (Hon. Cheboi): From where I am, when Hon. Duale said that Hon. Wandayi is in his first term, even if it were to go to a court for defamation, if there was any defamation, it will be ruled as a fair comment. Truly, Hon. Wandayi is in his first term. The only thing that I agree with you totally is that being a first timer does not at all determine one’s performance. If you are keen, that would be fine. The Leader of the Majority Party was perfectly in order.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, when it is intended as an instrument of intimidation, then it is not right.

The Temporary Deputy Speaker (Hon. Cheboi): I cannot be able to rule on the intention. Proceed.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, allow me, and I will request for patience here, to take you through the Standing Order No.136. It says that:-

“Procedure on Bills reported from the Committee of the whole House

- (1) When a Bill has been reported from a Committee of the whole House, the House shall consider the Bill as reported upon a Motion “That the House do agree with the Committee in the said report”.
- (2) The question on any Motion moved under paragraph (1) shall be put forthwith, no amendment, adjournment or debate being allowed, unless any Member desires to delete or amend any provision contained in a Bill, or to introduce a new provision in the Bill”. This is what Hon. Wandayi is intending to do.

Part (3) says that:-

“A Member who desires to delete or amend any provision contained in a Bill, or to introduce a new provision in the Bill under paragraph (2) may propose any amendment to add, at the end of a Motion under paragraph (1), the words “subject to the re-committal of the Bill (in respect of some specified part or of some proposed new clause or new schedule) to a Committee of the whole House” and if that Motion is agreed to with such an amendment, the Bill shall stand so re-committed and the House shall either forthwith upon a day named by the House Business Committee in consultation with the Member in charge of the Bill dissolve itself into a Committee to consider the matters so re-committed”.

So, if you look at the procedures as outlined, and the Standing Order is the Bible of this House, this is not my creation. It is how we are governed. This is how we do our business. Hon. Wandayi is perfectly in order to ask for re-committal of Clause 4 as proposed in the Presidents’ amendment.

The Temporary Deputy Speaker (Hon. Cheboi): Well, I will give a chance to one last Member, especially a Member who would be contradicting what Hon. Gumbo has said. We have gone through this and I think the better way for us is to proceed, looking at everything and having gone through the Standing Order, I am convinced by the position of Hon. Gumbo. We need to quickly put the Question and then we go through our normal routine. If Hon. Wandayi carries the day, this particular bit will be recommitted. If he loses, then of course, it falls. That is the better way.

I will entertain no more points of order. I have ruled on that one and we will proceed.

*(Question, that Clause 4 be re-committed,
put and negatived)*

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, sometimes we have made our points, but you obviously do not have the numbers. Order, Hon. Ochieng! You have been heard, but clearly you do not have the numbers. So, we will proceed.

(Hon. Ochieng and Hon. Wandayi stood up in their places)

Hon. Ochieng and Hon. Wandayi, please, freeze very cold.

(Question put and agreed)

MOTION

ADOPTION OF REPORT ON APPROVAL OF CBK NOMINEES

Hon. Langat: Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of Nominees for appointment as Chairperson of the Board of Directors, Governor and Deputy Governor of the

Central Bank of Kenya, respectively, laid on the Table of the House on Wednesday, 17th June, 2015 and pursuant to the provisions of Sections 11, 13 and 13B of the Central Bank of Kenya Act, approves the appointment of Mr. Jairus Mohammed Nyaoga as the Chairperson of the Board of Directors, Dr. Patrick Ngugi Njoroge as the Governor, and Mrs. Sheila M'mbijiwe as the Deputy Governor of the Central Bank of Kenya.

On behalf of the Departmental Committee on Finance, Planning and Trade and pursuant to the provisions of Standing Order No.199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on the approval for the appointment of Mr. Jairus Mohammed Nyaoga, Dr. Patrick Ngugi Njoroge and Mrs. Sheila M'mbijiwe as the Chairperson, Governor and Deputy Governor of the Central Bank of Kenya (CBK) respectively.

The Departmental Committee on Finance, Planning and Trade, like any other departmental committee, is comprised of 29 members. Its mandate, among other things, is to vet and report on all appointments where the Constitution or any other law requires the National Assembly to approve, except those under Standing Order No.204; that is those under the Committee on Appointments. The Committee oversees four ministries namely the National Treasury, Industrialisation and Enterprise Development, Commerce, Tourism and the East Africa Region, Devolution and Planning and four independent commissions.

Article 231 of the Constitution provides for the establishment of the CBK through which the country's monetary policies are formulated and administered. The Article is operationalised by the CBK Act. Section 11 of the CBK Act provides for a Chairperson of the Board of Directors of the CBK among other members of the Board.

Section 11(2) provides that the Directors including the Chairperson shall be appointed by the President with the approval of the National Assembly. Persons eligible for appointment may hold office for a period of four years and eligible for reappointment for one further term. That explains why we are vetting only one Deputy Governor because the other Deputy Governor had already been vetted.

Section 6(9) of the Public Appointments (Parliamentary Approval) Act No.33 of 2011 provides that any person may, prior to the approval hearing and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

To that extent, I wish to notify the House that the National Assembly put up an advertisement on 15th June, 2015. I wish to confirm that we did not receive any statement rejecting the appointment of any of the nominees. We also did not receive any negative or positive memorandum refusing or rejecting the appointment of each of those members.

The Public Service Commission (PSC) put up advertisements as required by law and they came up with a list which was presented to His Excellency the President to appoint one among each on the list. For the position of Chairperson, the PSC on 16th April, 2015, forwarded the names of:-

- (i) Dr. Mbui Waganja;
- (ii) Mr. Mohammed J. Nyaoga; and,
- (iii) Mr. Nicholas Biti arap Korir.

For the position of Governor, the PSC forwarded:-

- (1) Dr. Harun Sirima;

- (2) Dr. Patrick Njoroge; and,
- (3) Dr. Geoffrey Mwau.

For the position of Deputy Governor, the PSC forwarded:-

- (i) Gerald Arita.

(Hon. Lati consulted loudly)

Hon. Temporary Deputy Speaker, protect me from Hon. Lati Lelelit.

The others on the list were:-

- (1) Rose Ndeto; and,
- (2) Sheila M'mbijiwe.

Pursuant to the provisions of Sections 11(1), 13 and 13(b) of the CBK Act, the President, out of the above recommended persons thereupon nominated the following persons for consideration for appointment for the positions indicated below:-

- (1) Mr. Jairus Mohammed Nyaoga as Chairperson;
- (2) Dr. Patrick Njoroge as the Governor; and,
- (3) Mrs. Sheila Mmbijewe as the Deputy Governor.

In view of the foregoing, the Committee resolved that due process had been followed in the nomination of the candidates. The Committee confirmed that due process, up to the level where we are vetting, was followed.

The law requires that all the nominees for public service appointments are cleared by our security agencies, the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB) and the Criminal Investigation Department (CID).

On 3rd June, 2015, the Clerk of the National Assembly wrote to the nominees informing them of their nomination by His Excellency the President and requested them to appear for vetting by the Departmental Committee on Finance, Planning and Trade on 16th June, 2015. He further requested the nominees to bring with them clearance certificates from the Ethics and Anti-Corruption Commission (EACC), KRA, HELB, CID and any of the credit reference bureaus. I wish to confirm to the House that all of them were cleared by the relevant agencies. We did not have any issue with the KRA, CID and the other agencies clearing them.

The Committee met with the nominees on 16th June, 2015 and conducted approval hearings. I want to inform the House that even before then, we held a meeting to prepare ourselves for that approval hearing. During the process, the Committee was guided by the Constitution, the Public Appointments (Parliamentary Approval) Act, the CBK Act, the Standing Orders and other relevant statutes.

Specifically, the nominees were examined on the following criteria as set out in the Public Appointments (Parliamentary Approval) Act No.33 of 2011:-

- 1) academic qualifications;
- 2) employment record;
- 3) professional affiliations;
- 4) potential conflict of interest;
- 5) knowledge of the relevant subject; and,
- 6) integrity.

I want to state at this stage that we did a very professional job. We met with the nominees for an average of two hours each. Subsequently I read the newspapers. I read with a lot of surprise the *Daily Nation* which is supposed to be the leading newspaper. It said that members of the Committee shunned policy issues for personal questions. The newspaper went ahead and said that the members were clueless and that we did not know what we were doing. I want to set the record straight.

If the Nation Media House sent a clueless journalist to my Committee then they must take responsibility for the clueless person that they sent to the Committee.

Hon. Temporary Deputy Speaker, I call upon you to check the capacity of those sent to cover parliamentary proceedings to understand the issues which Parliament is handling. I have a problem when I see that we dealt with each of the nominees for two hours on serious issues of inflation, interest rates, employment and exchange rates. In fact, I want to congratulate my members because they exhibited a lot of energy and knowledge.

Hon. Temporary Deputy Speaker, I have very qualified Members. This House is suffering because nobody is doing publicity for it. Many people out there believe that Members of Parliament are a bunch of fools. That issue must be handled properly. I want to tell them that, in this House, we have some of the great minds in this country. I do not expect a newspaper called "*Daily Nation*" to put a headline for a question---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Langat, I am very sympathetic with your position because I know we have the greatest minds in the House. The Angwenyis of this House and you are probably First Class students. I saw you at the university and I do not want us to dwell too much on that issue. I want you to wrap up because you will realise that we have a challenge in terms of time. It is, however, true that we have brilliant Members in this House. An example is Hon. Jimmy Angwenyi, who was a university lecturer in public finance. I do not expect anybody to demean them.

Hon. Langat: Hon. Temporary Deputy Speaker, we have Hon. Sakwa Bunyasi, who worked for the World Bank. It is surprising that a leading newspaper in the county can only report on a question that was asked in one second and ignore all the other questions that were asked in two hours. The question about his marital status came as a joke. I did not expect it to grab the headline of the *Daily Nation*.

Having said so, I want to briefly give information about each of the candidates in three minutes and then finalise.

Hon. Jairus Mohammed Nyaoga, who is a nominee for the Chairperson of the Board of Directors of the Central Bank of Kenya, is a Kenyan citizen born on 23rd September, 1960 in Kisii County. He has a Bachelor's and Master's Degrees in Law from the University of Nairobi. He has a wide experience in law practice. He is a member of the boards of directors of many institutions. He impressed the Committee in that he understood the role he is going to assume as the Chairman of the Board of Directors of the CBK. He seemed to understand the roles of boards of directors. He has actually been training on governance issues.

Therefore, my Committee did not have any reservation about him only that he seemed to be very committed with a lot of work. Of course, he promised that once his nomination is approved, he will relinquish some of the responsibilities so that he can concentrate on that position.

The Committee noted that the nominee exhibited impressive knowledge on topical issues touching on administration and corporate governance. He has the requisite abilities, qualifications and experiences to serve as the Chairman of the Board of Directors of the CBK.

However, he will have to relinquish some positions he holds to avoid conflict of interest and have enough time to concentrate on the new role of the Chairman of the Board of Directors of the CBK.

Hon. Temporary Deputy Speaker, Dr. Patrick Ngugi Njoroge, who is the nominee for the position of Governor of the CBK is a Kenyan citizen born on 2nd December, 1961. He holds a PhD from Yale University, and a Masters Degree in Economics and a Bachelor Degree in Arts from the University of Nairobi.

He has wide knowledge in the financial sector, having worked in the sector throughout his career spanning over 30 years. He has been working with the International Monetary Fund (IMF) since 1995 to date. Most notable in his work at the IMF is the formulation and implementation of financial and operational policies related to the IMF's concessional lending to low income countries.

He also headed the IMF missions abroad over and above implemented the IMF's development projects across the world. He is currently working as the advisor to the Deputy Managing Director of the IMF. His exemplary work at the IMF saw him awarded for excellence innovations in 2010.

He has published many materials and I do not want to go into detail. He is a member of the American Economic Association (AEA). During the recruitment process, he emerged second during the interview conducted by the Public Service Commission (PSC). He scored 77 per cent, which was very high.

The EACC, the CID and the HELB have cleared him and he has never been charged in a court of law. He has no potential conflict of interest and this came out very uniquely because this man said that he does not own any asset. That means there will be no conflict of interest. He has just been into the job.

Hon. Temporary Deputy Speaker, the other question that we asked, which has been viral in the social media, was about his marital status. The matter came up because somebody must clear such issues in the form. Members wanted him to clarify that because Kenyans are very curious people. However, that question is not part of the criteria for the approval of his nomination.

The Committee noted that the nominee was open-minded and independent. He exhibited impressive knowledge of topical issues touching on monetary policy. He has the requisite abilities, qualifications and experience to serve as the Governor of the CBK. However, he may not be conversant with the Kenyan working environment, considering that he has been working abroad his entire life. He will, therefore, have to create a good working rapport with his team and the stakeholders to help him do the job he has been nominated for.

Hon. Temporary Deputy Speaker, Mrs. Sheila Mmbijewe, who is a nominee for the position of the Deputy Governor of the CBK is a Kenyan citizen born on 6th March, 1958 in Kampala, Uganda. She holds a Bachelor's Degree in Accounts from the Kingston University, England. She is a Certified Public Accountant of Kenya and Wales and England.

She has a wealth of experience in the financial sector, having worked with the Inter-Governmental Authority for Development (IGAD) and Information Technology Innovations and Solutions Company as the Managing Director. She was a Member of the Monetary Policy Committee at the CBK between 2005 and 2014. Therefore, she is not new in that field.

She also worked with the Standard Chartered Bank as the Executive Director and Head of Consumer Banking, East Africa from 2003 to 2005 and as the Finance Director and Chief Finance Officer from 1999 to 2003. The nominee has held many positions. She is qualified and she proved competent. We noted that she was open minded and honest. She exhibited impressive knowledge of topical issues touching on the financial sector. She has the requisite abilities, qualifications and experience to serve as the Deputy Governor of the Central Bank of Kenya.

Having conducted approval hearing for all the three nominees, pursuant to Article 118 of the Constitution, the Public Appointment (Parliamentary Approval) Act, the Standing Orders and other relevant statutes, the Committee recommends that the National Assembly approves the nomination of Mr. Jairus Mohammed Nyaoga as the Chairperson of the Board of Directors of CBK, Dr. Patrick Ngugi Njoroge as the Governor of CBK and Mrs. Sheila Mmbijewe as the Deputy Governor of the CBK.

With those few remarks, I wish to thank my Committee Members, your Office and the Office of the Clerk. May I request---

The Temporary Deputy Speaker (Hon. Cheboi): The issue of your Committee Members can come in as you reply to debate.

Who is seconding you?

Hon. Langat: Hon. Angwenyi, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Proceed, Hon. Angwenyi.

Hon. Angwenyi: Thank you, Hon. Temporary Deputy Speaker. I rise to second the Motion so that these three great Kenyans can be confirmed by this House to serve Kenyans. We interviewed them for more than six hours. We posed proper and appropriate questions to them, which they answered very well.

At some point in time, I used to think that I was the best person in finance in this country, but on that day they demonstrated that they are better than me because they answered all my questions and those posed by other Members of the Committee.

(Laughter)

Hon. Temporary Deputy Speaker, the only thing I would like this House to observe is that most of our main print media houses are becoming gutter Press. They take a frivolous issue and highlight it instead of highlighting pertinent issues that can help Kenyans. Do you think I can interview you for six hours and only ask you one question, that is, whether you are married or not?

An hon. Member: The Temporary Deputy Speaker is married!

Hon. Angwenyi: Hon. Temporary Deputy Speaker, I know you are married. Maybe you are looking for a second wife!

(Laughter)

So, without taking too much time, I would like to second the Motion on the approval of these three Kenyans.

(Question proposed)

Hon. Katoo: On a Point of Order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): The Chief Whip of the Majority Party, what is your Point of Order?

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME

Hon. Katoo: Thank you, Hon. Temporary Deputy Speaker. I rise on a point of order to request you to allow me to move two Motions at a time. One is a Procedural Motion. Looking at the time, I beg to move:-

THAT, Pursuant to the provisions of Standing Order No.30(3)(a), this House resolves to extend its Sitting today until the conclusion of business appearing as Order No. 11.

For the benefit of the House, today, being the 14th day is the last day that we are allowed under the Public Appointments (Parliamentary Approval) Act to consider these nominees. Therefore, we would like to give the House the benefit of time to make a decision one way or another.

I beg to move and request the Hon. Cyprian Iringo to second.

The Temporary Deputy Speaker (Hon. Cheboi): We will move quickly. Your Seconder is the Member for Igembe Central.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker. I rise to second. Given the importance of this issue and necessity of time, we need to extend our Sitting.

Thank you.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Cheboi): By the way, even if the House has ruled on that manner, I encourage Members to finalise it as quickly as possible. Remember we also have our Muslim colleagues who would be interested in retreating shortly to break their fast. It is something that we need to be concerned with.

Let us get to the second one, Hon. Katoo.

LIMITATION OF TIME

Hon. Katoo: Thank you, Hon. Temporary Deputy Speaker. Arising from what you have just asked the House to do, under Standing Order No. 97, I beg to move:-

THAT, debate on this Motion be limited to a maximum of five minutes for each Member speaking.

I request Hon. David Ochieng' to second.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ochieng'.

Hon. Ochieng': Hon. Temporary Deputy Speaker, you know Hon. Metito is a good man. I cannot refuse to second his Motion.

I second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Cheboi): We will start with the five minutes for the Leader of the Majority Party.

*(Resumption of Motion on Adoption of
Report on Approval of CBK Nominees)*

Hon. A.B Duale: Thank you, Hon. Temporary Deputy Speaker. I rise to support the nomination of Mohammed Nyaoga as the Chairperson, Dr. Ngugi as the Governor and Sheila Mmbijewe as the Deputy Governor of the CBK.

I participated in the amendment to the CBK Act by Hon. Ogindo in the last Parliament, which, for the first time in the history of our country, requires that these office holders have to go through vetting by the National Assembly of the Republic of Kenya.

The process that these individuals went through, from the PSC to the names being submitted to His Excellency the President shows that these are people with immense experience and qualifications. I am sure as Mr. Nyaoga told the Committee, if approved by this House and appointed by the President, he has to quit his position as the Chairman of Ecobank. He is a refined lawyer of immense experience both in the financial sector and as a legal practitioner.

Mrs. Sheila Mmbijewe has worked in a number of key international and multinational organisations, including Standard Chartered Bank, at home, in the region and globally and she represents the face of great women in this country by serving at the CBK.

Dr. Ngugi is a man with a very rich Curriculum Vitae (CV) and I want to agree with the Chairperson of the Committee. Vetting under the Public Appointments (Parliamentary Approval) Act has certain criteria, starting with the qualifications of the individual to tax and health compliance. However, in doing that, Parliament is also under obligation to ask questions on family and social life; that is whether you are a pastoralist; whether you fast in the month of Ramadhan; whether you are a farmer; and whether you come from Suba, like the great lady I know called Hon. Millie Odhiambo. However, such information does not go into the Report. We want to tell our good friends in the media to pick factual information based on the Report that is here today.

The nominee for the position of the CBK Governor has a lot of experience. He has been an advisor to the IMF Deputy Managing Director and has worked in the financial sector. However, as was said, he has lived all his years outside the country. This is a Government that believes in Kenyanisation and we believe in Kenya. We believe our monetary and financial policy developed by CBK should be Kenya-grown.

I am sure the nominee for the position of the CBK Governor plus the leadership of the proposed Chairperson, Jairus Nyaoga Mohammed, and our great sister, Sheila M'mbijiwe, will pick from where Governor Ndung'u left. They must take charge of inflation and the fall of the Kenya Shilling. We do not want Kenya to go the Greece way or get interventions from the IMF. From the moment he takes oath of office, the nominee for the position of the CBK Governor is under obligation and the Constitution to protect the interests of the Republic of Kenya and not the interests of the IMF where he worked before.

With those many remarks, I beg to support and ask my colleagues to also support this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, you see I am at a loss because we really have to follow again what the agreement was at the House Business Committee (HBC) where reports will take one hour to be dispensed with. So, what I want you to do, wherever you get time, is to go straight to the point. I will specifically use the listing as it is. I will start with Hon. M'ruaki, the Member for Igembe North. Three minutes will be better even if you have given yourself five minutes. Really, you do not have to finish.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Committee on the nomination of Mr. Jairus Mohammed Nyaoga as the Chairperson of the Central Bank of Kenya (CBK), Dr. Partrick Ngugi Njoroge as the Governor of the Central Bank and Mrs. Sheila M'mbijiwe as the Deputy Governor.

Having looked at the CVs and the recommendations of the Members of this Committee, I have no doubt in my mind that these individuals who have been nominated and proposed by the Committee to hold these offices they have been entrusted with are Kenyans of good repute and are capable of managing the offices that have been entrusted to them.

As some of my colleagues have also said, when our members from the Fourth Estate get information many times they appear to be at war with this House or Members because they always look for issues that will appear to scandalise Members rather than getting the substance of the issues that are discussed. Given the fact that these members who have been nominated by the President and vetted by this House, like Dr. Njoroge have a wide experience in the management of financial matters at the global level, it will be very important to us as a country. I believe Dr. Njoroge will give his input especially in coming up with the monetary policies at the CBK that will also stabilise the turbulence of the Kenyan Shilling. He should look at the question of interest rates because we know that in the Kenyan market, trading in money is very expensive because of the interest rates.

It is my opinion that the people we are entrusting responsibility, by approving this Report, of overseeing our monetary policy at the CBK will also come up with radical changes at the Bank while retaining the micro-economic policy that has been in place. They should also look at creative ways of how we should manage the high interest rates charged on customers

when they borrow money from banks because high interest rates discourage investors. I would like to point out that people with good ideas get scared to borrow money.

It is my hope that by approving these names and having these people with very wide experience in the management of money matters, they will inject new blood and energy within the CBK that will help the country move forward as far as securing and management of our monetary---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. M'eruaki, I made a request that we should take three minutes. That was a request and if you do not---

Hon. M'uthari: I have finished, Hon. Temporary Deputy Speaker.

I support the Motion.

Hon. Ochieng: Thank you very much, Hon. Temporary Deputy Speaker. The offices to which we seek to approve persons today are very powerful offices. These are the offices that could value or devalue the currency. These are also offices that could determine the interest rates. They could in a word devalue our lives. These offices determine what happens in the country and if we are not careful and we do not scrutinise them very well, we could easily put our lives at risk.

The offices of the Chairperson, the Governor and the Deputy Governor of the CBK require a team that is bold, proactive and competent enough to know what is happening in the country's financial sector. They should use the available instruments, policy and legal frameworks available to ensure that the country is run in the right direction.

The Central Bank in any economy is a very important institution. That is why I am happy that Mr. Jairus Nyaoga accepted to be Chairman of this important institution. Mr. Nyaoga, whom I know very well, is a very qualified person and he has a very strong sense of discipline. He is one of the best commercial lawyers, not just in Kenya, but in Africa. He is an independent-minded man and I know that those credentials are the ones that led him to be named to chair the Tribunal to look into the affairs of the Makueni County.

I hope that when he finally becomes the Chairman, he will use his vast experience to ensure that the monetary policy and the policies that guide this sector are done in a fair manner. As regards Patrick Njoroge Ngugi, he is a qualified man. Since his nomination, and this must be said in this Assembly, people have been wondering whether only two communities are qualified to lead the CBK. He is qualified, but if you read the social media and on Twitter, people are asking whether it is only one community or two in this country who can lead the CBK.

If you look at our history, you will find that for the last 15 to 20 years, it has been one community or the other leading the CBK. The question that has been asked, and what I would like Dr. Ngugi to do, because his approval by the National Assembly is based on competence, is to work in the right manner. He should not allow his ethnic orientation to guide the way he works. This office requires a person with a spine to withstand political pressure and who will not use political reasons to make decisions.

The CBK Governor is the highest you can get in the running of a financial sector of any country. I hope that Dr. Njoroge's long absence in the country will not undermine his capacity to understand the local financial industry and to ensure that he does so in a manner that takes care of the interests of the country at large and that ensures that interest rates are capped to a level so that most Kenyans can be able to join the banking bracket. As you know, this is a sector

that is craving for leadership and we hope that these three persons are the right people in this framework.

On Mrs. M'mbijiwe, I had one problem with her. She was a Vice-Chairperson of the Jitegemee Trust. Since she left, the Trust has not been doing well. I would have loved to hear from the Chairperson whether they inquired into the affairs of the Jitegemee Trust during the time of Mrs. M'mbijiwe.

Increasingly, the role of Central Banks all over the world requires more managerial skills than technical. We have very many technical experts in that office. So, we require these three people who are coming in to ensure that they infuse managerial skill in this office so that it is run seamlessly to help Kenyans.

I support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Let us proceed. Yes, the Member for Bomet Central.

Hon. Tonui: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also make my contribution on the approval of these nominees.

First of all, I support these nominations and approvals. The due process was followed in nominating these people and vetting was done in a professional manner.

These individuals are highly qualified. They can manage the economy of this country while at CBK. This is because the economy of this country is basically driven by the policies of the CBK.

I know these people will address the current thorny issues in Kenya, especially the issues of currency exchange rates. These issues were raised during the vetting process. I know everyone is currently pushing for the taming of the current inflation or the current exchange rates.

Those of us from tea-growing areas who rely on export of tea wish to encourage them to ensure that, at least, the shilling move towards the Kshs120 exchange rate against the US dollar so that we encourage export rather than imports. I believe this country relies too much on importation. We are building the economies outside while destroying the economy of the farmers in this country. These people should not go with that mind-set that they are going there to ensure that the shilling is strengthened because this will encourage importers.

The issue of bank interest rates needs to be addressed. I believe these people will be capable of addressing this to ensure that there are cheaper sources of credit. Out there, interest rate rarely goes over 10 per cent while in this country it is around 22 per cent. For us to develop as a country, this needs to be addressed.

From the qualifications, they are okay. I know some issues were raised on the Governor nominee, like on the issue of investment. I do not know if a Governor nominee who has no single investment, because that is what he stated in his CV is a good role model for people in this country in terms of investment. Does he have that great faith in the economy by not investing in this country?

An Hon. Member: What is he saying?

Hon. Tonui: Hon. Temporary Deputy Speaker, that is my position. Wait for your time and then you will say yours.

The Temporary Deputy Speaker (Hon. Cheboi): You should end.

Hon. Tonui: Hon. Temporary Deputy Speaker, I support this Motion because the right process was followed. However, the impression which will be given to investors that somebody who manages the economy does not have that faith in it by not investing in that economy might not be good. So, once we approve him and he lands that position, I encourage him to start investing in this country so that he creates employment for our youth and make this economy stronger.

I have also seen the CV of Madam M'mbijiwe and I think she is highly qualified. She is very experienced in the banking sector.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Tonui, wind up.

Hon. Tonui: Hon. Temporary Deputy Speaker, because she has been in this banking sector, issues of conflict of interest may arise. I believe she will resign from some of these financial institutions so that issues of conflict of interest may not arise. Otherwise, I believe the people we have been vetted are highly qualified and will manage the CBK in a proper manner.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Member for Kandara. Hon. Wahome, do you not want to contribute?

Hon. (Ms.) Wahome: It is Hon. Dennis who is coming between me and the Speaker. Hon. Temporary Deputy Speaker, thank you very much for the opportunity to contribute to this Report. The wide experience cited and quoted in the Report from these three candidates for the different positions is something to be proud of. The Committee found the nominees namely Patrick Ngugi Njoroge, Sheila M'mbijiwe and my colleague and learned friend, Mohammed Nyaoga, equal to the tasks of the positions they have been nominated.

I happen to know the three of them but I have no personal interest. I specifically thank His Excellency the President for nominating Patrick Ngugi who comes from my constituency, Kandara. We are grateful for this opportunity for him to serve the country in this capacity. This is another opportunity for the House to exercise its mandate under the Constitution by approving the President's nominees.

The country, together with those who want to incite, ridicule or cause contempt of the House must agree and allow the House to do its work. We are in support of His Excellency the President, especially for the many things that he is doing. These nominees have been found to not only have academic or professional experience but they are also equal to the task for the offices. They are also suitable by mannerism and attitude but I have a problem. I have been called a village girl by a friend of mine who is also a village boy from my county.

The Temporary Deputy Chairman (Hon. Kajwang): That makes the two of you "the village girl" and "the village boy".

Hon. (Ms.) Wahome: I take no offense because truly, I have risen from the village and I am very proud of those humble beginnings. I have a problem with the form that the EACC requires candidates or nominees to fill which is attached to this Report. It is this form that makes enquiries in respect of marital status of people - matters that are not critical to the positions that the nominees are seeking.

I would like to encourage, request and plead with the EACC to review the form. I think this form with the stamps of the EACC is the one that is bringing problems of whether you are divorced and whether you have a wife or a husband. I think this is a retrogressive form and it

should be reviewed because it contravenes Article 27. Once you have been found suitable with a good attitude and good experience, then Article 27(4) says that the State shall not discriminate directly or indirectly against any person on the ground of race, sex, pregnancy, marital status, health status, ethnic, social or religious beliefs. So, this form that is asking what your religion is or what your marital status is, is analogue, outdated and should be reviewed.

Otherwise I support this Motion.

The Temporary Deputy Chairman (Hon. Kajwang'): Very well, let us have Hon. Nyamweya.

Hon. Nyamweya: Thank you, Hon. Temporary Deputy Speaker. At the outset, I want to support the nominees of the President. More importantly, I want to talk about the Chairman, Mr. Mohammed Nyaoga because he is somebody I have known. I was with him at the University. I had a petition and he was my lawyer. He is a man you can trust. I will tell you one thing.

When I had a petition, we did not sign an agreement of how much I was going to pay him. He told me what I was going to pay him and that is what I paid him. He kept his word. He did not come to say, now that you won the petition and you are a Member of Parliament, I can review my fee. He is one person that this Government has given a job and who the Kenyan public can trust.

You know the President had discretion to name any of the three for the jobs, but he gave it to Mr. Mohammed Nyaoga, who happens to come from my county; Kisii County. I must admit today, that this is an appointment that has been given and which reflects a true person who comes from our county.

We have had appointments, but those appointments do not reflect who we are. So, I thank the President for this appointment and for making this decision. More importantly, Mr. Mohammed Nyaoga has experience as a lawyer in Commercial Law.

Hon. Temporary Deputy Speaker, the Deputy Governor and the Chairman are people on the ground. They have the experience on the ground and they will understand when we complain. They will not wait for the figures. It is very scaring that the Governor said he will work with figures. It is very dangerous to work with figures because they may be imperfect and misleading. So, if they are imperfect and you are relying on them, you will make wrong decisions.

I remember one time, the Kenyan Shilling hit a high of more than 100 to the US Dollar and people were telling the then Governor who was my classmate at the university to intervene. He said that the market forces would determine the occurrence. We are in a perfect environment. We are in a developing country where, sometime, big corporations can make a decision to hurt us. It is very important that apart from looking at the data, he should be practical by checking what is happening on the ground.

With those few remarks, I do not want to take more time because I want to give other Members a chance to support this Motion. We thank His Excellency the President for nominating these candidates. They will be able to move this country forward.

The Governor of CBK said that the debt of this country is 46 per cent of the Gross Domestic Product (GDP). I want to agree with him that as we borrow and do projects, it is very important to look at our ability to pay. I also hope that he will work like Mr. Ouko, the Auditor-General who is very clear in his mind and is independent. He is doing his job as the Auditor-

General of this country. So, if the Governor of the CBK says that this country has a mismatch on our national debt *vis-à-vis* what we are doing, and then he comes up with policies, we should support him.

There is one issue which I do not understand. When the currency is depreciating it is depreciating. However, we are supposed to get inflows from the Standard Gauge Railway (SGR) that we are building. If we are to get inflows, the inflows are supposed to strengthen the shilling. I am not sure whether the inflows which were promised to come ever came. If they came, our Current Account with the Central Bank should have some surplus so that we are able to cushion the shilling against depreciation.

With those few remarks, I support.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Member for Samburu West.

Hon. Lati: Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this Motion. I rarely oppose things on this side of the House. It is hard for me to support something with this kind of interview results. I want to believe that there is something called “meritocracy” in this country. The reason why we conduct long and well-thought interviews is so that we can get to a position where people who are qualified can be picked. If you looked at the results of this interview, with all honesty, you will find that all the people who took number one were not given the job. I can understand that we can create some deviations based on judgment of the appointing authority, but I do not understand anywhere in the world where everybody who became number one is not given the job. What is the purpose of us interviewing these people and wasting their valuable time? I think that there is something sinister other than the people who have been picked here to work. Other than the qualification, there was something inside that was being worked out. I will always oppose such a thing as a Kenyan.

If you look at these interview results, you will find that they reflect everything from the marks gained to things that I did not even imagine appear on results slip like the tribe you come from. To me, that would speak volumes for every Kenyan in this country.

We are talking about affirmative action and I want those loud voices of affirmative action today in this House and in our country to hear this. Affirmative action is not only about gender versus gender but it is also about the minorities, the youth and everything else that is disadvantaged.

I want us to reflect on this. Somebody said here that she is a village girl and she is very proud of that background. I am very proud of that background too. For you to think of humble backgrounds coming from Central Kenya, you ought to know that the humble background of Samburu is more humble than what you have. Take a seat back and think. How long does it take a Samburu from herding cows to come up and get employed at the CBK at the lowest position possible, rise through the ranks all his life to become the Deputy CBK and with the retirement of the Governor, take over as the Acting Governor?

The investor magazine, *Bloomberg*, the most reputable investor magazine in the world, voted Dr. Haron Sirima as the best to take over the CBK. He went to the interviews and became No.1 in the Republic of Kenya. I am truly proud to be a Samburu today but I feel bad being a Kenyan who is so proud and patriotic. Having risen from the humblest of backgrounds through

all the ranks of the CBK, he had all the qualifications of PhD. He even became No.1 in the interview. He was voted the best by the best investor magazine in the world but still the only qualification that could not put him to be the Governor of the CBK is being a Samburu.

I wish that we would have been a little bit sensitive to ourselves that we do not put a Samburu name here. We would have left Mr. Haron Sirima as Dr. Sirima and nothing to do with being a Samburu because we are ashaming ourselves by having Dr. Haron Sirima putting a Samburu in the resource slip and not giving him this job. I will still remain a patriotic Kenyan but today, there is something I have seen that is different. I have seen that there is a natural ceiling for people who come from small tribes in this country. If human beings will not see that natural ceiling, God Almighty will see.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Order. Your time is over anyway.

What was your point of order?

Hon. Njuki: Hon. Temporary Deputy Speaker, is the Member in order to authoritatively insinuate that the only reason why Dr. Sirima was dropped is because he is a Samburu? We need to see that in the Report. We need to see the proof of that but if it is shown that he is a Samburu, then that is understandable.

The Temporary Deputy Speaker (Hon. Cheboi): I overrule you, the Member for Chuka/Igambang'ombe because he has given his piece. This is a debating House.

Hon. Njuki: It is not written there that he did not get the job because he is a Samburu.

The Temporary Deputy Speaker (Hon. Cheboi): Please let us go back to the three minutes rather than the five minutes policy. Let us start with Hon. Kamama.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I rise to support the proposal by the Committee that we approve the nomination of Dr. Mohammed Nyaoga, Dr. Ngugi and Mrs. M'mbijiwe to the positions stated in this Report.

I have had an experience with Mr. Mohammed Nyaoga in the field of business. He is an experienced lawyer and very professional in his dealings both financially and commercially. He is a brilliant lawyer and very much exposed to the financial and business world. So, looking at his CV, he ticks the box. He is qualified and he should be approved by this House.

Looking at the CV and the experience of the Governor nominee, he has all the qualifications required to be a Governor. Looking at his experience in the United States of America (USA) where his position is equivalent to the Chairman of the Federal Reserve Bank in the USA where we had very experienced economists like Alan Greenspan and Bernard Shalom Bernanke who did a marvellous job in that country, I hope that Dr. Ngugi will replicate the experiences of those Governors who did a good job in USA and specifically deal with credit that is very expensive in this country. It has become a disincentive to Kenyans who want to do business.

He must, as a matter of priority, deal with the issue of the high interest rates. They should come down. If you go to some parts of America and Europe, you will find that interest rate on credit is between 3 per cent and 5 per cent.

(Loud consultations)

Hon. Temporary Deputy Speaker, could we have one forum? There are loud consultations.

The Temporary Deputy Speaker (Hon. Cheboi): You should finalise, Hon. Kamama.

Hon. Abongotum: Hon. Temporary Deputy Speaker, he must also deal with the capital requirement that commercial banks should have a minimum of Kshs5 billion. That will kill the banking industry, where I also have some interest. So, the Kshs1 billion benchmark must be maintained until sometime.

Lastly, he must address the issue of our external debt, as a matter of priority. Otherwise, for Mrs. Mmbijiwe, I do not know most of them, but I support the Report of the Committee on Finance, Planning and Trade.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, we will have the Member for Rarieda. Please, let us take three minutes.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. You have taken 15 seconds of my time. I thank you for giving me the opportunity to contribute to the Report. I note that the Report was done in a hurry. This is shown by the number of typographical errors in the Report.

The Report says that Dr. Ngugi got his Bachelor's Degree in 1993, which is not true. That would suggest that he got his degree as an old man of 32 years. He got his degree in 1983, but I suppose that will take care of the fact that we probably needed more time to look at this.

However, much as I know the direction of the debate, the concern that I have about Dr. Ngugi is that he has been out of the country for 20 years. Truly, knowledge of the local issues will be a factor. I have not seen anything being said about his experience in leading a big and diverse organisation. He was an advisor to the IMF Deputy Managing Director but how many people were reporting to him. That is important.

I say this because sometimes when you bring people who have come from small entities, you get what you call "the small entity complex" which tends to make leaders who develop the attitude of running people instead of running with people.

The other concern that I have is that both the Chairman and the Governor of the Central Bank will be outsiders. I wonder what that will do to the attitude of the other CBK insiders. I am a bit concerned about the advisors of the President, like my good friend, Hon. Lelelit. The President is a good man. I have interacted with him and sometimes I am amazed at how much he never seems to miss an opportunity.

If I was in the President's position, without thinking, I would have given this job to Dr. Harun Sirima for one reason only that I am believer in Kenya. I am a believer in the inclusivity of our people. On that score alone, giving Dr. Sirima the job would have proved that no matter where you come from, there is no limit to how far you can go.

Lastly, my good friend, Madam Wahome, has said that Dr. Ngugi comes from her constituency. I hope the CBK Governor's job is not a preserve of the people of Murang'a because I am aware that the predecessor, Dr. Sospeter Njuguna Ndung'u, came from Gacharage in Muranga as well. I hope it is not a preserve of the Murang'a people.

The Temporary Deputy Speaker (Hon. Cheboi): Wind up. Your time is over!

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I have only the highest respect and my good friend, Hon. Jamleck Kamau knows that I have an interest in Gacharage.

The Temporary Deputy Speaker (Hon. Cheboi): Unfortunately, your time is over. Let us have the County Women Representative for Nakuru, Hon. Mary Mbugua.

Hon. (Ms.) Mbugua: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to air my views. I thank the Committee for the job well done. In this country, we need people who are experienced. These citizens are experienced.

(Hon. (Ms.) Wahome consulted loudly)

The Temporary Deputy Speaker (Hon. Cheboi): Order, the Member for Murang'a! Proceed.

Hon. (Ms.) Mbugua: Hon. Temporary Deputy Speaker, we need people of good standing. We need people who have good standing and are qualified. You know we say that experience is a good teacher. We need people who are qualified like these citizens, those who are committed and are role models. We need transparency in this country and good examples. There are very many things that have been said about these people. I know that these citizens will leave a legacy for the young people to learn from.

When the Committee was conducting hearings, it was sensitive to gender balance because there is a woman and the others are men. I thank the Committee for the work they did.

With those few remarks, I support the Report.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Manoti.

Hon. Manoti: Thank you, Hon. Temporary Deputy Speaker for the opportunity to air my views on these very important Kenyans who have been nominated to occupy the CBK. The CBK is one of those very important institutions in this country. These three people, whom we are recommending today to take over the management of the CBK have a big role to play.

First, they have to give people confidence, which nobody doubts, because of their past experience and where they have worked.

We have a problem with the commercial banks and these people we are putting in those offices have to control the way banks disburse their loans. They have to strengthen the Inspection Unit at the CBK to ensure that all the procedures which are followed by the commercial banks are proper.

With those few remarks, I support the appointment of these great Kenyans.

The Temporary Deputy Speaker (Hon. Cheboi): Unfortunately, Hon. Members, we will call the Mover to reply because we had agreed on one hour. It is slightly past the one hour that was agreed on.

Proceed, Hon. Langat.

Hon. Members: Donate some minutes!

Hon. Langat: Hon. Temporary Deputy Speaker, I am under pressure to donate my time. I seek your guidance on whether that is possible.

The Temporary Deputy Speaker (Hon. Cheboi): We are already beyond the one-hour that was agreed on, and so donations will not be allowed. Proceed.

Hon. Langat: Hon. Members, I was willing to donate a few of my minutes but the Speaker has refused. I want to thank the Hon. Members for the comments they have made.

Thank you very much. I want to assure the Member for Samburu West that I do not think the reason why Harun Sirima was not appointed to the position is because he is a Samburu. He should be thankful that one of them was shortlisted.

I beg to move.

The Temporary Deputy Speaker (Hon. Cheboi): Seeing that there are still numbers, I will proceed and put the Question. Hon. Anami, you cannot walk when the Speaker is upstanding. It would be extremely out of order.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, the time being 6.45 p.m., the House stands adjourned until Tuesday, 23rd June, 2015, at 2.30 p.m.

The House rose at 6.45 p.m.