

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd December 2015

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Speaker: A communication will be issued much later.

PAPERS LAID

Hon. Speaker: Hon. David Were, Chairman of the Departmental Committee on Labour and Social Welfare.

Hon. Were: Hon. Speaker, the Clerk is bringing the Papers. I have not got them yet.

Hon. Speaker: Hon. Were, we did not hear what you said.

Hon. Were: I am saying that the document that I am supposed to lay on the Table of the House has not been given to me. The Clerk has told me that he is on the way coming.

Hon. Speaker: But they were approved very early in the morning today. Your Clerk seems to be walking like a chameleon. Will Hon. Were table the Papers tomorrow because it looks like there is lack of coordination between him and the clerk?

Let us have the Chairperson of the Committee on Regional Integration, Hon. (Ms.) Kajuju.

Hon. (Ms.) Kajuju: Hon. Speaker, I beg to lay the following Papers on the Table of the House today Wednesday 2nd December 2015:-

The Report of the Committee on Regional Integration on its consideration of the report of the Committee on General Purposes of the East African Legislative Assembly (EALA) on the East African Community (EAC) Estimates of Revenue and Expenditure for the year 2015\2016.

The Report of the Committee on accounts of EALA on the on-spot assessment of the internal audit systems of the Lake Victoria Basin Commission projects and programmes.

The Report of the Committee on Agriculture, Tourism and Natural Resources of EALA on the on-spot assessment of Lake Victoria Water Supply and Sanitation Programme in the Republic of Burundi, Rwanda and the United Republic of Tanzania.

The Report of the Committee on General Purposes of the EALA on the EAC Annual Report for the 2012/2013 Financial Year.

The Report of the Committee on Communication, Trade and Investment on the on-spot assessment of EAC Single Customs Territory.

The Report of the Committee on Legal Rules and Privileges on rules of procedure of committees of EALA and code of conduct for the members of EALA.

The Report of the Committee on Accounts of the audited accounts of the EAC.

Bills passed by EALA.

Thank you.

Hon. Speaker: Very well. It looks like you have more than a mouthful in your Committee.

There you are, Hon. Were.

Hon. Were: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday 2nd December 2015:-

The reports of the Departmental Committee on Labour and Social Welfare on:

- (i) the Petition by Mr. Kaston Kamaru Githinji on delay of his retirement benefits;
- (ii) the study visit to India on administration of foreign employment and management of labour migration; and,
- (iii) the Study visit to Saudi Arabia on administration of foreign employment and management of labour migration.

Thank you.

Hon. Speaker: I believe those are useful reports given that the country has been facing a lot of problems with regard to foreign employment and labour related issues. I would encourage every Member to get a copy of the reports before they come up for debate.

Next Order.

STATEMENTS

Hon. Speaker: At this point, we will go to my communication of 14th October 2015. So, we will hear reports and updates from the Departmental Committee on Transport, Public Works and Housing. Hon. (Eng.) Mahamud.

Hon. (Eng.) Mahamud: Thank you, Hon. Speaker. The following is the report of the business pending before the Departmental Committee on Transport, Public Works and Housing.

There are legislative proposals:-

- (i) The Traffic (Amendment) Bill which was proposed by Hon. Abdullswamad Nassir. It was referred to the Committee on 4th August 2015. The Committee held meetings with the sponsor of the Bill and received comments from the office of the Attorney-General. The Committee is yet to adopt the report on its consolidation.
- (ii) The Motor Vehicle and Motor Cycle Tracking Device Bill by Hon. Abdullswamad Nassir. It was referred to Committee on 27th August 2015. The Committee has held meetings with the sponsor and received

comments from the office of the Attorney-General. We are yet to finalise our report.

- (iii) The Elevator Safety Authority Legislative proposal 2015, by Hon. Benjamin Washiali. It was received and referred to the Committee on the 18th August 2015. The Committee met the sponsor of the Bill on 22nd October 2015. We are yet to receive comments from the office of the Attorney-General before making recommendations.
- (iv) The Quantity Surveyors Bill 2015 by Hon. Lati Lelelit. It was referred to us on 24th August 2015.

The Committee is yet to meet the sponsor of the proposal.

Hon. Speaker, I wish to inform the House that the committee does not have any Bills or petitions pending before it for consideration.

The following bilateral agreements are pending before the Committee:-

Bilateral agreements between the Government of the Republic of Kenya and the Social Republic of Vietnam. The instrument was tabled and referred to the Committee on Tuesday 30th June 2015.

The Committee has since held meetings with the officials from the Ministry of Transport and Infrastructure. It is yet to finalise its report and subsequently table the same in the House.

On Foreign Visit Reporting, reports are waiting for tabling. There is a report on benchmarking visit to Australia from 21st-28th February 2015.

Next is the Report on the visit to the United Kingdom during the 114 Session of the International Maritime Organisation held between 28th June and 4th July 2015. The Report on the visit to Dubai Big Five Construction Fare held between 22nd and 27th November, 2015 and a Report of the visit to the 29th Session of the International Maritime Organisation Assembly held between 23rd November and 2nd December, 2015.

As I conclude, allow me to reiterate that the Committee remains focused and committed to conclude all the issues pending before it.

Thank you.

Hon. Speaker: Very well. Other Committees should be encouraged to follow that example, unless a Member has an issue from the update given by the Chair of the Committee on the business pending before that Committee, both by way of petitions and legislative proposals.

There being no indication, then you are commanded to remain forever silent. Let us have the Report from the Budget and Appropriations Committee.

Yes, Hon. Mutava Musyimi.

BUSINESS PENDING BEFORE THE BUDGET AND APPROPRIATIONS COMMITTEE

Hon. Musyimi: Thank you, Hon. Speaker. I would like to appraise this House on the status of business pending before the Budget and Appropriations Committee. Before I do so, let me just indicate that much of our work is largely tied to the Budget calendar and the review of legislative proposals that are considered to have implications on current and future Budgets, popularly known as “money Bills” in the context of Article 114.

Hon. Speaker, the Budget and Appropriations Committee has sought to discharge its duties. We have currently 26 legislative proposals pending and some have been referred to the National Treasury as is required. I might also indicate that given the sensitivity of money Bills, we, as a Committee, have decided that we should not proceed with any final determination until we have given the sponsors of these Bills and Motions the opportunity to appear before the Committee. That has created other problems. It has not always been possible for us to get the sponsors, and sometimes we have waited for a very long time. In certain cases, we have waited for three to four months. Yesterday, we met and decided that we may have to stop being too diplomatic; if Members are not appearing before us, we just go ahead and listen to the analysis from the Parliamentary Budget Office, discuss it as a Committee and make a decision.

That said, let me just indicate that we have done the usual budgetary work, namely the Budget Policy Statement 2015, that was laid before the House. We have the Division of Revenue Bill, 2015, the Mediation Committee Report on the Senate amendments to the Division of Revenue Bill, the Supplementary Estimates for 2014/2015, the Estimates of Revenue and Expenditure, 2015/2016, Supplementary II, 2014/2015, the Budget and Appropriations Committee Report on the Senate Message on the approval of the County Allocation of Revenue Bill and the Committee consideration of the Appropriation Bill.

With respect to the Bills that have been processed and recommendations sent to you, I wish to indicate that, that is the case with respect to the Strategic Youth Industries Bill, 2014 by Hon. Kinoti Gatobu, the Central Bank (Amendment) Bill, 2014 by Hon. Kabando wa Kabando, the National Museums and Heritage (Amendment) Bill 2014 by Hon. Nassir and the Community Oral Health Practitioners Bill, 2014 by Hon. Kipkosgei. We also have the Malaria Prevention Bill, 2014, by Hon. Diriye, the amendments to the proposed Retirement Benefits Bill by Hon. Adan Duale and Hon. Mbadi and the Vetting of Judges and Magistrates (Amendment) Bill, 2014 by Hon. Chepkong'a. We also have the Pensions (Amendment) Bill, 2014 by Hon. David Bowen, the Salaries and Remuneration Bill, the Commission (Amendment) Bill, 2014 by Hon. Bowen, the Biomedical Engineering Training Registration and Licensing Bill, 2014 by Hon. Mutinda and the Political Parties (Amendment) Bill, 2014 by Hon. Wamalwa.

There is the Tea (Amendment) Bill, 2014 by Hon. Tonui, the Kenya Roads (Amendment) Bill, 2014 by Hon. Kinyanjui, the Health Records and Information Managers Bill, 2014 by Hon. Neto, the Kenya National Examinations Council (Amendment) Bill, 2014 by Hon. Shidiye, the Sexual Offences (Amendment) Bill 2014 by Hon. Mutua and the Value Added Tax (Amendment) Bill, 2014 by Hon. Wamunyinyi. We also have the Parliamentary Pensions (Amendment) Bill, 2014 by Hon. Wamunyinyi, which has been deferred to the National Treasury Cabinet Secretary and is awaiting his opinion.

Back to the Bills sent to the Speaker's desk, we have the Basic Education (Amendment) Bill, 2014 by Hon. Kang'ata, the Kenya Youth and Women Empowerment (UWEZO) Bill by Hon. Bowen, the CDF Bill, 2015 by Hon. Lessonet, the Kenya Mausoleum Bill, 2015 by Hon. Njuki, the Urban Areas and Cities (Amendment) Bill, 2014 by Hon. Dan Kazungu, the Banking (Amendment) Bill, 2014 by Hon. Njomo, the

Strategic Industries Bill, 2015 by Hon. Gatobu and the Public Benefits Organisations (Amendment) Bill, 2014 by Hon. Kuria.

There is a Motion that the Government undertakes a comprehensive national self survey by Hon. Ottichilo, a Motion to ensure that the Government sets up an Intensive Care Unit (ICU) and a blood transfusion unit in every constituency by Hon. Dawood, and a Motion regarding the allocation of adequate funds for infrastructure development and employment of teachers in order to guarantee free and compulsory quality education to every Kenyan child in compliance with the Constitution by Hon. Wandayi. There is also a Motion seeking the establishment of an Emergency Fund to fund cholera by Hon. Ndirangu and a Motion seeking scholarship to, at least, one student per county to study oncology by Hon. Gladys Wanga.

There is a Motion declaring drugs and alcohol abuse a national disaster by Hon. Njenga and a Motion declaring the degradation of water resources a national disaster by Hon. Ottichilo. There is a Motion regarding the resettlement of squatters in Nairobi and other areas by Hon. Sumra, which has been referred to the National Treasury for comment.

There is a raft of other Bills, largely Bills that we have not had the opportunity to consider, because largely the sponsors have been unable to come before my Committee. I would like to take this opportunity to just mention that we are going to be a little bit less generous, because our generosity has hurt the work of the Committee. Where we find that Members cannot come, we will just proceed, as I said earlier on, prosecute the matter and make our recommendations. There is a list of about 28 Bills - I do not know whether I need to read out all of them - that await consideration by the Committee. As soon as we come back, perhaps even earlier, we should prosecute them. I do not know whether I need to read them out; if you want me to do so, I will do so.

Thank you.

Hon. Speaker: Yes, Hon. Waluke. I think the person you need to raise the issue with is the Chairperson of the Budget and Appropriations Committee.

Hon. Koyi: Hon. Speaker, I wish to seek clarification about my Bill which was approved by the Speaker, but I have never been called to the Committee. Complaints have been raised against the Budget and Appropriations Committee. One time, Hon. Wafula Wamunyinyi moved a Motion to reduce the powers of this Committee, but later on, the Motion disappeared. Hon. Midiwo also brought a report to show that the Committee had allocated Kshs60 million to each of its Members. I seek advice from the Speaker regarding delays in sending summons to the Members by this Committee. Finally, are there under-hand deals in this Committee?

Hon. Speaker: Hon. Mutava Musyimi, do I see Hon. John Mbadi, a Member of that Committee, desiring to say something?

Hon. Ng'ongo: Thank you, Hon. Speaker. Actually, I was on a point of order, but let me now combine the two. First, I wanted to seek your clarification regarding Article 114. This House needs to look for a better way of handling it. When we propose so many Bills that are not very easy for the Budget and Appropriations Committee to transact in good time for us to proceed, then it becomes a challenge. For instance, I proposed a Bill on the amendment to the Appropriation Act. If that Bill is going to go up to next year, it might be overtaken by events. This Bill was supposed to make some money available for

the Government to pay the teachers of this country given negotiations are ongoing between the TSC and the teachers.

Hon. Speaker, I am raising that with you, that we may look for a way of making this efficient. Maybe we can involve more than one Committee, namely the Budget and Appropriations Committee and another Committee to transact these Bills. I can see the Budget and Appropriations Committee having a challenge.

I have just listened to Hon. Waluke, who was up to recently a very committed Member of my party - I have started doubting his serious commitment to my party. My concern is that he talked about the Members of the Budget and Appropriations Committee allocating themselves Kshs60 million. What does that mean? The Kshs60 million is such a huge amount that if I allocated it to myself, it should be seen. I sit in that Committee and I have never allocated myself Kshs60 million and I do not see how a Member or Members of a Committee can allocate themselves Kshs60 million. Maybe he meant to say something, but he has not said it. It is not really my business to help him say what he wanted to say.

Sometimes when you have something to say and probably you lack ways of saying it, you can request your colleague to say it. You see, what is going on out there now is that Members of the Budget and Appropriations Committee have allocated themselves some money. I really do not know what that means. As a matter of fact, Members of our Committee cannot allocate any money without the approval of this House. So, we need to understand the House procedures. This is the only House that allocates money. Committees only facilitate the work of this House. So, I just would want my friend to probably do things with moderation and be a little bit accurate. I would urge him to come back to my party, so that he could get some tuition on some of these things very easily. When he is out there, I can see him getting lost.

Hon. Speaker: Well, I will not indulge in internal party matters, but I will ensure that Hon. Mbadi will go out of his way to conduct some tutorials for ardent party followers, so that they understand policies of the party. Let us just stick to the issue. We wanted to have an interrogation of the report given by the Chair of the Budget and Appropriations Committee. Hon. Waluke is at liberty to raise the issue he has raised. I am sure the Chair of the Budget and Appropriations Committee is able to respond, but should Hon. John Mbadi want to help his Member, obviously, that is welcome; he is a more experienced Member of the House.

Hon. Wandayi.

Hon. Wandayi: Thank you, Hon. Speaker. The Chairman has indicated a Motion that I originated as one of the issues that they have dealt with. Whereas I want to agree entirely with Hon. Mbadi's submissions with regard to the challenges facing this Committee, it is important for us also to try to help the Committee in its communication with the relevant departments in Parliament.

I appeared before the Committee to prosecute my Motion, and they gave me an indication that they had approved it with minor amendments. In fact, in their follow up meeting, they approved it with some minor amendments. I was taken aback when communication came from the Table Office. In fact, I had to follow up for many months the whereabouts of the communication from the Committee to the Table Office. When

the communication came, the verdict was that my Motion was rejected. Upon my further inquiries, the verdict changed and said that they had accepted it.

Hon. Speaker, so, you could help this Committee to enhance its capacity in terms of transacting their business and communicating effectively to the relevant persons; that will help this House.

Hon. Speaker: Maybe even before we go further, if you look at your Standing Order No.183, it is very clear if you are talking about efficiency. It talks of subcommittees of select committees, and a departmental committee or any Committee is a select committee. It provides that:-

“A select committee may establish such sub-committees as it may consider necessary for the proper discharge of its functions”.

So, the Budget and Appropriations Committee is a Committee of 51 Members. If they desire so to do, they can establish such sub-committees as may be necessary for the proper discharge of the functions allocated to it. In the event that the Committee was to have sub-committees, what then you can approach the Chair to do is to allocate personnel to be able to service such sub-committees as you may decide to establish within the Committee. It is not so much of a challenge. The work can still be done by that Committee through its sub-committees, if you decide to establish sub-committees. Even sub-committees would eventually have to report. It is much easier. This is the same rationale for the House working through Committees, so that through Committees, work becomes much easier here in the plenary. Again, committees are encouraged to establish sub-committees. That is why the Standing Orders provide for the possibility of sub-committees of committees being established.

Hon. Bunyasi.

Hon. Bunyasi: Hon. Speaker, first I want to thank the Chairman of the Budget and Appropriations Committee for a very heavy burden and a very comprehensive work programme that he has. However, I was going to follow up the comment by Hon. Mbadi on his categorical dismissal of this issue of Members of the Budget and Appropriations Committee allocating themselves money. It is quite well known as you talk one on one, but it is denied holistically, because I guess, they have a clever way of handling that. I was rather distressed because it is a matter that has implications in terms of the integrity of this House; even if you go beyond that for equity among the Members of this House.

I was rather distressed that he would be so dismissive and he is a Member of the Committee. He knows a lot more than that.

Hon. Speaker: Hon. Mwaura Isaac.

Hon. Mwaura: Hon. Speaker, I want to make two observations. First, if you look at the various legislative proposals, it is important if all of them, particularly Bills, are numbered based on proposals. Members are making very good efforts, but they get frustrated because of the very convoluted manner in which one has to go through to seek approvals.

If you remember sometime back, this House was accused wrongly that Members were not making enough legislative proposals. Just listening to my Chairman, Hon. Mutava Musyimi, those 28 other Bills are Bills that are not mentioned as proposals from certain Members. Further to that, when you propose some of these Motions---

Personally, I did some Motions in March and now the Third Session of the 11th Parliament is nearly over, yet they have never seen the Floor of the House. So, it is very frustrating because when we come to this august House, we want to legislate and have persuasive ideas, but if they are frustrated by red tape in Parliament, it becomes very disappointing.

If you look at Article 114 of the Constitution, if the Budget and Appropriations Committee refuses to give a go ahead, does it mean that this plenary fails to benefit from such persuasions because that matter ceases? If you look at the provisions of that Article, it requires the National Assembly---In fact, it uses the word “may” proceed to determine that matter. As things are currently, our Standing Orders speak to the fact that the relevant Committee is the Budget and Appropriations Committee, which is okay anyway because they are the ones that deal with money Bills. However, even if the Budget and Appropriations Committee does not agree with the proponent of such legislative proposal, it is my opinion that it should still come to the Floor of the House, so that the House in its wisdom can make a determination. Otherwise Members become very frustrated when you make very good suggestions and then they die midway. You do not know who is dealing with it. You do not know whether it has lapsed and then you look like you are not doing your work as a legislator.

Hon. Speaker: Hon. Mutava Musyimi can respond.

Hon. Musyimi: Thank you, Hon. Speaker. Let me just remind Members that the law is clear on this matter. There are those of us who feel that the Budget and Appropriations Committee has too many powers but that is the law we passed. Section 114(2) of the Constitution says:

“If in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter mentioned in the definition of ‘a money Bill’, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.”

That is the law. If that creates power issues in terms of the responsibilities assigned to the Budget and Appropriations Committee, those are matters for another day. All we are doing is prosecuting our mandate.

Secondly, I also need to indicate that before any Bill or Motion is discussed by my Committee, it must receive thorough analysis by the Parliamentary Budget Office. Sometimes that takes time because they are the ones with the expertise and not us. They would normally analyse a Bill or Motion and then come to us with the recommendations. From there, we try the best we can to be fair. Obviously, we must get the views of the Cabinet Secretary of the National Treasury. That is why it is absolutely crucial in my view. Even if we take long, we hold the view that in the interest of natural justice, the owner of the Motion or Bill needs to be given the opportunity to appear before the Committee, because to make a decision on a Motion or a Bill without listening to the sponsor is not fair. However, in the process of waiting to listen to the sponsor, we are losing valuable time.

Secondly, a sponsor may come and not persuade the Committee. I leave it to you to decide. If those powers have been given to the Committee to decide and they make a decision, then you feel that the matter should still come here as my good friend Hon.

Mwaura is proposing, that I leave to your better judgment, but my humble reading of the law leads me to a different direction.

With respect to matters that we have dealt with in the Committee that are now within the system of Parliament, that matter is beyond us because once we finish with Bills, we act very quickly. I sign the report and it gets into the administration of Parliament and we cannot take responsibility for any delays that follow thereafter.

I value what you have said about having smaller committees. Earlier on in the leadership of my Committee, we sought to learn from the German Parliament about what they call clusters to see whether we could use the system of clusters where we divide ourselves into smaller committees to consider certain matters. You will agree with me that these Bills are very sensitive. We want to hear the sponsor *omundu khu mundu*, allow me to use that phrase. Instead of hearing about Bills of a sponsor through a Committee, we prefer to do it more directly. We will take into account what you have said. I just hope that it does not water down the quality of work that we intend to put in, delays notwithstanding, but we have heard you and the Committee appreciates the views that you have given, and also the views of the hon. Members.

I thank you.

Hon. Speaker: I suppose nothing is up for my direction. If Hon. Mwaura desires that I express myself on Article 114, perhaps alongside Article 109(5), then he can make that request at an appropriate time. Let us hear the last report from the Catering and Health Club Committee.

Hon. Serut, are you the one dealing with it?

Hon. Serut: Thank you, Hon. Speaker, there is a very serious allegation which has been raised by Hon. (Maj.) Waluke on the Budget and Appropriations Committee Members having allocated themselves Kshs60 million. I seek some clarification from the Chairman whether this happened or not. This House needs an answer on that. We cannot just sweep it under the carpet.

Hon. Speaker: Even as you seek answers, I also want to agree with Hon. John Mbadi that the Committee makes recommendations to the plenary. The plenary is you, unless you want to suggest that on occasions, you take leave of absence of your brains when it comes to consideration of committee reports. Where a Committee is said to have allocated itself Kshs60 million, who approved it if at all anything like that was ever approved? Was it approved by this plenary? Hon. Members, some of these allegations also show you in very bad light, that you do not read committee reports and recommendations. Anyhow, maybe the Hon. Mutava wishes to express himself on that.

Hon. Musyimi: Thank you, Hon. Speaker. I am being asked to do a very difficult job which is to question the capacity of plenary to make its decisions. I am not in a position to do so. I respect the decision of this Honourable House with regard to the Budget for the Financial Year 2015/2016 and we have 2016/2017. If there are any lessons that need to be learnt through the committee work, those need to be applied at that point.

I thank you.

Hon. Speaker: Hon. Eseli, I see you want to comment.

Hon. (Dr.) Simiyu: Thank you, Hon. Speaker. While I do not want to question your wisdom, it is not that the plenary is sleeping on the job. It is just that whatever allocations are done, they are done cleverly based on what they call public participation.

Then they allocate certain monies to their preferred constituencies for certain projects in their constituencies. That is exactly what happens.

In a situation like that one, we, in the plenary, are not able to discern what they have done. We can only realise what happened when the implementation of the projects begin. Therefore, it is not that we, in the plenary, are sleeping on the job. It is just because the Members of the Budget and Appropriations Committee are a step ahead of those of us who are in the plenary. They appear to know how to hide resources in projects in their respective constituencies. So, be kind to us in the plenary. We were unable to decipher what happened until implementation of the projects started. That was when we realised what had happened.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, also to be fair, there are reports which have been tabled here by the Leader of the Majority Party on numerous occasions from the Controller of Budget, showing implementation status of Budgets. On numerous occasions, I urged you, hon. Members, to read those reports. In those reports, the Controller of Budget tells you that the money that you have appropriated is being utilised in a particular way. We do not have to wait to go to funerals and other public functions to realise, in the middle of such functions, that some implementation of the Budget is going on.

Hon. Midiwo!

Hon. Midiwo: Thank you, Hon. Speaker. You know, this issue is generally spent. We have deliberated it on the Floor of this House and in the House's leadership meetings. I want to plead with the House, and particularly the Members of the Budget and Appropriations Committee that in this era of "eating and overeating", the only way to rid ourselves of such temptations, now that their term is coming to an end, is to change the Standing Orders and make the Budget and Appropriations Committee a Committee of Chairmen of Departmental Committees, so that what is discussed in Departmental Committees is what is taken to the Budget and Appropriations Committee by the Departmental Committee Chairpersons.

(Applause)

If there is any change, the Departmental Committee Chairpersons will have to go back to their Committees. I used to blame the Members of the Budget and Appropriations Committee but I have since realised that the way the Standing Orders are crafted gives an open cheque to that Committee.

I was a Member of the Finance Committee, which was the mother of the Budget and Appropriations Committee. What the Budget and Appropriations Committee seems to be doing, or instituting as their role, is not what was envisaged when we founded that Committee. Therefore, instead of blaming each other, we should let bygones be bygones. I plead that it should not be a contest when we form a new committee.

We should change the Standing Orders and create a Budget and Appropriations Committee whose membership should be Chairpersons of the Committees that do the Budgeting. That way, every Member will be satisfied and this problem will disappear. As it is now, the Standing Orders give the Budget and Appropriations Committee an open

cheque. If we continue this way, we will only be quarrelling as Members of Parliament. Since this matter is spent, it is only good to find solutions to the problems, and not engage in a blame game.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, what informed the formation of that Committee and its size were matters that Hon. Midiwo, Hon. Mutava Musyimi and other hon. Members who were in the 10th Parliament are fully alive to. Obviously, having put in Article 121 of the Constitution that the quorum of the House shall be 50 Members, we needed to have a Committee of 51 Members, so that, among other things at that time, the Minister for Finance could present the Budget before the Budget and Appropriations Committee even if the plenary was not in session.

The 11th Parliament is the one implementing the Constitution. The proposal of Hon. Midiwo is something that all of us should consider as we continue to implement the Constitution. Obviously, the Constitution cannot be said to be perfect. It has its own imperfections. I agree with you, Hon. Midiwo, that this is not the time to start pointing fingers at each other. Even as I hear Hon. Esseli, since we will soon get into the Budget cycle, the reports of the Budget and Appropriations Committee will have to be looked at with greater precision and with a tooth comb.

Hon. Mutava Musyimi, do you want to comment?

Hon. Musyimi: Hon. Speaker, I just want to make a final comment. I want hon. Members to know that we have heard their concerns, but let me just point out that not long ago, the President himself indicated that he wanted to set up a Management and Budget Office at State House. Why do I refer to that? To just let hon. Members know that the Budget making process under the new Constitution has not been a very easy process. I do not think the Members of this House have any idea of what we go through. We accepted the job, which we may not have done to the satisfaction of hon. Members; but I want to assure this House that we have given it our best shot. If there were mistakes, they were genuine mistakes, as I said before. I have listened. I may not have agreed with everything that has been said, but we must, nonetheless, be big enough to hear each other. Whatever lessons are there to be learned for the 2015/2016 Budget cycle, they will be learned.

Thank you, Hon. Speaker.

REPORT ON BUSINESS BEFORE THE CATERING AND HEALTH CLUB SERVICES COMMITTEE

Hon. Speaker: Can we hear the Chairperson or the Vice-Chairperson of the Catering and Health Club Committee? Hon. Lagat, are you the Vice-Chairperson of that Committee? Your other accomplishments in the past are well acknowledged.

Hon. Lagat: Hon. Speaker, I would like to report to this House the status of business pending before the Committee on Catering and Health Services.

The Catering and Health Club Services Committee was established through a resolution of this House. The Committee is responsible for the provision of effective and efficient catering and health club services to Members of Parliament.

The National Assembly, on 14th March 1967, established a Catering Fund and a Catering Committee with powers to hold and manage the Catering Fund, among other functions. The Catering and Health Services Club Committee has the mandate of managing the Catering Fund and Health Club Fund. It is the oversight body on the operations of the Catering Department. The Committee is also responsible for the provision of effective and efficient catering and health club services to Members of Parliament.

In accordance with the Chair's Communication of Wednesday, 14th October 2015, it has been notified that during the sitting of today Wednesday, 2nd December, 2015, the Chairperson of the Catering and Health Club Services Committee will appraise the House on the status of the business pending before the Committee.

On the Report on challenges facing the Catering and Health Club Department, the Committee is scheduled to meet the Parliamentary Service Commission (PSC) Welfare Committee to discuss the challenges facing the Catering and Health Club Department before it tables its Report in this House. We are yet to meet with the PSC Welfare Committee.

The Report has been adopted by the Committee and will be tabled before the House in February, 2016. Secondly, there was a study tour to the Republic of Ethiopia undertaken from 25th May, 2014 to 30th May, 2014. The Report has been adopted by the Committee and will also be tabled before the House in February, 2016.

The Report on the study visit to the Republic of Zambia undertaken from 2nd November, 2014 to 8th November, 2014 has been adopted by the Committee and will be tabled in February, 2016.

There was also a study visit to the Republic of Uganda undertaken from 16th August, 2014 to 24th August, 2014. The Committee is planning to adopt and table the Report.

Lastly, there was a study visit to the Republic of India undertaken from 30th August, 2015 to 6th September, 2015. The Committee is planning to adopt and table the Report.

Hon. Speaker, I can only urge the Parliamentary Service Commission to avail itself, so that we meet and tackle all these challenges.

Hon. Speaker: Well, obviously, those reports from those study visits should be made available, so that we see how we are feeding. I am assuming that you learnt something from Netherlands, Uganda and Ethiopia.

(Laughter)

We are assuming that those reports should really be robust. Anyhow, unless there are any issues--- What is it Hon. Waititu?

Hon. Waititu: Hon. Speaker, I just want to add a few words to this matter since I am a member of that Committee. We have benefitted also from Members who were also present in the Ninth Parliament, for example, Hon. Jakoyo Midiwo. The Deputy Leader of Majority Party is also a member of that Committee.

Indeed, we have been having challenges. The Vice-Chairman mentioned something about difficulties arising from the Parliament Service Commission (PSC) and

it has to do with the casual workers in Parliament. We are soon going on recess, but most of our employees are casual employees. When we come back from recess we will have challenges as Members attend the health club and the cafeteria to enjoy their food. Even Hon. Jakoyo Midiwo intimated that there is a danger of maintaining casual workers. We are, therefore, asking the PSC to allow us employ them permanently because we have the funds.

I thank you, Hon. Speaker.

Hon. A.B. Duale: Hon. Speaker, I told you yesterday in the House Business Committee that I will wait for the Report from the Catering and Health Club Committee. When I saw it on the Order Paper I was a happy man. I am also happy that the Deputy Leader of the Majority Party and the Deputy Leader of the Minority Party sit in that committee. I am told that my deputy was removed, but the Deputy Whip sits in that Committee.

Hon. Jakoyo is a man who does not want to be marginalized. He always fights for the rights of others. However, I think that since he joined the Catering and Health Club Committee they decided to treat us like we are in the animal farm. Many people were accusing my good friend, the Chairman of the Budget and Appropriations Committee. There are serious issues in that Committee, which I do not want to go into.

Hon. Speaker, I am serving for the seventh year now as a Member of Parliament. The food we eat here is terrible! If you look at those *mandazis*---

(Laughter)

Hon. Speaker you have been here before me and so has been Hon. Jakoyo Midiwo. I am not talking about this because I love food.

(Laughter)

You know Parliament is a place where we invite very respectable members of our constituencies. Even when Ministers come to appear before the Committees those Committees sometimes host them for tea or lunch. The kind of food that is served in this cafeteria vis-à-vis the amount of money invested in the same cafeteria--- It would be better if the Committee outsourced that service. You know you can give it to somebody outside there.

(Applause)

Outsource that service. Bring in a restaurant to offer the service. We have seen that the service offered is not good. The chairs we sit on at present are the same ones I sat on in 2007 when I became a Member of Parliament. I am sure, Hon. Speaker, you also left them there. The gym is pathetic. Talk about the toilets, the washrooms, the massage rooms, the equipment and so on. Whether you use the gym or not, you are supposed to pay Kshs2,000. In my opinion, the Committee in which our leadership sits has failed. As the Chairman of the PSC, you must save us. I am pleading with you that you save us. Let us have good tea and cookies. The queen cakes and *mandazis* we are served--- You might

think they were cooked two weeks ago. Their colour is changed and they are cold. I am sure there are Members here who do not even invite people for lunch.

Parliament is a respectable institution, which you lead. The Vice-Chairman ought to have told us how he is going to improve the food. The sooner this is done the better. We were told that there is a new restaurant being built in the new building. I walked at the small place where our colleagues from the Senate have their tea. If you go there it is like you are at Intercontinental Hotel. On the contrary, where we get our tea--- Hon. Members, if you go to the Senate place I am talking about, you will confirm what I am saying that, indeed, this is an animal farm where some animals are more equal than others. Here we are all equal because we have been elected by the people.

I am talking about this because Members of Parliament have raised this issue. The leadership that I nominated to sit in this Committee has failed me. Hon. Jakoyo has failed me. I think he joined the animal farm. He needs to rise to the occasion. From February, when we come back, we need to see a change. If that will not be the case, then we are going to change the whole membership and leadership of the Catering and the Health Club Committee. This is because you are there to serve us. Give us healthy food; we are not getting healthy food.

Hon. Speaker, I think the Committee has heard me.

Hon. Speaker: And of course, the Committee has done bench-marking tours, and its members are now reporting on what they have learnt out there.

(Laughter)

Hon. Midiwo: Thank you, Hon. Speaker. This is actually a very healthy talk because it is about our health. Let me declare that I have never been to those benchmarking things although I think it is good for Members. This is an interesting thing to me because I put myself in this Catering and Health Club Committee, and because I love the welfare of people, particularly welfare of my colleagues. This Catering and Health Club Committee has issues. A few years ago, no Member wanted to sit in it. In fact there was a Member in the old Chamber who was from Turkana and you were also in that Chamber. He was made a Member of the Catering Committee. He was called Hon. Ewaton, the late Hon. Member who just took his life the other day. He was from Turkana Central. He was sitting in that corner and he went wild when he was told he had been appointed to the Catering and Health Club Committee. He said: "Hon. Speaker - Hon. Kaparo - I am not a woman. You cannot make me a cook!" Those were the days. He actually walked out.

(Laughter)

The Catering and Health Club Committee is not about cooking. Members do not cook. This is an oversight Committee and I will tell you what it is supposed to oversee. I am the one who proposed that you combine Health Club and Catering Committee so that it becomes attractive to Members. It is a very enjoyable Committee. Even the food is very enjoyable if you get the privilege to taste it. When we make the rules, these Members start blaming the Catering and Health Club Committee through their leader, the Leader of

the Majority Party who has asked you to do something. I want you to do something today in this House.

We are 349 Members in this House. We are too many to eat in any restaurant. We told Members to keep their visitors away. There is no cooking that can cater for 400 Members and their guests on a daily basis. When you go to eat in the Members restaurant, you find a Member with half of his constituency sitting there which is against the rules.

The Sergeant-at-Arms cannot touch them. We have even appealed to the Clerk. When we were in high school, we used to rush to be number one in the line, so that we could get what we used to call “top layer”. So, when other Members are still in the Chamber deliberating, others are already eating there with their constituents against our rules. So, these other Members get the residue. Hon. Speaker, help us. If you want good food, obey the rules of the game. Respect the Sergeant-at-Arms.

The Parliamentary Service Commission (PSC) which you the Speaker chairs has to do something which this Committee has been talking about. My colleague, Hon. Waititu, has tried to raise it. This House, under your chairmanship, cannot keep making people work for us as casuals. The whole country and the world know that Parliament of Kenya is one of the best employers. I fear going there because those employees keep saying: “*Mheshimiwa*, help us, help us.” The work of employment is for PSC. We cannot have people working for ten years as casuals. What is worrying, and which the Hon. Member was bringing out, is that those casuals there are now worried because they are told that PSC last week employed other people to take their jobs.

Hon. Speaker, some of those people have been here for over five to seven years. We must absorb them. This is very important. If it is a rumour, that will be good. I asked a Commissioner on their behalf and he told me that we did not give them their names. It is not our duty. We are an oversight Committee. PSC must do certain things. As you deal with Members of this Committee, also deal with Members of your Commission. This is because there are some things that we are going to bring out about the PSC when we come back in February, which will surprise Members. They must work. You cannot work alone. The PSC is supposed to help you work. On a simple thing like employing people-- - You do not expect a casual to cook good food for seven years. Train them. In fact, they should be going for those benchmarking trips and not us. They are complaining to us and we are not getting any action from the PSC. You must help us. I agree with the Leader of the Majority Party that you must help, because it is within your right and mandate so that Members in their welfare are peaceful and happy.

Lastly, in and around Parliament, there are now people who behave like they are security personnel in orange jackets. They are frustrating our security and we do not know them. It would be nice to know who these people in orange jackets are.

(Loud consultations)

They are orange but not Orange Democratic Movement (ODM) supporters. Who are these people around Parliament because even the uniformed policemen are now saying they are on a go-slow because somebody has brought people to oversee security without consulting them, yet they are armed. As the Chairman of PSC you need to sort

out this chaos. To whoever has brought them, we did not ask for extra security. If it is the PSC, we will talk about it substantively in February.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Lagat, do you want to say something about the trips?

Hon. Lagat: Thank you, Hon. Speaker. I will not talk about the trips. I wanted to inform the Leader of the Majority Party that there are some challenges which we never mentioned. We are going to meet the PSC. For example, the delay in payment of suppliers is a major challenge. If it takes six months before you pay suppliers and you expect them to supply you, it becomes hard. This also applies to procurement. The Leader of the Majority Party is talking about purchasing new items but everything gets stuck in the procurement process. It is also a challenge which we all need to address. It is not only the Committee.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, it is good that those of you who contributed to that discussion have raised these issues. I can assure you that the matter will actively be considered by the PSC, maybe on Friday this week. This is because the PSC also appreciates that it is wrong to keep so many Kenyans working for so many years as casuals. There is need for us, as the PSC, to address the 1967 House Resolution because that seems to cause some problems. That resolution is being addressed including the kitty because it looks like the management of the kitty seems to be attractive on certain things. If we have a Commission responsible for employing then let it employ, so that the people serving Members are confident about their job security. What Hon. Midiwo said is correct. You do not expect to keep people for six, seven years as casuals and still expect them to give their best. They are human beings. It is a matter which I could see Hon. Jimmy Angwenyi almost rising to say something on. He chose to remain silent but I think it is because he knows that on Friday we are considering that matter, and that issue of the 1967 House Resolution, so that we know what to do and how to perfect it. Apart from the benchmarking trips, we can send the actual servers to go and learn how it is done as opposed to Members. This is because even if you go to Netherlands, all you do is to eat. You eat good food when you go to Addis Ababa or wherever.

(Laughter)

It will make greater sense for us to send those workers even to Kenya Utalii College or any other institution to improve their skills to be better servants of the institution.

A paper has already been done addressing that matter, so that the Committee is left to address issues of policy and advise the Commission, through the Commission Welfare Committee. It is a matter that is receiving attention. It is good that Hon. Lang'at brought out some of those issues. The issues that Hon. Waititu, Hon. Midiwo and the Leader of the Majority Party have raised are pertinent. The Commission must get its act together.

MESSAGE

NOMINATION OF CABINET SECRETARIES
AND PRINCIPAL SECRETARIES

Hon. Speaker: Hon. Members, pursuant to Standing Order No.42 of the National Assembly Standing Orders, I wish to convey a Message from His Excellency the President. The Message was submitted by way of a letter which was delivered to my office yesterday, 1st December, 2015 for presentation to the House, in accordance with Articles 152(2) and 155(3) of the Constitution.

Article 152(2) requires that, and I quote:-

“The President shall nominate and, with the approval of the National Assembly, appoint Cabinet Secretaries.”

Article 155(3) on the other hand states:-

“The President shall—

(a) nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and

(b) with the approval of the National Assembly, appoint Principal Secretaries.”

In the Message, His Excellency, the President, has nominated the following to serve as Cabinet Secretaries:-

Name	Ministry
Daniel Kazungu Muzee	Mining
Festus Mwangi Kiunjuri	Devolution and Planning
Willy Kipkorir Bett	Agriculture
Sicily Kanini Kariuki	Public Service, Youth and Gender Affairs
Charles Cheruiyot Keter	Energy and Petroleum
Dr. Cleopa Kilonzo Mailu	Health
Joseph Mucheru	Information, Communication and Technology

Hon. Members, the President has further nominated the following as Principal Secretaries:-

Name	State Department
Joe Okudo	Arts, Culture
Sammy Itemere	Broadcasting & Telecommunications
Micah Powon	Correctional Services
Amb. Peter K Kaberia	Defence
Betty Chemutai Maina	East African Community (EAC) Integration
Charles Sunkuli	Environment
Lilian Omollo	Youth and Public Service
Dr. Nicholas Muraguri	Health
Aidah Munano	Housing and Urban Development

Eng. Victor Kyalo	Information, Communication
Julius Korir	Technology (ICT) and Innovation
Dr. Chris Kiptoo	Industry and Enterprise Development
Patrick Nduati Mwangi	International Trade
Dr. Andrew K. Tuimur	Irrigation
Nancy Karigithu	Livestock
Dr. Margaret Mwakima	Maritime Commerce
Andrew Kamau Ng'ang'a	Natural Resources
Saitoti Torome	Petroleum
Dr. Paul Maringa Mwangi	Planning and Statistics
Susan Mochache	Public Works
Fatuma Hersi	Social Security and Services
Wilson Nyakera Irungu	Tourism
Dr. Dinah Jerotich Mwinzi	Transport
Zeinab W Hussein	Vocational and Technical Training
	Gender Affairs

Hon. Members, His Excellency, the President, now seeks the approval of the National Assembly on the nominees for appointment to Cabinet Secretaries. At the same time, Standing Order No.45 requires that upon receipt of notification of nomination for appointments, such nominations shall stand committed to the relevant Departmental Committees for consideration. Consequently, the nominations for appointment to the positions of Principal Secretaries are hereby referred to the respective Departmental Committees as follows:-

Departmental Committee	Nominee
(1) Finance, Planning and Trade	Saitoti Torome Julius Korir Fatuma Hersi Dr. Chris Kiptoo
(2) Energy, Information and Communication	Sammy Itemere Eng. Victor Kyalo Andrew Kamau Ng'ang'a
(3) Administration and National Security	Micah Powon
(4) Environment and Natural Resources	Charles Sunkuli Dr. Margaret Mwakima
(5) Transport, Public Works and Housing	Aidah Munano Dr. Paul Maringa Ng'ang'a Wilson Nakera Irungu Nancy Karigithu

(6) Defence and Foreign Relations	Amb. Peter K. Kaberia
(7) Agriculture, Livestock and Cooperatives	Dr. Andrew K. Tuimur Patrick Nduati Mwangi
(8) Health	Dr. Nicholas Muraguri
(9) Education Research Technology	Dr. Dinah Jerotich Mwinzi
(10) Labour and Social Welfare	Betty Chemutai Maina Susan Muchache Joseph Okudo Zeinab W. Hussein

The Departmental Committees of Administration & National Security and that on Labour and Social Welfare, will jointly vet the proposed appointment of Ms. Lillian Omollo. The state department for Youth and Public Service, for which she is nominated, falls within the mandate of the two Committees.

Further, and pursuant to the provisions of Standing Order 204(4), the nomination of the seven (7) Cabinet Secretaries is hereby referred to the Committee on Appointments.

I have also directed the Clerk to publish and circulate, tomorrow, the list of the nominees, showing clearly the respective Committees which will vet each one of the nominees.

Hon. Members, Section 8 of the Public Appointments (Parliamentary Approval) Act requires that, unless otherwise provided in law, a Committee shall consider a nomination and table a report for debate and decision in the House within fourteen (14) days from the date of notification. It is, therefore, imperative that each of the aforementioned Committees immediately get seized of the matter to enable conclusion within the set timelines.

For the avoidance of doubt, the Committees are expected to have concluded their deliberation and table the necessary reports by December 14, 2015. You will note that this is the time when the House ought to consider and make a decision on the nominees for appointment to the Ethics and Anti-Corruption Commission, being the 21st and last day following the conveyance of the names in the House.

Hon. Members, from the foregoing, and aware that the House is scheduled to break for a long recess tomorrow, in accordance with the House Calendar, it is only prudent that the House be recalled from the recess for Special Sitzings on or around December 16th to 18th, 2015.

Notably, about 12 Committees will be involved in the vetting exercise. It therefore follows that the approval process will also be considered by the House by way of various separate Motions. To this end, it may not be possible to conclude with all the separate Motions within the required timelines. I have, therefore, requested the Leader of the Majority Party to move a Motion tomorrow for the extension of the time for consideration of the nominations pursuant to the provisions of Section 13 of the Public

Appointments (Parliamentary Approval) Act. This will allow the conclusion of the approval Motions after the tabling of the reports when the House is recalled for the special sittings on or around 16th December 2015.

To avoid further doubts, Section 13(1) of the said Act provides that:-

“Despite the provisions of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to a public appointment, the National Assembly may, by resolution, extend that time by a period not exceeding fourteen days.”

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

- (i) the Committees should immediately notify the nominees and the general public of the time and place of holding approval hearings in good time to ensure commencement of the necessary hearings in good time; and
- (ii) the Committees are expected to have concluded their reports to the House on or before 15th December 2015 to enable the House to consider the respective reports and the nominees immediately thereafter.

Finally, let me take this early opportunity to correct the wrong impression created by the print and electronic media with regard to the vetting of the nominees for the position of Cabinet Secretaries (CSs) and Principal Secretaries (PSs). Articles 152(5)(a) and 155(4) allow the President to reassign a Cabinet Secretary or a Principal Secretary duties respectively. The interpretation of these provisions is that a person vetted and approved for appointment to the position of Cabinet Secretary or Principal Secretary may be reassigned within the same position by the President. Indeed, any appointment approved by the National Assembly would not require subsequent vetting if the reassignment is of the same nature and responsibility. Consequently, serving Cabinet Secretaries and Principal Secretaries who have been moved to other Ministries or State Departments will not require further approval of the House.

I thank you.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Order Members! Resume your seats and lower the level of your consultations. Those who are walking out of the Chamber, please do so with decorum. I demand order in the House.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Amina Abdalla, what is your point of order? We have not started business.

Hon. (Ms.) Abdalla: Hon. Lelelit has just declared that I have to leave the Chamber because he is claiming that I am against the Bill. Is it a new rule of this House that if you are against a Bill you cannot sit in the House? Hon. Lelelit is saying I have to leave.

(Laughter)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): That is between you and the Member since we have not started the business. However, you are protected. Any time you are in the Chamber, you are protected. Hon. Lelelit, leave Hon. Abdalla to conduct her business.

Order, Members! We are in the Committee of the whole House to consider the National Government Constituencies Development Fund Bill (National Assembly Bill No. 59 of 2015). Before we get into business, I order that we observe order in the House. Let us not set a very bad example.

(Clause 2 agreed to)

Clause 3

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is an amendment by the Mover.

Hon. Lessonet: Thank you, Hon. Temporary Deputy Chairlady. I beg to move:- THAT, Clause 3 of the Bill be amended—

- (a) in paragraph (h) by deleting the words “deliberate on and resolve issues of concern to the people as provided for under Article 95(2) of the Constitution” and substituting therefor the words “exercise oversight over the performance of specified national government functions at the constituency level as provided for under Article 95 of the Constitution.”
- (b) by deleting paragraph (k);
- (c) by inserting the following new paragraphs immediately after paragraph (l)—
- (m) provide a framework for citizens-led development to assist the national Government in planning and prioritizing the use of its resources;
- (n) create a harmonious relationship between citizens and the national government and its officers in local development;
- (o) provide a platform for citizens participation in service delivery; and,
- (p) build local accountability and transparency in the use of resources.”

This amendment seeks to clarify that the National Assembly is involved in oversight functions. It also seeks to affirm that the role of the Member of the National Assembly is to oversee the management of the Fund. It is basically a minor amendment.

I thank you.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

(Clauses 4 and 5 agreed to)

Clause 6

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 6 of the Bill be amended in sub clause (1) by deleting the words “with the concurrence of” and substituting therefor the words “with the approval of”.

This amendment is basically to delete where we are saying “with the concurrence of” to make it “with the approval of.” It is just a bit of semantics and it is a simple amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I can see that Hon. Grace Kiptui is number one on my list, but she is not in.

Hon. Joseph M’eruaki, Member for Igembe North. He is not in as well. Let us have Hon. Sakwa Bunyasi.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Chairlady. I support the proposed amendment in the Order Paper. It is important that Parliament has approval powers rather than just simply consultation with concurrence.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. Hon. Richard Tong’i, do you have anything that you want to say about this clause?

Hon. Tong’i: I will contribute to the next clause.

*(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 agreed to)

Clause 8

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 8 of the Bill be amended —

- (a) by deleting the words “and administration expenses” appearing in the marginal note;
- (b) by deleting sub clause (4);
- (c) by deleting sub clause (5);
- (d) by inserting the following new clauses immediately after clause 8—

Administration expenses.

8A. The project management committee shall set aside a sum not exceeding five per centum of the total allocation for the project to cater for the administration expenses of the project.

Books of accounts to be kept.

8B. The sums set aside under sections 8 and 9 shall be properly accounted for and proper books of accounts shall be kept and returns made to the Constituency Committee for that constituency on how the sum has been used.

This is just a drafting amendment to separate the clauses for more clarity.
Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I can see some interests. I hope they want to contribute on this clause. Let me have the Member for North Horr, Hon. Chachu Ganya.

Hon. Ganya: Hon. Temporary Deputy Chairlady, I will contribute to the next clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Samuel Gichigi, are you in the House?

Hon. Gichigi: Hon. Temporary Deputy Chairlady, I rise to support this particular provision. It is good to give clarity that for all the projects, 5 per cent is supposed to take care of the implementation and administration. Indeed, we have been suffering in the past where people acted as volunteers.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member for Kipkelion West.

Hon. Rop: Thank you, Hon. Temporary Deputy Chairlady. I also want to support the proposal of setting the maximum cost because it is important to note that administration amounts sometimes go beyond. When we set a maximum, it will help in controlling the administration expenses.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The last one is Hon. Member for Nambale, Hon. Sakwa Bunyasi.

Hon. Bunyasi: Hon. Temporary Deputy Chairlady, I will skip that.

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

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

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 10 of the Bill be amended—

(a) in sub clause (1) by deleting the word “Board” and substituting therefor the word “National Treasury”;

(b) in sub clause (6) by deleting the words “Board Fund ” and substituting therefor the word ”Constituency”;

(c) in sub clause (7) by deleting the words “ Fund ” and substituting therefor the word ”Constituency”

This amendment is aligning the Bill with the Public Finance Management (PFM) Act. Hon. Members should know that according to PFM Act, the National Treasury is the only body which is mandated to approve the opening of bank accounts. Therefore, that is why we are replacing the word “Board” with “National Treasury”, just to align it with the PFM Act, that such approval for opening bank accounts is only approved by the National Treasury.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The import of that was explained.

Hon. Members, be keen on this. I remind you that this is the National Government Constituencies Development Fund Bill, National Assembly Bill No. 59 of 2015. I will give an opportunity to Hon. Gichigi, Member for Kipiripiri.

Hon. Gichigi: Hon. Temporary Deputy Chairlady, I also support this particular amendment, especially because it is removing the reversionary power from the Board. If money is not spent, instead of it going back to the Board, it is now remaining with the constituency for use during the next financial year. So, these are good clauses.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, if you are contributing on this same clause, please place your card on intervention to make our

work easier. This is because of the number of Members of Parliament who want to contribute to the next clause.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, for the sake of HANSARD and you know that this is a stage that you are making laws, I want to repeat to take a vote again. It is important that we get a “yes” so that when we will be making our laws, we own them.

(Clause 10 as amended agreed to)

Clause 11

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 11 of the Bill be amended—

(a) in sub clause(2) by deleting the word “three” and substituting therefor the word “two”;

(b) in sub clause(3) by deleting the words “plus any two of the other three signatories” and substituting therefor the words “and any one of the other two signatories”.

This amendment is in compliance with the Central Bank of Kenya (CBK) requirement that on the Integrated Financial Management Information System (IFMIS) it allows two signatories. Therefore, we are reducing the signatories from three to two, just in compliance with the CBK requirement of two signatories on the IFMIS system.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The first Member on the intervention list is Member for Igembe Central, Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Chairlady. I agree with the Chairman of the Committee because if it has to comply with the systems, we have to change from three to two signatories.

I concur.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member for Naivasha, Hon. John Kihagi.

Hon. Kihagi: Thank you, Hon. Temporary Deputy Chairlady. In as much as this is conforming to the system requirement, maybe that is why we have a lot of problems with IFMIS. If we are going to have our funds under the control of the fund account manager and just one other committee member, then the fund is at a risky position.

I oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Sakwa Bunyasi, Member for Nambale.

Hon. Bunyasi: Hon. Temporary Deputy Chairlady, I had initially been struck the same way as the Member who has just spoken. Maybe the Mover can clarify. This is in respect of the Board. It is not in respect of the constituency account.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Now we give to the Mover a chance to clarify as part of import of the amendment.

Hon. Lessonet: Yes, thank you, Hon. Temporary Deputy Chairlady. This is in respect of the Board's account maintained at the Central Bank of Kenya (CBK). It is not the constituency account. The constituency accounts are in commercial banks. They are not in the CBK.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you for the clarification. I give the Member for Nambale a chance.

Hon. Bunyasi: I just wish that we had had such clarity under Clause 8 about signatories at the constituency level where we know the district accountant is the mandatory signatory. It is not mentioned. It is silent here. This explicit mention would have been the better thing to do like they have done with the Fund account. But since it is not in the Order Paper, I guess that I cannot go back.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me give the last chance to the Hon. Member for Butere.

Hon. A.T. Anyanga: Thank you, Hon. Temporary Deputy Chairlady. It is important that we further clarify this clause that we are not talking about two signatories. We are talking about three signatories. These are the Chief Executive Officer (CEO) of the Board plus two other members from the Board. So, in total, they are three.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chairman, can you clarify that?

Hon. Lessonet: Thank you, Hon. Temporary Deputy Chairlady. That is very correct. The signatories in total are three but the ones to sign are two at any given time, meaning the CEO and another one. The signatories who will authorise will be three but the signing instructions at any time will be two.
I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Chairman is the Mover of the amendment. Those are the amendments. So, you need to take a vote on the same and it is clarified that the two signatories are a must. Hon. Chairman for Finance, Planning and Trade, let us hear what you have. Member for Ainamoi.

Hon. Langat: The Chairman of the Committee should be clearer. If you look down there, it is actually the CEO plus two of the other three signatories. The signatories are three. That is the CEO plus two other signatories. I am going to oppose the amendment which is reducing the three signatories to two. You can have three signatories but instructions will say CEO and any one or two. It is good to have many people instead of limiting yourself to two. In case they are held up somewhere, then the Fund will not operate. I will want to convince my good friend, Hon. Lessonet, to drop the proposed amendment because the signing instructions have been given down there to be the CEO

and two others. So, if we have already reduced up there, then the signing instructions will be that “Everybody will be a signatory” to that account. It will be risky.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chairman, before you take your position on what hon. Members are trying to convince you, I want to remind the Members on the current position so that we can judge the amendment. Clause 11(3) says:

“The signing instructions will be such that the signature of the chief executive shall be mandatory on all payment cheques and/or instruments intended for actual release of money from the fund, plus any other two of the other three signatories.”

I now go back to the Chairman. Before you respond, can I give other two Members? Maybe they can shed light on this one. Hon. Limo, Member for Kipkelion East.

Hon. Limo: Hon. Temporary Deputy Chairlady, I support the position taken by Hon. Langat. If you look at the amendment, it seems like it is contradictory. The way it is now is the correct position. The signatory should be the chief executive and three other signatories. Three is the current position. That is the requirement so that we have four signatories in total. Now, the position taken by the Chairman of CDF, Hon. Lessonet--- The amendment he has brought under (b) is correct. So, I propose that we reject the amendment under part (a) and support the amendment under part (b).

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): That is your proposal. Let us also hear from James Nyikal.

Hon. (Prof.) Nyikal: I hold the same position. You cannot have two and three together. If you stick to three, then you cannot get two.

(An Hon. Member crossed the Floor without bowing)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member, can you please do the necessary? Let me not say it loudly. I proceed. Let me give the last chance to Hon. Gideon Ochanda so that we can make a decision before I give back to the Chairman to clarify. Thank you for doing the right thing.

Hon. Lessonet: Allow me to clarify further to Members. Now that you have the Bill with you, we can read together Clause 11(2). It is very straightforward that there shall be the chief executive officer and three other persons. The options are that we are reducing from three to two. In Clause 11(3) where you all seem to agree with me as per Hon. Limo, the signing instructions at CBK will be the chief executive officer and one other director of the Board. That is what the Integrated Financial Management Information System (IFMIS) does.

Hon. Langat: *(Inaudible)*

Hon. Lessonet: Let me just finish Hon. Langat. That is what the IFMIS now provides. Even now when it requires three, the IFMIS at the moment does not allow three signatories, it only allows two. So, as we wait to adjust that IFMIS---

(Loud consultations)

Just listen to me carefully.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let us listen to the Chairperson. I will give you time to debate this because this is a law we are making.

Hon. Lessonet: The mandatory signatory is the chief executive officer. The reason why we are reducing the options available to the chief executive officer for signing to two is that he can choose one from the two. You will have seen this in your school boards. Whenever you have more than two signatories, when two are required and you have more than other two options, that mandatory signatory has time to play these three or four signatories, that when you do not agree with him, he can always look for another one who is already authorised to sign. So, we wanted to reduce that number to two so that he can only choose from either two not three.

The signatories will not change. The signatories will remain two at the CBK. That is the import of this amendment. It will be the chief executive officer and one other director. For that one other director, we are only reducing the options available to the chief executive officer, that he can only chose from another two not three. That is the import of the amendment. It is for the good of management of CDF.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Constituencies Development Fund Committee Chair, what hon. Members are looking for is clarity. Is the chief executive officer the mandatory signatory?

Hon. Langat: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): And any other two persons to make them three, so that there will be an option if one is not available. That is what I am hearing Members say.

Let us hear the Chairperson for the Departmental Committee on Finance.

Hon. Langat: Hon. Temporary Deputy Chairlady, having one person is riskier. I request my friend, Hon. Lessonet, that we leave the options at three. Let the chief executive officer plus any other two persons to be the ones to sign. That way, we can be secure. I read a story about the Youth Enterprise Fund Board, where the chairperson appointed only one signatory. Because of that, Kshs180 million was wired out of the Fund's account. Therefore, it is risky to have two signatories for a public fund. It is better to have three signatories comprising of the chief executive officer and two other Board members.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Yes, Hon. Wamalwa!

Hon. Wakhungu: Hon. Temporary Deputy Chairlady, we are dealing with funds. I have done a cost-benefit analysis on this amendment. Hon. Lessonet's argument does not make sense in terms of the benefits. Suppose we have a rogue chief executive officer and he colludes with one guy? Within a short period of time, all the funds will be gone. We have seen the issue of the IFMIS. If the IFMIS recognises one person, we can do it procedurally for the chief executive officer and two other people to sign. The IFMIS can then recognise whoever has been appointed to operate the system. In terms of risk diversification, we cannot accept to have one signatory. It is very dangerous.

I oppose the amendment and support Hon. Langat's position.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we have had enough explanation on this matter. Could you take a vote?

Hon. Ogolla, let me give you the last opportunity on this one because of what you have done. I have seen that you were trying to save the situation.

Hon. Ogolla: Thank you, Hon. Temporary Deputy Chairlady. I was trying to rush to support the Chairperson of my Committee because we realised that there were a lot of difficulties. We looked into this matter very seriously during our Committee sittings. The Chair can explain to the House the difficulties that we encountered while executing our mandate, especially in relation to the IFMIS.

The old arrangement provided for all the signatories that we have been having. The old CDF Act provides for more than the two signatories that we are talking about. However, the Board expressed a lot of difficulties in terms of how the IFMIS operates. That is exactly why we took this position. The Chair needs to explain very well to hon. Members that there are difficulties in terms of how the IFMIS works. It requires only two signatories to transact business.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we have deliberated enough on this matter. We are aware of the position. Before I put the Question to vote, let us hear the Committee Chairperson.

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

Hon. Members need to know that, first, I am a very serious accountant by profession.

Hon. Member: Are you better than Hon. Langat?

Hon. Lessonet: Yes, I am senior to Hon. Langat. Of course, I am more senior than Hon. Limo.

The problem is the IFMIS. I agree with Hon. Langat that we must sort out the IFMIS issues so that we do not encounter issues like the ones encountered at the Youth Enterprise Fund and at the National Youth Service. Since Hon. Langat chairs a very serious Committee of this House, I withdraw my amendment to give him time to deal with the Central Bank of Kenya (CBK) to ensure that the IFMIS can accept more than two signatories. I have withdrawn the amendment so that Hon. Langat can do the necessary. He should inquire from the CBK as to why they have limited the signatories to two in the IFMIS.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you.

(Proposed amendment by hon. Lessonet withdrawn)

(Clause 11 agreed to)

(Clause 12 agreed to)

Clause 13

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 13 of the Bill be amended in sub clause (1)—

(a) by inserting the following new paragraphs immediately after

paragraph (b)—

“(bb) the Attorney-General or a designated alternate not being below the level of Senior State Counsel;”

“(bc) the principal secretary in the Ministry responsible for matters relating to education or a designated alternate not being below the level of Director.”

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

“(c) seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law appointed by the Cabinet Secretary with the approval of the National Assembly; and”

Hon. Temporary Deputy Chairlady, the import of this amendment is to increase the number of Board members. We want to introduce more Board members to include representatives of the Attorney-General and the Principal Secretary in the Ministry responsible for education. We are also increasing the number of private individuals from the current five to seven. We are also providing for an option for a person with disabilities to sit in the Board. We were convinced by Hon. Mwaura, who had come to our Committee to lobby us to introduce a person with disability in the Board.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. Mbalu): Let us hear Hon. Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Chairlady. I rise to support the proposals of the Committee because the Bill is very progressive in terms of ensuring that persons with disabilities are represented in the DFC Committees. However, at the Board level, they had been left out. The previous proposal by the drafters was five persons but they only considered gender and other professional aspects. It would be important to also have the representation of persons with disabilities so that there can be an input at the national level with regard to decisions that affect members of the public through the way in which the funds will be administered.

With those remarks, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let us hear the Chairperson of the Committee on Finance.

Hon. Langat: Hon. Temporary Deputy Chairlady, I support the CDF Committee on this amendment because the CDF is a very important Fund. We should encourage a lot of representation. Bringing the education sector on board is very important because going forward; the CDF will mainly be dealing with matters of education in terms of giving bursaries to needy students, building of schools, *et cetera*. I also support the introduction of people with disabilities to the Board because the CDF is now the main development Fund at that level.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Saku!

Hon. Dido: Hon. Temporary Deputy Chairlady, I rise to oppose this amendment.

One of the things we have been grappling with, as the National Assembly, is the growing public wage bill. The members of the Board will be drawing allowances whenever they sit. If we should have representation of people with disabilities and persons from the education sector, they should be considered within the five positions that are already there.

With those remarks, I beg to oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Yes, Hon. Lati.

Hon. Lati: Hon. Temporary Deputy Chairlady, in principle, I support this amendment. Inclusion of a person with disability in the Board is very important, as Hon. Mwaura noted.

I have previously dealt with the Ministry responsible for education. I hope that the Ministry is now different without Mr. Kaimenyi. Anybody who has dealt with that Ministry knows that it is the most bureaucratic and corrupt Ministry in the Government. If you bring that guy here, he will introduce a lot of bureaucracy. As a Ministry, they are doing nothing in terms of building schools and giving bursaries to needy students.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Lati, do you have any evidence to support your claim? We are now in the process of law making.

Hon. Lati: Hon. Temporary Deputy Chairlady, I would prefer a modification of this amendment to keep those guys out of the Board.

On the issue of representation of persons with disabilities, we should be careful. We have accepted persons with disabilities to be represented everywhere but now everybody is claiming disability. If you have one eye, you can claim to be disabled. If you have a tooth missing, you can also claim to be disabled. You have to be disabled to a certain degree to qualify to be called disabled.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Okay. You support the amendment. What is out of order, Hon. Mwaura?

Hon. Mwaura: Hon. Temporary Deputy Chairlady, is Hon. Lati in order to mislead the House that if you miss a tooth you are classified as disabled? There is a very elaborate where to ascertain who is a disabled member of the society. Article 260 of the Constitution defines disability. Also, according to the National Council for Persons with Disability one has to be registered if one is disabled. So, it is not possible--

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Lelelit, please, consult Hon. Mwaura after this for definition.

Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, while I understand the concerns of Hon. Rasso, I think this is a very progressive amendment which should be supported. However, I want to request my good friend, Hon. Mwaura, that out of his magnanimity he drops the amendment I have seen him circulating. This is because by including Persons with Disability (PWDs) at the Board under the CDFC we are actually taking care of the interests that we are trying to achieve here.

Hon. Limo: Hon. Temporary Deputy Chairlady, the amendments here are okay except that I am not supporting the insertion of part (bc), that is, the Principal Secretary in the Ministry responsible for matters of education. The moment we expand to touch every

corner then we are limiting the usage of this CDF. I support the position taken by Hon. Lati. All other amendments are okay, including the one on PWDs. I would like to ask Members that we exclude the Ministry of Education. We do not want to bring in so many issues into this matter.

Hon. Ganya: Hon. Temporary Deputy Chairlady, we are looking at major functions and education is the core function that we have. I strongly support that Cabinet Secretary in charge of education should appoint somebody to that position. However, I will only support if the appointment will show the face of Kenya. As it is now only royal communities are appointed to this Government.

I support.

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

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

(Clause 13 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): What is out of order, Hon. Wakhungu?

Hon. Wakhungu: Hon. Temporary Deputy Chairlady, I did not mean to interrupt, but I was just reading the qualifications in the Bill. We have engineering, economics, community development, public affairs and so on.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Which clause are you talking about?

Hon. Wakhungu: Clause 13(bc). It is not public affairs. It should be public relations. I have not heard of public affairs in the academia.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chris, you had all the time to look at this. We have already passed that and those are our rules and procedures. We have already put that to vote.

Clause 14

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 14 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (d) —

“(da) receive and address complaints that may arise from the implementation of the Act;

(db) encourage best practices in the implementation of projects”.

We are adding two clauses which will allow the Board to receive and address complaints that may arise from the implementation of the Act. The second clause, to be specific, is to encourage best practice and the implementation of the project. So, it is basically a very simple amendment.

(Question of the amendment proposed)

Hon. Limo: Hon. Temporary Deputy Chairlady, I am raising concern that the procedure we are using in this Committee of the whole House is not fair and acceptable. We have never done it like this.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Order! Order, Hon. Member!

Hon. Limo: Let me say something. When we are putting the Question, I would like us to be fair and go clause by clause and section by section, especially when there are people who have actually proposed some opposition on some sections. If you just guillotine a whole clause, we will actually be blocking some voices. What I am proposing is that we go clause by clause and we consider each sub clause. You know, when you put the Question on just Clause 13, you are wrong.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member, you are the only one advancing that argument. You have an option of recommitting that section. If you really feel you have the numbers, the way we make laws here is that we make a decision. Of course, your voice has to be heard.

Hon. Members, we are now on Clause 14.

Hon. Kubai Iringo: I support.

Hon. Tong'i: Hon. Temporary Deputy Chairlady, my concern is mainly on Clause 13 where we have omitted the youth--

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): We have passed that. You can always use the procedures if you want to address that.

Hon. ole Ntutu: Hon. Temporary Deputy Chairlady, I also wanted to complain about the same thing. This is because you are going very fast and yet we need to scrutinize this Bill. This Bill is very important. It is the only life-line we have as Members of this House.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, let us get the numbers again. You had these amendments. Do you want us to come back after we have passed a particular clause? Hon. Members, we do not do that. Please, you can be reading ahead.

Hon. Kimaru: Hon. Temporary Deputy Chairlady, I support the amendment. From certain occurrences, I think it would be important to expand the mandate of the Board to a quasi-judicial level whereby it will have powers to arbitrate and decide on disputes at the level of a tribunal. We have had issues being taken to court and it has been said that the Board does not have quasi-judicial powers.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member, thank you for your sentiments. However, you should have brought an amendment through the Chairman of the Committee. This is a Bill that affects every Member of Parliament and the ones to come.

Let us be very sober when doing this and let us read before we debate. Let us not just raise issues even after passing a clause. We even know the procedure of doing it. Hon. Benjamin Langat, Member for Ainamoi.

Hon. Langat: Hon. Temporary Deputy Chairlady, I support the amendment under Clause 14. If you look at that Clause, it has already been taken care of. In fact, we have an open-ended provision (f) which actually opens to any other function that may be

deemed necessary by the Board. I support. For Clause 13, people should relax. This is just a Board. The issue of salaries and wage bill should not even arise because it is a small Board. Education is very important. Let us not make a law because you probably hate a Cabinet Secretary (CS) of that Ministry or a Principal Secretary (PS). This law will last for 20 or 30 years.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me give Hon. Nyikal opportunity.

Hon. (Prof.) Nyikal: Thank you, Hon. Temporary Deputy Chairlady. I stand to support this. CDF is a very active Fund that we are using and it attracts a lot of attention and support at the same time. Therefore, a lot of issues do come. If a Board has the capacity and function of addressing those issues, it is important. Even the issue of encouraging best practices, the 5 per cent that we have, sometimes, is not really adequate to even get some training that the committees may need and so on.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members, we need to move fast. This is not as long as the other one which has a whole paragraph to be read and it is difficult for Members. Hon. Chrisantus Wamalwa, are you opposing? What you are opposing? Can you be convinced by his opposing or proposing?

Hon. Wakhungu: Yes, I am opposing. That is because the Board is the highest in decision-making. It is its responsibility. I do not see the value it adds when you say “receive and address complaints that may arise from implementation of this Act.” When it comes to implementation, we have a secretariat where all complaints go to. In case there is some mess as far as the statute is concerned, they have a legal team which is supposed to put things in place and, obviously, forward it to the Board. It is obvious the best practice if that Board is divided, maybe, into sub-committees of audit, governance, legal or whatever it is. I do not see the value this amendment is adding because it is already addressed. How can you say “encourage best practices in the implementation of projects?” It is outrageous.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): So, you are opposing (da) and (db)?

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

(Clause 14 as amended agreed to)

(Clauses 15 and 16 agreed to)

Clause 17

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 17 of the Bill be amended—

(a) in Sub-clause (1)—

(i) by deleting the words “including a contravention of Chapter Six” appearing immediately after the word “law” in paragraph (a);

(ii) by inserting the following new paragraph immediately after paragraph “e” —

“(f) engaging in active politics”.

(b) by deleting sub-clause (4) and substituting therefor the following new Sub-clause—

“(4) The National Assembly Committee shall, upon receiving a petition under Sub-section (2), consider the petition and may recommend that the member be suspended pending the outcome of the complaint.”

Clause 17 (a) (i) is about the removal of a Board member. We are deleting where it refers to Chapter Six. We are also introducing a new sub-clause which requires a Board member to be removed for engaging in active politics. We do not want to get Board members who, in a few days down the line, are participating in politics while they are still members of the CDF Board.

In the final amendment, we are deleting Clause 4 and substituting with new Clause 4. This is where the National Assembly Committee, upon receiving a petition, is given a chance to consider it. It may also recommend that a member be suspended if he participates in politics. We will be able to receive a petition and ensure that, that member is suspended. These amendments to Clause 17 are important. I request Members to support them.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me hear Hon. Patrick ole Ntutu, Member for Narok West.

Hon. ole Ntutu: Thank you, Hon. Temporary Deputy Chairlady. I support this amendment except the one that is added (f), “engaging in active politics”. I do not know what the Chairman means because how do you separate politics from the Board? Most of those Board members are actually elected by people. How then do you say if you are involved in politics while you are appointed--- Initially, they have to be appointed in their respective areas. How then do you go and say so and so is not ---We must be very careful because in Kenya, almost everybody is a politician. So, how do you separate that?

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chairperson, can you clarify what engaging in active politics means before I give the Floor to the other Members? Note that so that you can reply. Let me give a chance to Hon. Manje, Member for Kajiado North.

Hon. Manje: Thank you, Hon. Temporary Deputy Chairlady. I want to agree with the amendment of the first part because Chapter Six was appearing as if it is not part of the Constitution. On the second part, I also want to concur with the Member of Parliament for Narok that CDF is a political Fund where you send your chairman to go and give out cheques somewhere in the constituency.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me give a chance to Hon. Chachu Ganya to also contribute. Chairperson, you will have time to clarify to Members before we vote.

Hon. Ganya: Hon. Temporary Deputy Chairlady, I support all the three amendments. This is at the national level and not constituency level. For that, I do not see any problem in Members supporting this amendment. Honestly, if you really want to go and manage CDF Fund, be a Member of Parliament and do it and not from the back door. If you are engaging in active politics and you are not an elected Member of Parliament, I do not think you have any business with it.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me see those who are opposing. If you are on the same, please, let us get an intervention. Let us have Hon. Lelelit, Member for Samburu.

Hon. Lati: Thank you, Hon. Temporary Deputy Chairlady. I oppose this amendment in totality. I have the microphone. With all due respect, I am here.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chairperson of Finance, Trade and Planning Committee, let Hon. Lelelit proceed since he already has the microphone.

Hon. Lati: I respect you. You are my Chairman but I have the microphone. I know we have personalized so many things in this country. We are an open democracy. People in this country have a Constitution and we elect everybody. The Constitution gives us freedom to participate in the freedom of politics and speech. I do not know where you get this idea of telling everybody that if you are engaging in active politics--- Why are you criminalizing the job that you are having at the moment?

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Lelelit, which one are you opposing?

Hon. Lati: There is a precedent that was set in this House that is despicable and terrible. The reason why we denied Hon. Raila Odinga his pension and other people who had served this country well is because we were using the same concept.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Lelelit, are you supporting part (a) or (b)?

Hon. Lati: I oppose it. It is terrible. It takes us back to the era of dictatorship that we have to--- How do you measure being active in politics.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let us give a chance to Hon. Cyprian Iringo. Please, let us just make our points. We are not debating. We are not in a *baraza*. We are amending an important clause. Let us be keen on the law we are making.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Chairlady. I stand to support the amendment but I am worried about Clause 17 (1)(f) ---

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, if you are not attentive to what we are doing, then I will not give you permission to contribute.

Carry on, Hon. Kubai Iringo.

Hon. Kubai Iringo: Hon. Temporary Deputy Chairlady, I support the amendment, but I am not very comfortable with Clause 17 (1)(f) that seeks to insert a new paragraph that states “engaging in active politics”.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I now give an opportunity to Hon. Rop.

Hon. Rop: Hon. Temporary Deputy Chairlady, I support this amendment. This will help bring sanity among the board members. The amendment talks about the removal of a board member.

The additional sub-clause states that the National Assembly Committee shall, upon receiving a petition under Sub-section (2), consider the petition and may recommend that the member be suspended pending the outcome of the complaint. There is a cure in place. It is not a question of you being removed just because you are active in politics. This cure has been added in Sub-clause (4).

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

Hon. A.T. Anyanga: Thank you, Hon. Temporary Deputy Chairlady. We are splitting hairs with regard to this law.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Before you speak, there is a point of information from the Chairperson of Departmental Committee on Finance, Planning and Trade. This may help you debate from an informed point of view.

Can he inform you?

Hon. A.T. Anyanga: I do not need information. It is very clear that when you look at Clause 17(a), the over-arching reason is violation of the Constitution. Once the Constitution is violated, and particularly with regard to Chapter 6, then any other activity that one might do to that effect comes into force. It, therefore, means that when you qualify a specific activity as engaging in active politics, the challenge then becomes how to qualify that particular activity. What is this particular engagement in politics?

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members let us be brief and to the point. It is not a debate. Let us have the Chairperson of Departmental Committee on Finance, Planning and Trade contributing and then you will make a decision so that we move on.

Hon. Langat: Hon. Temporary Deputy Chairlady, I support the amendment to sub-clause (1). I thank the Committee. I have also had issues with Chapter 6 of the Constitution. Chapter 6 only refers to State officers. I would like to thank the Committee for deleting that requirement. It has always been misapplied. It refers to State officers and not any other person. State officers are defined in the Constitution. The Committee was up to date to that extent.

On the issue of active politics, it would have been fair if the Committee had defined or if there is a definition of the term “active politics”. I hope the Chair will tell us the definition so that it is not left open for anybody to determine.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, please clarify so that Members can vote on this.

Hon. Lessonet: Thank you, Hon. Temporary Deputy Chairlady. I want to thank Members for being very attentive this afternoon. This is a very important Bill.

On the issue of active politics, I want Members to note that immediately after the passage of this Bill, there shall be regulations. In the regulations, we are going to outline those barometers used to measure active politics.

There are cases of my colleagues in this House and in this current Parliament who already have problems with directors of the board. There are directors of boards who are participating in active politics.

There was a case in Migori County of a director of a board who was very active in politics. This amendment is just to enable the Board and Members of Parliament do their jobs. This will prevent a board member from going down to the constituencies and behaving as though he is the one bringing money to the constituency.

This is a very important amendment and I request Hon. Members to support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Now that the Chair has spoken, we all know what the import of the amendment is.

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

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

(Clause 17(a) as amended agreed to)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): What is it, Hon. Chris Wamalwa?

Hon. Wakhungu: Hon. Temporary Deputy Chairlady. We are not passing laws for individuals.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Order, hon. Chris Wamalwa!

Hon. Wakhungu: Let me finish. Just give me one minute. Unless you have an instrument that can measure active politics objectively without any bias, we cannot allow that amendment to pass.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Order, hon. Chris Wamalwa!

Hon. Wakhungu: The Chair has failed---

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chris, you are out of order. We have heard you. I will not get back to you.

(Hon. Wakhungu was put off the microphone)

You are not on the microphone. Hon. Members, let us not get into that debate. I will tell you why. You know how we make laws. Chris, you have made your point. That is why I considered Clause 17(a) on its own so that you make a decision on it separately. The amendment was agreed to. Now we move on to Clause 17 (b).

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

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

(Clause 17(b) as amended agreed to)

(Clause 17 as amended agreed to)

Clause 18

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members let us not bring politics into Bills-making. I will not allow politics during the making of a Bill. Please make a Bill that will be useful to Kenyans, whether or not you are a Member of Parliament.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 18 of the Bill be amended—

(a) in sub-clause (2) —

(i) by deleting the word “five” appearing in paragraph (b) and substituting therefor the word “ten”;

(ii) by inserting the following new paragraph immediately after paragraph (b) —

“(c) has served in a senior management position for a minimum period of five years”

(b) in sub-clause (4) by deleting the words “on such terms and conditions of service as shall be specified in the instrument of appointment” and substituting therefor the words “for a period of three years renewable once.”

The import of this amendment in Clause 18 (2)(b) is to increase the working experience of the chief executive officer from five to 10 years. It also seeks to introduce a new clause which requires that the chief executive officer of the Board shall have served in a senior management position for a period of not less than five years. It means therefore that, in those 10 years, you must have been in employment and had been in a senior management position for at least five years.

This is just in line with the new Jubilee *Mwongozo* guidelines on State corporations. We are just complying with that to ensure that we have a chief executive officer with adequate experience.

(Question of the amendment proposed)

Hon. Mwamkale: Hon. Temporary Deputy Chairlady, I stand to support this amendment. The Chair implies that we want somebody responsible and who has good working experience because he will be in charge of the whole country.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Who is opposing the amendment? Hon. Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Chairlady. I stand to oppose this amendment because it seeks to discriminate against the youth. If you look at the provisions, you need 10 years working experience and five years in senior management. That would mean that young people cannot acquire such positions when they can still contribute to this country.

It is very interesting that when you are in politics, you want to fend off any form of competition through legislation or any other way but, when you are out, you cannot get employment. It is good to reason around that because we are the culprits. About 76 per cent of Members of Parliament do not come back to the House.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Mohamed Haji.

Hon. Mohamed Abdi: Thank you, Hon. Temporary Deputy Chairlady. I stand to support the amendment as proposed by the Chairperson of the Committee. One, State corporations have come up with a Mwongozo Code requiring 10 years experience and we are just complying with it. We want to get the best brains to run the Fund. Paragraph (b) of the amendment seeks to introduce tenure of office for the chief executive officer of at least three years renewable. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chris, are you opposing?

Hon. Wakhungu: Thank you. It is, indeed, true that the number of years suggested is going to work against the youth. I do not see the value of 10 years experience. I support paragraph (a)(ii) of the amendment which talks about five years experience in senior management position. At least, that requirement makes sense. However, paragraph (a)(i) requiring 10-year experience does not add any value.

Hon. Langat: On a point of information, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Chairperson of the Departmental Committee on Finance, Planning and Trade.

Hon. Langat: Hon. Temporary Deputy Chairlady, I just wanted to inform Hon. Mwaura that this is a senior management position. It is not any other job. This is the position of the chief executive officer of the Board. There will be thousands and thousands of employment opportunities for the youth within the CDF. In fact, the youth have the majority of employment opportunities in the CDF.

Let us support the amendment because we want a very experienced person. You are one of the customers of CDF and you need a responsible person to deal with you as a Member of Parliament. You will go to the Board, be mistreated and come here complaining. Let us get a very qualified person.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Now we can take a vote.

*(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 18 as amended agreed to)

(Clause 19 agreed to)

Clause 20

Hon. Lessonet: Thank you, Hon. Temporary Deputy Chairlady. I beg to move:-
THAT, Clause 20 of the Bill be amended by inserting the following new Sub clause immediately after Sub clause (2)—

(2A) The Constituency Committee shall participate in the annual appraisal of the officer of the Board seconded to the constituency based on criteria developed by the Board.

This amendment will enable the constituency committee, popularly called the Constituency Development Fund Committee (CDFC), to appraise the performance of the Fund Account Manager (FAM). This will give the CDFC the ability to monitor the FAM considering that most of the time those FAMs are not in the office because they report to Nairobi. With this amendment and provisions already in the Bill which say that the FAM will administratively report to the constituency committee, the constituency committee shall have some control over that officer. I request Members to support this amendment.

I thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Chairperson of the Public Accounts Committee (PAC).

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, this is a very important amendment. In the constituencies, the FAMs have become their own bosses. In fact, some FAMs have wealth which they cannot even explain their sources. They go on leave when they want. They report to work when they want. The fact that we are now going to appraise them through the CDFCs is a very inspired amendment. I urge all my colleagues to support it. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Anthony Kimaru, the Member for Laikipia East.

Hon. Kimaru: Hon. Temporary Deputy Chairlady, I support the amendment as it is.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. John Kihagi, the Member for Naivasha.

Hon. Kihagi: Hon. Temporary Deputy Chairlady, I also support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Lelelit Lati, the Member for Samburu West.

Hon. Lati: Hon. Temporary Deputy Chairlady, I have no issue with the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Chair of the Departmental Committee on Finance, Planning and Trade, are you opposing?

Hon. Langat: Hon. Temporary Deputy Chairlady, I oppose this amendment. The Member of Parliament in the proposed law is no longer a member of the CDFC. Now you are telling the CDFC members to be appraising the FAM. That means the FAM will be under the direct control of the CDFC members and the Member of Parliament is not in control of the CDFC members. I would want Members to let the appraisal process to be done by the Board because this is an employee of the Board and we have a say at the Board level. I am only raising my concerns. It is up to Members to decide. If you allow the appraisal to be done by the CDFC, then the FAM will be dancing to the tune of the CDFC members. You will never have a say on the FAM.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Kang'ata.

Hon. Kang'ata: Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. Between an employee of the Board and the CDFC, who can you trust as a Member of Parliament? All factors being constant, you would trust the CDFC more than a person who comes from Nairobi.

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

Hon. Members: Division! Division!

(Several Members stood up in their places)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): This is a House of rules and procedure. I can confirm that the Members claiming for a division are only eight. Thank you for expressing your intention.

(Clause 20 as amended agreed to)

Clause 21

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 21 of the Bill be amended in sub clause (1) by inserting the words "the Cabinet Secretary with the concurrence of" immediately after the words "approved by".

This amendment seeks to have the Cabinet Secretary (CS) participate in approving the budget of the board with the concurrence of the National Assembly. That is the simple amendment that we are moving on Clause 21. It enables the CS to participate in approving the budget of the board in concurrence with the National Assembly.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Bosire and Hon. Mwaura, if you have to consult, we even have rooms behind here. You can do it there.

Hon. Bosire: We are sorry.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you for apologising. It needed to be pronounced.

(Question of the amendment proposed)

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

(Clause 21 as amended agreed to)

Clauses 22

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is an amendment by Hon. Irungu Kang'ata.

Hon. Kang'ata: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT Clause 22 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—
“(c) include any other project undertaken pursuant to Article 187 of the Constitution.”

The import of my amendment is, if we pass this law as proposed by the Chairman without these amendments, it will mean that Hon. Members will never construct a road, bridges or start a water project.

However, that is against Article 187 of the Constitution which is about transfer of functions. We must allow this clause to go in so that we envisage a situation where if you have an agreement with another level of Government, you can transfer functions. So, its essence is to ensure that where you agree with the county, you can as well be allowed to do another project that falls in another level of Government as per Article 187 of the Constitution.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Gichigi, Hon. Member for Kipipiri.

Hon. Gichigi: Hon. Temporary Deputy Chairlady, I respect the intentions of Hon. Kang'ata, but I ask him not to dare to make this Bill a county Bill. That clause touches on county issues. Do not send this Bill to the Senate.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chrisantus Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. We have come a long way. We do not want this Bill to go to the Senate. You know that Hon. Kang'ata. This money will never be enough for us to take part of their functions. I am opposing. We are running out of time. The court order was made and we know the timeframe. If we bring this amendment, it will imply that it has to go for the concurrence of the Senate. So, we strongly oppose this. I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Mohamed Haji. He left. Chairman of Public Accounts Committee (PAC), you have to listen to the Members so that when you take a stand---

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I also rise to strongly oppose and persuade my good friend, Hon. Irungu, that we have come a long way. Let us not go and start now tingling. The money is already too little. There is too much worry about what is being wasted in the counties. Let us hold this little basket that we have.

I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me take the vote. It is a straight forward clause. Before I put the Question, I will give the Mover an opportunity to contribute.

Hon. Member: There is no need. It will go.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): After being convinced, let me give him an opportunity to contribute.

Hon. Kang'ata: One, the document that I obtained from the Legal Counsel of the National Assembly was that my amendments do not touch on the county functions at all. It was there in black and white. Therefore, this amendment does not mention counties at all.

Finally, as you can see the way I have framed it, I have said: "To include any other project undertaken pursuant to Article 187 of the Constitution." I have not added any other thing. I have not mentioned counties.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, I will put it to vote. For your information, he has not withdrawn. Let me give an opportunity to the Chair of the Committee.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I stand to oppose Hon. Irungu Kang'ata's amendment for the reason that it will take us straight to the Senate. We are navigating very thin lines to ensure this Bill does not go to Senate. I want to request Members to listen to me. As I oppose Hon. Kang'ata's amendment, I want to give him comfort in this Bill. If he wants to construct a dispensary, he will give the money to the primary school in his village, and it will do whatever he wants. If it wants to build a hospital, let it do but it is a school building. If you want to do a water project or a road, you will finance them through that security committee through that school. So, all those things that you were doing with creativity, you will still do them, Hon. Kang'ata.

Therefore, I beg that he withdraws his amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Kang'ata, are you convinced with what he is referring to as transfer of functions and powers between levels of Government? If you have been convinced--- That is why this is a House where we debate and make decisions. That is how powerful you are Members.

Hon. Kang'ata.

Hon. Kang'ata: Thank you, Hon. Temporary Deputy Chairlady. I withdraw.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, for the purpose of the HANSARD, the amendment by Hon. Kang'ata has been withdrawn.

(Proposed amendment by Hon. Kang'ata withdrawn)

Thank you for being attentive, Hon. Members.

(Clause 22 agreed to)

Clause 23

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is an amendment by Hon. Isaac Mwaura.

Hon. Mwaura: Hon. Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 23 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (10)-
(10A) At least 5 per centum of the total annual allocation for the constituency shall be allocated for projects for the benefit of the persons with disabilities.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Kang'ata, when you were moving your amendment, everyone was listening. We want to make a decision. Let us listen to Hon. Mwaura, as he moves his amendment.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Chairlady for your protection. At least, 5 per cent of the total annual allocation for the constituency shall be allocated for the project for the benefit of the persons with disabilities.

I want to beseech Members to agree with me on this proposal because it gives a minimum guarantee of consideration of educational projects in terms of special schools, access to bursaries and anything around that which the National Government Constituencies Development Fund (CDF) kitty will be catering for so that this group of people can be properly targeted.

Currently, we get a lot of those requests as representatives in this Parliament but we do not have a Constituencies Development Fund (CDF) kitty. If this is properly mainstreamed in all the 290 geographical constituencies, then many persons with disabilities across this country will benefit. I beg the House to agree with me on this one.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. It is well explained.

(Question of amendment of proposed)

Hon. Gichigi: On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is a point of order by Hon. Member for Kipipiri.

Hon. Gichigi: Hon. Temporary Deputy Chairlady, I am very passionate about the interests of people living with disabilities. But it is important that Hon. Mwaura, the Mover, explains to this House what projects he has in mind because under the current mandate of CDF, I am trying to look for the project that he wants us to do for the persons with disabilities and I am having challenges. Right now, we are giving bursaries and many other things. So, when you say 5 per cent, what are these projects?

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): That was a clarification. This is a very clear one. Can I give it to Hon. Mwaura, the Mover? Members, let me read it so that we get it very clearly:

“At least 5 per centum of the total annual allocation for the constituency shall be allocated for projects for the benefit of persons with disabilities.”

That is the only amendment that Hon. Mwaura is moving. Hon. Mwaura, please clarify because I want to put the Question.

Hon. Mwaura: Thank you, hon. Temporary Deputy Chairlady. The projects that are envisaged here will not be outside the purview of the national Government CDF kitty. This is an amendment within the Bill. So, whatever the Bill covers, those projects will be specific to persons with disabilities like special schools---

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Gichigi, you may not question Mwaura as such. Members, this is the amendment you have in mind and its implications. That is why we will take a vote.

Hon. Mwaura: Like special schools, special units in mainstream schools, school fees, bursaries and toilets. We are putting a minimum percentage. I know Members are doing it but there is no guidance. You have guidance for environment, sports and others. This is guidance so that at least there is that basic because persons with disabilities are not being considered across board. So, it provides for that. If, for example, you are receiving Kshs100 million, at least Kshs5 million of that will go towards the benefit of persons with disabilities within your constituency. That is the import of this.

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

Hon. Dido: Thank you, Hon. Temporary Deputy Chairlady. I rise to oppose this amendment. I empathise with Hon. Mwaura for bringing this amendment. I believe that where we come from, persons with disabilities are part of our society. They go to common schools and enjoy common facilities. Also, within the CDF Committee, we normally have one person representing persons with disabilities. So, the interests of this part of our community are taken care of. Putting aside money to do nothing should not be part of this Bill.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. Let me have the last one. Hon. Kimani, Member for Gatanga.

Hon. H.K. Njuguna: Thank you Hon. Temporary Deputy Chairlady. I want to oppose this amendment. I feel we have provided too much for the persons with disabilities in Uwezo Fund, Women Enterprise Development Fund and all these funds. Perhaps, Hon. Mwaura should have said that 5 per cent to men but when all the time--- There is too much representation of the disabled. If we are not careful, we might end up-- - I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): He is on record as having opposed. You know how we make laws here. Let me give the Chairman of the CDF a chance. You have heard the import of the amendment.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, as I oppose Mwaura's amendment, I just want to make it very clear that the way the Bill is drafted at the moment, does not discriminate against persons with disabilities. So, we do not need to make an expression in the Bill that a certain amount should go to that category. Otherwise, you will see the youth, men, women and the elderly saying they also need a certain percentage. The Bill as it is does not discriminate at all against Hon. Mwaura.

I thank you.

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

(Clause 23 agreed to)

Clause 24

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I understand the amendment is from Hon. Benjamin Langat but the Chairman has taken up the amendment. So, it is the Chairman to move the amendment.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 24 of the Bill be amended by deleting sub clause 1.

As a Committee, we have accepted to move that amendment. This amendment eliminates the requirement that the number of projects that can be submitted should not be less than five and not more than 25. We believe that the way the Bill is drafted at the moment we do not need that Clause 24(1). I request Members to support that amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Langat, you are the first one.

Hon. Langat: I want to support that amendment. Hon. Members, I want to draw your attention to what is being provided at Clause 24(1). That clause as it is now, says that you can only have a minimum of five projects and a maximum of 25. I am saying that this should be left to respective constituencies to decide the number of projects they want because constituencies are not the same. We do not even receive the same amount of money. Our problems are different. You cannot put a limit. Hon. Members, this is very good for you and the country.

I support the amendment

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Ferdinand Wanyonyi, Member for Kwanza.

Hon. F.K Wanyonyi: Hon. Temporary Deputy Chairlady, I support the amendment. I do not think that we want to restrict ourselves to number of projects. You can do five, 10, 30 or 50 quality projects. I oppose the limitation of projects to between five and 25. I support the amendment.

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

(Clause 24 as amended agreed to)

Clause 25

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 25 of the Bill be amended in sub clause (3) by deleting the words “the chairman of the Constituency Committee to the Board after approval by the Constituency Committee for that constituency” and substituting therefor the words “Constituency Committee to the Board”.

Hon. Temporary Deputy Chairlady, through this amendment, we are trying to avoid a scenario where the chairman of the Board becomes a “superpower” and rogue to an extent that he becomes unavailable. We want to ensure that the committee continues to work even in the absence of the chairman. That is why we are deleting the word “chairman” and replacing it with the word “committee”.

This amendment is based on experience we had this year and last year. We have had constituencies where the chairpersons decided that they were elected and therefore they were more important than Members of Parliament. We are therefore removing the requirements for the chairman to submit project and convene meetings. We are giving that role to the entire committee so that the Constituency Committee can submit project and convene meetings.

With those remarks, I request hon. Members to support this amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me give the Floor to someone who has not spoken.

Proceed, Hon. Elijah Moindi.

Hon. Moindi: Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment.

We have had problems from constituencies where the CDF Committee chairpersons have grown horns and become so powerful. It is only this kind of limitation that can contain them to ensure that they do not overrule everybody else and take the office as their own property.

Thank you.

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

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

(Clause 25 as amended agreed to)

Clause 26

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 26 of the Bill be amended in sub clause (2) by deleting the words “the chairman of the Constituency Development Fund” and substituting therefor the word “Constituency”.

This is similar to the amendment done to Clause 25. We are again removing the word “chairperson” wherever it appears in substitution of the entire committee. So, this is a consequential amendment to the amendment done in Clause 25.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Proceed, Member for Rabai.

Hon. Mwamkale: Thank you, Hon. Temporary Deputy Chairlady. This is actually to align this clause to the amended Clause 25. If we do not amend it, Clause 25 will not make sense.

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

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

(Clause 26 as amended agreed to)

(Clauses 27, 28, 29, 30, 31, 32 and 33 agreed to)

Clause 34

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, there are two amendments on this one. We shall start with the one by Hon. Lessonet.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 34 of the Bill be amended in sub clause (1) by deleting the words “in each case” and substituting therefor the words “appointed in accordance with the regulations made under section 53.”

This amendment seeks to provide that the project management committees at the grassroots level shall be appointed in accordance with the regulations.

I request hon. Members to support the amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Nicholas Gumbo!

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, this is a very straightforward amendment. It is something we deliberated upon as a Committee. It is good that we move it from the main Bill and put it in the regulations.

Therefore, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Mohamed!

Hon. Mohamed Abdi: Thank you, Hon. Temporary Deputy Chairlady. This is a very straightforward amendment. Project management committees are becoming very important. Therefore, as a Committee, we decided to provide for their appointment, so that business can be done in a stipulated manner. So, instead of loading the Act with so many things, we decided to move this to the regulations.

With those remarks, I support.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let us go to the next amendment by Hon. Irungu Kang'ata.

Hon. Kang'ata: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, clause 34 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)—

“(1A) No project shall commence without public presentation of the project's cheque to the project management committee by any member of the Constituency Committee in the presence of the member representing the constituency in the National Assembly”.

“(1B) The tenure of members of the project management committees shall terminate at the end of every project”.

The first import of the amendment is to ensure that presentation of cheques for projects is done in public. The second import of the amendment is for the area Member of Parliament, as the person who has the constitutional duty of offering oversight, to be present when presentation of cheques for projects is done.

The second part of the amendment is on the issue of the project management committees. I am proposing that after every project, the tenure of the committee ends there. That is what happens on the ground but I have seen a situation where some members of projects management committees behave as if they are permanent CDF officials. They want to stay there forever. So, you find that when you go back and give another project cheque, they insist that they are the ones who should continue with the new project. So, they may veto the powers of the CDF Committee.

I do not see anything wrong with these proposals because the whole idea is just to allow for public presentation of cheques and for the area Member of Parliament to be present when project cheques are given out. The Member of Parliament is not the one who gives out the cheque. Cheques are presented by any member of the CDF Committee.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Proceed, Hon. Jackson Rop.

Hon. Rop: Hon. Temporary Deputy Chairlady, my request was for another amendment. Nevertheless, I support the amendment by Hon. Kang'ata.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Majority Chief Whip!

Hon. Katoo: Thank you, Hon. Temporary Deputy Chairlady. I rise to oppose this amendment. It is good for hon. Members to know that the Mover of the amendment did not make full disclosure of the meaning of this amendment. He just talked of the import as being to ensure that presentation of cheques is done in public – a position which is so popular to the House. However, that is not the only import. The first part of the amendment says “No project shall commence without public presentation of the project's

cheque.” This is a very bad amendment because it will lead to holding development projects to ransom.

I think that is very bad. You hold development of projects and yet you have already awarded the tender. The contractor can do the work. When you say that no project should commence until the cheque is presented in public, I do not think that is fair. So, I request Members to oppose that.

The other amendment is in part (b) and it states that the tenure of the members of the project management committee shall terminate at the end of every project. It is good to be alive to reality. If we are building classrooms, we do not have other project management committees other than the school management committees that supervise that development. I find this amendment not being in good faith.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Naomi Shaban.

Hon. (Dr.) Shaban: Hon. Temporary Deputy Chairlady, without belabouring the subject, I want to agree with the sentiments of our Whip that with regard to this particular amendment, maybe, Hon. Irungu meant well, but really it is putting spanners into the works and it is unnecessary. So, I beg to oppose.

Hon. Ganya: Hon. Temporary Deputy Chairlady, I stand to oppose this amendment. I want my good friend, Hon. Kangata to realize the diversity of our constituencies. In my constituency, I will not be able in any way, even if I used a plane, to go and present those cheques in all those areas because my area is very vast.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Do you support or oppose?

Hon. Ganya: I oppose. I also want him to appreciate the diversity in terms of the geography of our constituencies. For some of us it is not possible.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I have heard Hon. Kangata. This is a very risky amendment, which I request Members to oppose. We are currently on IFMIS. We do RTGS for cheques carrying amounts above Kshs1 million. You can, therefore, imagine when you demand through legislation that you want to issue out cheques.

I want to convince Hon. Kangata that on the New Clause 49 we have taken care of his fears and shortly before we reach the end of this session, he will notice that things are under control. I request Members to oppose this amendment.

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

(Clause 34 as amended agreed to)

(Clauses 35, 36, 37, 38, 39 and 40 agreed to)

Clause 41

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 41 of the Bill be amended-

(a) in sub clause (2) by deleting the words “at the constituency as may be designated by the Cabinet Secretary or an alternate;” appearing in

paragraph (a) and substituting therefor the words “responsible for coordination of national government functions.”;

(b) by inserting the following new sub clause immediately after sub clause (6).

(6A) The members of the Constituency Committee shall at the first meeting elect a chairperson from among the persons appointed under paragraphs (b), (c), (d), (e) and (g).

(c) in sub clause (8) by deleting the words “irrespective of a term of Parliament”

The import of this amendment is to indicate that at the constituency level the person who will be sitting in the Constituency Committee is the person responsible for co-ordination of national Government functions.

So, you do not require an appointment. We are deleting the requirement that one be nominated by the Cabinet Secretary. We are providing that it is that person responsible for co-ordination of national Government functions.

On part (b) we are providing for the election of the chairman. This means that the person responsible for co-ordination of national Government functions shall not be eligible to be chairman. I want to request Members to support.

(Question of the amendment proposed)

Hon. Kang’ata: Hon. Temporary Deputy Chairlady, allow me to convince Members to oppose Clause 41 (b) on the issue of the election of the chairperson. When we allow this chairperson to be elected by the other persons, it will need that person to be very strong. He will be a very strong chairperson because he will be deriving his power from amongst those people. The best thing would have been that we leave this issue to regulations. In any event it does not make sense for us. We have not created the procedure of appointment of these people and now we are proceeding to create a procedure of appointing a chairperson. This is an issue that should be left to regulations. A chairperson is one who can kick you out of your constituency next time. Do not allow this person to be elected by his other members.

I am of the view that we drop Clause 41(b). We should say that we put that to regulation. Please, be fair.

Hon. Ogolla: Hon. Temporary Deputy Chairlady, I support the amendment. Some of these things need to be very straightforward from the outset. The first question that was being asked is this: Where does the chairperson come from? I support this and there is no need of taking it to regulation. It needs to be outright. We need to have a chairperson directly from the members.

Hon. A.T. Anyanga: Hon. Temporary Deputy Chairlady, we also need to look at the best practice, that is, how most chairpersons are usually selected or nominated. As it is right now, this Bill has a lot of checks and balances. Therefore, when you have a committee that in itself decides to choose a chairperson and yet the same Bill gives provisions about how any member of that Committee can be removed--- It does not mean that once a chairperson has been elected he becomes so supreme that he cannot be

removed should he contravene any of the provisions of how a member of the committee can be removed.

I support.

Hon. Langat: Hon. Temporary Deputy Chairlady, I want for once to support Hon. Kang'ata. Since the board is appointing members as per the regulations and for the reasons he has given, I know we may want to be theoretical about this CDFC. The fact of the matter is that it is a political committee especially at that lower level of the constituency. I want to request the Chairman of the Committee to drop this proposal on the election of the chairperson so that he can be appointed by the board here in Nairobi.

(Loud consultations)

Listen, Members. I am saving you. I can hear Members say no, but I am saving you. The board appoints the members and you have a say in the members who are appointed. You will also have a say with regard to whoever will be the chairperson. Let us request the Chairman of the Committee to drop that proposal.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Do you support or oppose?

Hon. Langat: I oppose, but I want to request the Chairman of the Committee to drop his proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Benard Kitungi, are you here?

Hon. Kitungi: I rise to support this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): You support. Members, let us take a vote on this. Before that, let me have the voice of the Chair.

(Loud consultation)

Hon. Lessonet: Hon. Temporary Deputy Chairlady, allow me to drop part (b) of that amendment about electing the chairperson. I support Hon. Kangata that I drop that part. This time he has really used his mind.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members, Clause 41(b) has been withdrawn.

(Proposed Clause 41(b) withdrawn)

*(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 41 as amended agreed to)

Clause 42

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 42 of the Bill be amended in sub clause (1) by —

(a) by deleting the marginal note and substituting therefor the following new marginal note—

“Dissolution of Constituency Committee”

(b) deleting paragraph (c);

(c) deleting paragraph (d)

This amendment is just a correction of the marginal note to show that it is about dissolution of Constituency Committee. The further amendment in deleting Paragraph (c) and (d) is that a Constituency Committee is a corporate body. Clause (c) and (d) are about individuals. We are deleting because parts (c) and (d) will not be applicable to a corporate entity. I request Members to agree and support me in moving these amendments.

(Question of amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members, let us now have amendment for Clause 42 by Hon. Irungu Kangata.

Hon. Kang’ata: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, clause 42 of the Bill be amended by deleting the word

“Board” wherever it appears and substituting therefor the words “National Assembly”.

On this one, if you fail to support my amendment, it will mean if you have a rogue CDFC, it will be the Board that will be dealing with it. I propose that Parliament deals with it because it is the one which does the actual approval. If Parliament is the one that does approval, it is the same body that should be doing any form of disciplining. I propose we remove the word “Board” anywhere and insert “National Assembly” because it is the one doing the final approval of the names. You cannot be the one doing approval and you cannot do anything against that Board. If anyone has an issue against CDFC, you come to the National Assembly because it is the one that originally did the appointment and approval.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chachu Ganya.

Hon. Ganya: Thank you, Hon. Chairlady. I was planning for the next one.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member for Igembe North.

Hon. M’uthari: I do not agree with this particular amendment because I do not get the import of it.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, those who are on intervention, you have to get back to the requests so that I can see you. Hon. Irungu, are you convinced?

Hon. Kang’ata: It seems Members do not understand the import of my amendment. It is simple; assume your CDFC is something that needs to be dissolved and has a problem and there are sufficient grounds to kick it out. Assume your CDFC has good grounds showing that it should be dissolved or probably removed. Where do you take that petition? Do you take the petition to the Board or the National Assembly? My argument is that bring it to the National Assembly because it is the one which did the actual vetting and finalisation of the appointment process as opposed to leaving it to the Board. So, you remove power from the Board and put it in the National Assembly under the Committee of our Chair who is here. I am sure they are competent in dealing with those issues.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Now they understand. Let us have Hon. ole Kenta.

Hon. ole Kenta: Thank you, Hon. Temporary Deputy Chairlady. I oppose this. I believe Hon. Kang’ata is trying to give Parliament powers that it does not have. Ours is oversight and making laws. We will be meddling with other institutions which will be illegal.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Before the Chairperson, Hon. Meruaki and Member for Igembe you have just---

Hon. M’uthari: Hon. Temporary Deputy Chairlady, I oppose this amendment by Hon. Kang’ata. This is because by the end of the day, the National Assembly cannot take over the role of the Board. If it does, then it is contravening the rules. If we are overseeing and again we have constituted a Board that has been approved by the National Assembly, it is like we are taking over their role. In that case, I do not support that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Naomi Shaban. Members, we need to do move fast.

Hon. (Dr.) Shaban: I stand to oppose the further amendment by Hon. Kang’ata. We are here today discussing this because of the unconstitutionality of the Act. As it is, Hon. Kang’ata wants to give us some bits which are unconstitutional.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chairman.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, if Hon. Kang’ata had drafted that amendment properly, I would have supported it. On receiving a petition under subsection (i), he is saying we replace the word “Board” with “National Assembly”. It means, on receiving a petition under subsection (i), the National Assembly may suspend Constituency Committee. It will not be possible for the National Assembly to suspend a Constituency Committee. Hon. Kang’ata, you can think about it in six months and come up with a polished amendment to this particular Bill. However, you have a good idea.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I love that. He has a very good idea. Allow me to put the Question. Hon. Muluvi, why are you looking

agitated? Do you have anything to say? Let us hear your contribution. Maybe it is important.

Hon. Muluvi: Thank you, Hon. Temporary Deputy Chairlady. We cannot take administrative duties of a board to the National Assembly. We have our own roles which are oversight, legislation and representation. Therefore, I do not support the amendment which is being proposed by Hon. Kang'ata, my friend.

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

(Clause 42 as amended agreed to)

(Clauses 43 and 44 agreed to)

Clause 45

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 45 of the Bill be amended —

(a) by deleting the marginal note and substituting therefor the following new marginal note—

“Projects involving personal awards to be excluded”

(b) by deleting sub clause (2);

(c) by inserting the following new clause immediately after Clause 45.

Social security
programmes etc to
be considered as
development
projects.

45A. The funding of social security programmes, education bursary schemes, mock examinations and continuous assessment tests shall be considered as development projects for the purposes of the Act provided that such projects shall not be allocated more than thirty five per centum of the total funds allocated for the constituency in any financial year.

In this amendment, we are deleting the marginal note and substituting it with a new marginal note which states that projects involving personal awards will be excluded.

Further to that, we are deleting sub-clause (2) and inserting a new clause immediately after Clause 45 which seeks to increase the allocation to bursary schemes from 25 per cent to 35 per cent.

Members, we are increasing the amount of money available for you to allocate to bursaries and introducing a new category called social security. In this category, we will be able to pay the National Hospital Insurance Fund (NHIF) for those people who are extremely vulnerable in our community.

That is the import of this amendment and I request my colleagues to support it.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Before we proceed, I need to inform Hon. Kang'ata that your amendment has not been approved. It was not approved by the Budget and Appropriations Committee in terms of Article 114 of the Constitution on money Bills. Article 114(2) states "If in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of "a money Bill---" you can read for yourself.

There is a point of order from Hon. Langat.

Let me hear what Hon. Langat has to say.

Hon. Langat: Hon. Temporary Deputy Chairlady, I do not support Hon. Kang'ata's amendment, but it is wrong for the clerks to say that his amendment is supposed to be subjected to Article 114 of the Constitution on money Bills. I disagree with him but his rights should be protected. That amendment cannot be subjected to Article 114 of the Constitution. This amendment is just about ceilings that we are imposing on the budget. It is not about the overall budget. He has the right to move his amendment and we have the option to reject it. Let us not apply Article 114 of the Constitution irresponsibly.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): This information was from the Budget and Appropriations Committee. Hon. Langat has made it clear for you. You should have consulted Hon. Langat earlier and approached those other offices. You should have been consulted on time.

Hon. Kang'ata: Hon. Temporary Deputy Chairlady, my amendment is clearly captured on the Order Paper. The assumption was that it was approved. Otherwise, there was no communication to me that my amendment was rejected.

Secondly, I have the right of audience. There is no way a Committee can meet in my absence to discuss my amendment and I am not called to explain the import.

Thirdly, it shows lack of legal advice to that Committee. This proposal had nothing at all to do with money. It is not a money Bill. It is clearly about ceilings. If you allow that advice to stand, it will mean that Hon. Lessonet's proposal is wrong. His proposal adjusted the ceiling to 35 per cent. My request was that we increase it to 50 per cent. That would mean that his proposal is wrong as well.

I urge you to exercise your powers under Standing Order No.1

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I cannot exercise my powers in my current capacity. I am just the Chair of the Committee of the whole House. It is always good to follow up on all your amendments. Anyway, it will be corrected.

We can now move on.

(Clause 45 as amended agreed to)

(Clauses 46, 47, 48, 49, 50 and 51 agreed to)

Clause 52

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 52 of the Bill be amended in sub-clause (4) by deleting the words “the Cabinet secretary may appoint an arbitrator whose costs shall be jointly borne by the parties” and substituting therefor the words “any of the parties may apply to the Cabinet Secretary to reconsider the Board’s decision and determine the matter”.

This amendment is with regard to the issue of arbitration where we want to allow parties in dispute to apply to the Cabinet Secretary to reconsider the board’s decision. If parties are not satisfied with the board’s decision, they can apply to the Cabinet Secretary to reconsider the board’s decision and determine the matter.

This is a simple amendment and I request Hon. Members to support it.

(Question of the amendment proposed)

Hon. A. T. Anyanga: Thank you, Hon. Temporary Deputy Chairlady. The Chair of the Constituencies Development Fund Committee is proposing to give parties who may have a dispute, an exhaustive mechanism of settling the dispute. This will ensure that it does not appear like the Board has the final word on any form of dispute. This is in line with international arbitration systems where an arbiter comes in whenever any two parties do not agree.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. ole Ntutu, the Member for Narok West.

Hon. ole Ntutu: Hon. Temporary Deputy Chairlady, I support.

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

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

(Clause 52 as amended agreed to)

Clause 53

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There are two amendments to this clause which are more or less similar. Hon. Lessonet and Hon. Irungu Kang’ata, can you agree between the two of you?

Hon. Irungu Kang’ata, go on record as agreeing to withdraw your amendment.

Hon. Kang’ata: Hon. Temporary Deputy Chairlady, I withdraw my amendment because it is similar to that of the Chairperson.

(Proposed amendment by Hon. Kang'ata withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Now we move to the amendment by the Chairperson of the Committee.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, the Members of this House must recognise that Hon. Kang'ata read this Bill. Some of us may have come here to vote, but Hon. Kang'ata read the Bill. That is why he is proposing an amendment similar to the one the Committee is moving.

I beg to move:-

THAT, Clause 53 of the Bill be amended in sub clause (3) by inserting the following new paragraph immediately after paragraph (a) —

“(aa) the procedure for appointment and removal of members of the project management committees”.

I thank you.

(Question of the amendment proposed)

Hon. Kihagi: Hon. Temporary Deputy Chairlady, I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Member for Igembe Central, Hon Cyprian.

Hon. Kubai Iringo: Hon. Temporary Deputy Chairlady, I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Member for Igembe North.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Chairlady. I support this amendment.

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

(Clause 53 as amended agreed to)

(Clause 54 agreed to)

New Clause 49A

Hon. Lessonet: Thank you, Hon. Temporary Deputy Chairlady. I am moving the new clause in an amended form. I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 49.

Citizens Projects

Oversight Committees 49A. (1) There is established a Constituency Oversight Committee for projects undertaken this Act.

(2) The Constituency Oversight Committee shall comprise of the constituency member of the National Assembly and not more than four other members appointed by the constituency Member of the National Assembly in consultation with other stakeholders.

(3) The constituency Member of the National Assembly shall, in consultation with the Constituency Oversight Committee, at least twice in every financial year, and upon giving notice of at least fourteen days, convene a public forums for purpose of—

(a) mobilising and sensitising the respective target groups on any matter related to the Fund; and

(b) soliciting views, opinions and proposals from the public in regard to the Fund and presenting the views and opinions to the National Assembly;

(4) The public may in the public forums above—

(a) make recommendations to the Constituency Committee for the better implementation of projects undertaken under the Act;

(b) witness the commissioning of projects and issuance of cheques and other disbursements by the Constituency Committee; and

(c) express their views on the implementation of the Fund;

(5) A member of the Constituency Oversight Committee may attend meetings of the constituency committee or its sub-committees to ensure fair distribution of the Fund.

(Question of the new clause proposed)

(New clause read the First Time)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Mover to move the Second Reading of the New Clause 49A.

Hon. Lessonet: I thank you, Hon. Temporary Deputy Chairlady. Allow me to move the Second Reading of the New Clause 49A. As I do that---

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Lessonet, please for the sake of the record, move that it be now read a Second Time.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, thank you for the correction. I beg to move that the New Clause 49A be now read a Second Time.

This amendment is very important. I am sure Members have listened very carefully to the membership of the proposed constituency oversight committee and that a member of the oversight committee may attend meetings of the constituency committee. This is a very important amendment. We have consulted widely. I beg to move.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Gichigi.

Hon. Gichigi: Hon. Temporary Deputy Chairlady, the Constitution gives the Member of Parliament the oversight role, which can be exercised at the national level as

well as at any other unit in this country. The proposal by the Chairperson gives a Member of Parliament oversight role and allows the Member to attend the constituency committee meetings, oversee its operations, to attend meetings to distribute those resources and to ensure that there is fairness in the entire exercise. That is the best that can be done at this particular stage. I ask Members to support.

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

(The new clause was read a Second Time)

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

(The First, Second, Third and Fourth schedules agreed to)

Clause 2

Hon. Kang'ata: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 of the Bill be amended by deleting the definition of “project management committee” and substituting therefor the following new definition—

“project management committee” means a committee appointed by the Constituency Committee to implement a project;

We have mentioned the expression “project management committee” severally in the main Act and I was of the view that we need to define it. So, this is purely a technical issue. I have simply defined it as a committee that has been appointed by the CDFC to do a project.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I support.

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I wish to declare that Hon. Kang'ata is one among those of us who have read this Bill. This amendment will require all PMCs to be appointed by the CDFC. Hon. Kang'ata in that definition requires all PMCs to be appointed by the CDFC. So, I do not think that the CDFC will have time to go round the constituency to appoint PMCs. That is import of that amendment. This includes schools. Schools have automatic PMCs and we did not want them to be further appointed. Hon. Members can now contribute taking note of the import of that amendment.

I request Members to oppose that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chairperson, I also need to give guidance. It is up to the Members to make a decision. I also want to refer to the main Bill that the definition of “project management committee” has also been stated. Let me have Hon. Midiwo.

Hon. Midiwo: Hon. Temporary Deputy Chairlady, Members need to be advised. This is a very bad proposal. Sometimes you may think you are controlling the committee, but the avenue that it opens is the avenue that will send you home. They will control the people that they will appoint. That is how corruption sends people home. Let the people in the villages elect themselves and then you get the credit. We must oppose that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you for the strong opposition.

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

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Hon. Lessonet: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the National Government Constituencies Development Bill (National Assembly Bill No.59 of 2015) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! I now call upon the Chairperson to report to the House.

Hon. Katoo: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the National Government Constituencies Development Bill (National Assembly Bill No.59 of 2015) and approved the same with amendments.

Hon. Lessonet: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request my colleague, Eng. Gumbo, if

he is here, to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I wish to second.

(Question proposed)

(Question put and agreed to)

Hon. Lessonet: Hon. Temporary Deputy Speaker, I beg to move that the National Government Constituencies Development Bill (National Assembly Bill No.59 of 2015) be now read a Third Time. I also request Hon. Gumbo to second.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I second. This is a very progressive Bill and I encourage all the Members to support it.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I confirm that we have the requisite quorum for the purpose of decision making.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must thank you for your attendance. From the Speaker's desk, today you did a very good job.

The time being 6.30 p.m., this House stands adjourned until Thursday, 3rd December, 2015 at 9.30 a.m.

The House rose at 6.30 p.m.