

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th October 2015

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

The Temporary Deputy Speaker (Hon. Cheboi): We do not seem to have the requisite quorum. I, therefore, order that the Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order, Hon. Members! We now have quorum. Therefore, the business can start.

PAPER LAID

The Temporary Deputy Speaker (Hon. Cheboi): On Order No.5, I can see there is something by Hon. Ichungwah. I am informed that it is actually Hon. Emanikor, the Member for Turkana.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker.

I beg to lay the following Paper on the Table of the House today, Wednesday, 14th October 2015:-

The Report of the Committee on Privileges on its consideration of the Parliamentary Powers and Privileges Bill, 2014.

BILL

First Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

*(Order for First Reading read-Read the First Time and
ordered to be referred to the relevant Departmental Committee)*

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE KENYA NATIONAL EXAMINATION
COUNCIL (AMENDMENT) BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order, Hon. Members! We are now in the Committee of the whole House. We will start with the Kenya National Examination Council (Amendment Bill) National Assembly Bill No.3 of 2015.

(Clause 2 agreed to)

New Clause 2A

The Temporary Deputy Chairman (Hon. Cheboi): We have Hon. Michael Munyao. Do you have a proposed amendment on this one? We are introducing the new Clause.

Order, Members! Do we have Hon. Munyao in the House? He is absent and therefore we drop it.

(Proposed amendment by Hon. Munyao dropped)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, let us have the Mover, Hon. Wangwe to report on this one.

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

I beg to move that the Committee doth report to the House its consideration of the Kenya National Examination Council (Amendment) Bill, National Assembly Bill No.3 of 2015 and its approval thereof without amendments.

Thank you.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we will now proceed to the next one - the Parliamentary Powers and Privileges Bill, National Assembly Bill No.35 of 2014, by Hon. Keynan.

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Clause 3

The Temporary Deputy Chairman (Hon. Cheboi): We seem to have an amendment on Clause 3 by the Chairman of the Powers and Privileges Committee. Hon. (Ms.) Emanikor, would you be representing the Chairman.

Hon. (Ms.) Emanikor: Yes, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): That is okay. Proceed.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Chairman.

I beg to move:-

THAT, Clause 3(1) be amended by inserting the following paragraph immediately after paragraph (f)—

(g) such other areas as the Speaker may designate, in writing, for the purpose of parliamentary business.”

The rationale is that this amendment seeks to empower the Hon. Speaker to designate in writing areas other than the precincts of Parliament necessary for purposes of conducting parliamentary business.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, that is very clear.

(Question of the amendment proposed)

I will give Hon. Members time to contribute if they are interested.

Let us have Hon. Gumbo, the Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairman. I just wish to support this amendment. This is a good amendment and I support my sister, the Hon. Member for Turkana County for bringing this amendment. I request all Hon. Members to support it. This is because without that it becomes a bit unclear where else the privileges will apply.

So, I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, I will give you the opportunity now because if this amendment is carried, then yours is dropped. So, I want to give you an opportunity because you intended to prosecute the second one.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. Basically, it is the same. I agree and concur that it is a good one.

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

(Proposed amendment by Hon. Keynan dropped)

(Clause 3 as amended agreed to)

(Clauses 4, 5, 6 and 7 agreed to)

Clause 8

The Temporary Deputy Chairman (Hon. Cheboi): I can see the Powers and Privileges Committee has a proposed amendment on this clause. Hon. (Ms.) Emanikor, you have the Floor.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 8 of the Bill be amended in sub clause 1 by deleting the words “within or outside” appearing immediately after the words “areas” and substituting therefor the words “proximate to”.

The rationale is that this amendment seeks to allow for the designation of areas where assembly demonstrations and picketing can be carried out without interfering with the normal business of Parliament.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see some interest on this one. We will start with the Hon. Member for Malava.

Hon. Injendi: Hon. Temporary Deputy Chairman, I support this amendment because we have witnessed quite often some people assembling at the gate and, therefore, interfering with House business.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Hon. Member for Kiminini.

Hon. Wakhungu: Hon Temporary Deputy Chairman, I rise to support this amendment. We have seen many cases where people bring in issues which have nothing to do with Parliament and so they interfere with its business. Therefore, it is a good amendment and I support it.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, the Member for Marakwet West.

Hon. Kisang: Hon. Temporary Deputy Chairman, I rise to support this amendment because, in a country such as the United States of America (USA) and others, the precinct of Parliament is surrounded. In the past, it was very difficult to access Parliament. People come to block Parliament entrance in the pretext of demonstrations.

So, I support this amendment.

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I think it is in the interest of Kenyans. This House is very important. We represent the people of Kenya who always bring petitions to this House. Therefore, Parliament should designate a specific place where Kenyans can picket from morning to evening. Through the Office of the Speaker, Parliament must provide an officer who will go and pick those petitions from Kenyans. This is done in all developed democracies and not only in Kenya. We should create a specific place where they can picket.

Hon. Jakoyo and I were victims when people brought pigs to Parliament. How do you bring pigs to Parliament here in Nairobi? So, if they want to bring pigs, they should be given a place where there will be water, grass and whatever the pigs will be consuming so that even the animal rights issue as enshrined in the Constitution is taken care of. Those who want to bring pigs, camels, goats or sheep can have a specific place and animal feeds are provided as they present their petition. Next time, they should not bring pigs. In my religion, we do not even talk about a pig. They had better bring a camel written Duale's name.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): I will give chance to a few more Members. I see there is a lot of interest in this particular one. Let us have the Hon. Member for Kitui Central. Let us be brief so that many more Members can have a take on this.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. We are all aware that the right of expression is enshrined in the Constitution, but it is important that it is done in an organised manner. This amendment is important because picketing will be done without interfering with the work of other people.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Member for Nyandarua, Hon. (Ms.) Wanjiku Muhia

Hon. (Ms.) Muhia: Thank you, Hon. Temporary Deputy Chairman. This is a very good Bill. I support Hon. Duale because we remember members of the Islamic religion ---

The Temporary Deputy Chairman (Hon. Cheboi): Hon. (Ms.) Wanjiku Muhia, I want you to talk specifically to Clause 8. If you support the entire Bill, then you should leave us the opportunity to give you a chance at the tail end, where you will be supporting everything.

Hon. (Ms.) Muhia: I am heading to that clause and I am referring to the Muslim community in relation to the pigs that were brought to Parliament. If an area had been set aside for demonstration, the Muslim community would not have felt offended.

Therefore, I support.

The Temporary Deputy Chairman (Hon. Cheboi): Okay, let us have Hon. (Ms.) Chidzuga.

Hon. (Ms.) Chidzuga: Shukrani, Mhe. Naibu Mwenyekiti wa Muda. Ninaunga mkono huu Mswada kwa hicho kipengele ambacho kimeletwa na Mhe. Emanikor kwa sababu tumeonyesha wazi kwamba hili Bunge linasimamia kufadhili Katiba yetu na kukubaliana na yote tuliyoipitisha. Lakini pia tutaweza kujitenganisha na wale ambao wanataka kufanya mambo yao wakati sisi tunaendesha mambo yetu katika Bunge hususan kama walivyozungumza Waheshimiwa wenzangu. Wakati ule wa nyuma tuliweza kuona wakituletea nguruwe na hali inajulikana wazi kwamba nguruwe si halali kwa Mwislamu. Walitutia katika hali ambayo haikuturidhisha kama Waislamu katika Bunge na hata Kenya nzima.

Kwa hivyo, ninaunga mkono.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Member for Narok South.

Hon. ole Lemein: Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment to this clause. It is true that every Kenyan has a constitutional right to picket, but it is good to picket at the right place. I agree with my colleagues that people bring issues that do not concern this House to the gates of Parliament. It is wrong. I support the amendment to this 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)*

(Proposed amendment by Hon. Keynan dropped)

(Clause 8 as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I proceeded in that manner because when the amendment by Hon. Emanikor was carried, the one by Hon. Keynan was dropped.

(Clauses 9, 10, 11 and 12 agreed to)

Clause 13

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 13.

This amendment seeks to correct an error of repetition as the content of the clause is already contained in Clause 6(1) of the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give an opportunity to two Members. Let us start with Hon. Agostinho Neto, the Member for Ndhiwa.

Hon. Oyugi: Thank you very much, Hon. Temporary Deputy Chairman. I would like to support the amendment by Hon. Emanikor. It is not fair to use this Bill to limit civil liberties in terms of civil debts and issues like those. This particular amendment and deletion is in order. I support.

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

Hon. Gichigi: Hon. Temporary Deputy Chairman, I rise to support that particular amendment. Obviously, we need to tidy up the Bills that we bring here so that we do not keep on harassing Members with a lot of information. Thank you for the good eye that saw that error. I support.

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

(Clause 13 deleted)

Part IV

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting the title to Part IV and substituting therefor the title—

“COMMITTEE OF POWERS AND PRIVILEGES”.

This amendment is meant to provide a logical sequence of the clauses in the Bill relating to the Committee of Powers and Privileges.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see four requests. Would Members like to speak to this particular part? I do not think so. You will be looking for the next one.

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

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

(Part IV as amended agreed to)

(Clauses 14 and 15 agreed to)

Clause 16

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 16 of the Bill be amended—

(a) in subclause (4) by inserting the expression “(b)” immediately before the words “perform such other functions”

(b) by deleting subclause (7) and substituting therefor the following subclause—

“(7) Each House of Parliament shall consider the report and recommendations by the Committee of Privileges in the manner set out in the Third Schedule.”

This amendment is meant to correct an error in numbering and set out a procedure for considering the report of the Committee of Powers and Privileges. The report is to be considered according to the procedure set out in the proposed Third Schedule.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members a chance. We will start with the Member for Nakuru Town East. Do you want to speak to this one?

Hon. Gikaria: Yes, I support the amendment. Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have the Member for Kitui East, Hon. Muluvi.

Hon. Muluvi: Thank you. I support it but I also want to give a caution. Why should numbering be an issue when drafters are there? This should not be recurring.

Thank you.

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

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

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

(Clause 16 as amended agreed to)

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

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order, the Member for Kipipiri?

Hon. Gichigi: Hon. Temporary Deputy Chairman, I was assuming that we were dealing with the amendment proposed in (a) because that is the one that was dealing with the numbering. The one that is proposing (b) which is referring to a Third Schedule that is not existent in the Bill has not been dealt with.

The Temporary Deputy Chairman (Hon. Cheboi): That is not clear, Hon. Gichigi. Can I hear you again?

Hon. Gichigi: Hon. Temporary Deputy Chairman, we appear to have just passed the amendment to Clause 16 and yet Hon. Emanikor referred to Clause 16 (4), the first amendment which is (a). She did not deal with (b) which is a completely separate issue.

The Temporary Deputy Chairman (Hon. Cheboi): To the best of my knowledge, Clause 16 is now taken. What then would be lost if we---

Hon. Gichigi: Hon. Temporary Deputy Chairman, I have an issue because it is referring to a Third Schedule which does not exist in the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): We will consult on that one. As far as I am concerned, what I have seen is what has been taken. Let us hear the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, Hon. Gichigi is raising a fundamental issue. Clause 16 has parts (a) and (b). Part (b) is dealing with sub-clause (7) of Clause 16, which Hon. Emanikor is deleting and substituting therefor with another sub-clause which reads:-

“(7) Each House of Parliament shall consider the report and recommendations by the Committee of Privileges in the manner set out in the Third Schedule.”

In her explanation, she only dealt with part (a). You then went ahead to put the Question. We have not dealt with part (b) in as far as sub-clause (7) of Clause 16 is concerned. That is the issue Hon. Gichigi is raising.

The Temporary Deputy Chairman (Hon. Cheboi): Ordinarily, the Leader of the Majority Party and the Member for Kipipiri, when we deal with a particular clause, we deal with it as it is. The Mover should move all the amendments in that particular clause. We do not deal with specific sub-clauses in a clause except when there are two different Members moving

different amendments to various sub-clauses. The assumption by the Chair was that we were proceeding in that manner and, therefore, Hon. Emanikor would prosecute Clause 16 entirely.

Hon. Gichigi, we will deal with the Third Schedule later. It is there in the raft of amendments to be done. We will deal with it later on.

Hon. Members, that matter is settled. We will, therefore, proceed in that manner. I will be giving opportunity to the Member for Eldas, Hon. Keynan, to clarify some areas. It seems most of his amendments are being dropped in favour of the ones proposed by the Powers and Privileges Committee. Be prepared at all times, Hon. Keynan. Once in a while, I will be giving you an opportunity to clarify and state whether you are in agreement with the Committee, which you seem to be anyway because the proposed amendments seem to be the same.

New Heading

The Temporary Deputy Chairman (Hon. Cheboi): Proceed and move your amendment, Hon. Emanikor.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, the next amendment I have is on Clause 17.

The Temporary Deputy Chairman (Hon. Cheboi): Okay, you have dropped your amendment.

I now give the Floor to Hon. Keynan to move his amendment. Hon. Keynan.

Hon. Keynan: Hon. Temporary Deputy Chairman, Hon. Emanikor's amendment and that of the Powers and Privileges Committee are similar. The essence of the amendment is to improve on the headings of the various parts of the Bill.

This amendment being similar to the one proposed by the Powers and Privileges Committee, I concur.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, you do not concur. I want you to move your amendment because Hon. Emanikor did not move hers.

Hon. Keynan: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting the following new Heading immediately after Clause 16—

“PART IVA—BREACHES OF PRIVILEGES”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give an opportunity to one or two Members to contribute. Let us have the Hon. Member for Kakamega. Do you want to speak to this amendment?

Hon. (Ms.) Amolo: Thank you, Hon. Temporary Deputy Chairman. I stand to support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, Hon. Kathuri Murungi, the Member for South Imenti.

Hon. Murungi: Thank you, Hon. Temporary Deputy Chairman. I support the amendment. It is a well thought out amendment by Hon. Keynan.

(Question, that the words to be inserted)

be inserted, put and agreed to)

(The new heading as amended agreed to)

Clause 17

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 17 of the Bill be amended in sub-clause (a) by deleting the expression “27(1)” appearing immediately before the words “sections 26,”.

The purpose of this amendment is to take into account the proposed deletion of Clause 27 of the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order, the Leader of the Majority Party?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, procedurally, we have not reached Clause 27 and the Mover has not given her views on whether she is going to delete the Clause or not. We are on Clause 17, but Hon. Emanikor is anticipating the deletion of Clause 27. We had better deal with Clause 17 after the Mover deletes Clause 27.

The Temporary Deputy Chairman (Hon. Cheboi): That makes perfect sense. At this point in time, we are dealing with Clause 17. Hon. Members, we will deal with Clause 17. The sentiments raised by the Leader of the Majority Party make perfect sense. Unfortunately, we have to move step by step. If at the point of dealing with Clause 27 we find that there is an issue, we will move recommittal of the clause. That will sort out that problem.

Let me give a few Members opportunity to speak to this amendment. I will give priority to Members who have not spoken this morning. The Member for Molo, do you want to speak to this amendment? Since you are not ready, let us hear the Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Yes the Member for Trans-Nzoia, Hon. Janet Wanyama.

Hon. (Ms.) Wanyama: Thank you, Hon. Temporary Deputy Chairman. I also want to support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, you cannot just stand up to say that you support the amendment. You can do that very well when we put the Question. Let us hear the Member for Nyaribari Chache contributing to see if there is an issue on this amendment.

Proceed, Hon. Tong’i.

Hon. Tong’i: Thank you, Hon. Temporary Deputy Chairman. Looking at the wording of Clauses 17 and 27, there is no harm whatsoever. In the interest of time, it is better that we delete Clause 17 and move on rather than go to Clause 27 then come back to Clause 17. That will cause a bit of confusion in the minds of Hon. Members. We might not save the time that we want.

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

(Clause 17 as amended agreed to)

Clause 18

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 18 of the Bill be amended by—

- (a) renumbering sub-clause (5) as sub-clause (4);
- (b) renumbering sub-clause (6) as sub-clause (5);
- (c) renumbering sub-clause (7) as sub-clause (6).

The purpose of this amendment is to correct an error in the numbering of the sub-clauses.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): The Member for Eldas, do you have something to say on that one?

Hon. Keynan: Hon. Temporary Deputy Chairman since Members are asking, there is New Clause 18 which is next but this Clause 18 just seeks to correct a typo. So, I agree entirely with what---In the Order Paper, there is amendment to Clause 18 and New Clause 18. So, we are still discussing Clause 18 and what she has suggested is correction of a typo error. I agree with her.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. For clarity, if you look at the tail end of what is in the Order Paper, there are new proposals of New Clause 18 (b), (c), and (d). So, Members should familiarize themselves but we will be proceeding in the meantime.

*(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. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 20 of the Bill be amended—

- (a) in sub clause (1), by deleting the words “,and may order the property of the witness, or any part thereof to be attached and sold for the purpose of satisfying all costs of such attachment together with the amount of the said fine, if any”.
- (b) by deleting sub clause (2) and substituting therefor the following clause—
“(2) A person may pay the fine under subsection (1) to the Clerk of the relevant House.”

(c) by deleting subclause (3) and substituting therefor the following subclause—
“(3) Parliament or its committee may order the arrest of a person who fails to honour a summons.”

This amendment is meant to remove provisions allowing for the attachment and sale of property belonging to persons who fail to honour summons by a House of Parliament or any of its committees. The amendment further seeks to provide for the arrest of persons who fail to honour summons to ensure their attendance before a House of Parliament or any of its Committees.

The Temporary Deputy Chairman (Hon. Cheboi): Very well, this seems to be a fairly substantive one.

(Question of the amendment proposed)

I will therefore give about four Members, and we will start with Hon. Keynan.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. I am entirely in agreement with the proposal by the Hon. Member. A number of issues were raised on how some of these--- In case one has defaulted on certain things that are supposed to be executed--- Eventually we realized that we did not need this because we already have elaborate mechanisms both in the Constitution and other provisions of the law on how this is supposed to be executed. Therefore we felt that it should be done away with. I agree with the amendments.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. Cyprian Iringo, Member for Igembe Central.

Hon. Kubai Iringo: Hon. Temporary Deputy Chairman, I support the amendment by the Hon. Member. I strongly believe this one will make people who have to come in front of House committees to know that it is serious business and they should not take it lightly.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, let us give the chance to the Hon. Whip of the Minority Party.

(Hon. Wakhungu stood up in his place)

I thought the Whip is---- Then let us have his Deputy.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. When you look at this amendment, it is adding value but I am looking at the Constitution, Article 125 where it is provided that a committee of Parliament has the powers to summon. It is already provided for. Is it not going to be a repetition? We are already enjoying this which is provided in Article 125 of the Constitution.

The Temporary Deputy Chairman (Hon. Cheboi): Really, I would look at it from the point of whether it is going to do any harm. If it is not, then I think---

Hon. Wakhungu: Okay. In case it is for purposes of enhancement or clarity so be it, but it is already provided for in the Constitution.

The Temporary Deputy Chairman (Hon. Cheboi): It is okay. Now that it is there and it is not harming that bit of the Constitution, it is not contradicting. We could still dispose of it. Let us have Hon. Shabbir as the last one on this.

I see he is not prepared. So, we will proceed.

*(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 20 as amended agreed to)

(Clauses 21 and 22 agreed to)

Clause 23

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 23 of the Bill be amended by deleting subclause (2).

The amendment seeks to correct an error of repetition. The content of sub-clauses 1 and 2 are similar.

The Temporary Deputy Chairman (Hon. Cheboi): Very well.

(Question of the amendment proposed)

I will start with the Member for Malava.

Hon. Injendi: Hon. Temporary Deputy Chairman, most time we are hearing about numbering and repetition. Maybe we require your ruling. What is happening with our drafters? Is it just inefficiency or what? Otherwise, I support.

The Temporary Deputy Chairman (Hon. Cheboi): No, Hon. Member for Malava, let us not go to the issues of administration. Let us proceed as it is before us this morning in the House. Your sentiments, of course, are noted but this is not the time to address those particular issues. If we have Bills which have been brought before us and they are not tidy, it is up to the House to tidy them. That is why they are amendments. I think we are perfectly in order.

Actually, you should have risen on a point of order because that will be the place where that particular concern would have been better addressed, but you have been heard, Member for Malava.

Let us probably have the last one on this, Hon. M'eruaki?

Hon. M'uthari: Hon. Temporary Deputy Chairman, I support that particular amendment because it brings consistency in the whole thing. Thank you.

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

(Clause 23 as amended agreed to)

(Clauses 24, 25 and 26 agreed to)

Clause 27

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, this is a matter you had raised before. So I expect you to be keen so we can be able to transact it quickly.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 27.

Thank you, Hon. Temporary Deputy Chairman. We are finally on Clause 27. Leader of the Majority Party you were concerned about this. The deletion of this clause seeks to align the Bill with the provisions of Article 35 of the Constitution on access to information.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give a few Members starting with the Leader of the Majority Party, and then I will come back to you in that manner.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, at the outset, I think this is the right opportunity to thank those who asked for this deletion. I saw Hon. Keynan addressing the media on the deletion. I said until it comes to the Floor, it is not possible to know whether the deletion will take place or not. This is in the spirit of the Constitution. Parliament plays oversight role on public resources and vets individuals for suitability to public offices. So, it is custodian of public information. Each and every Kenyan, including the media must be given opportunity to go and analyse the performance of Parliament and its committees.

In my opinion, I think this particular clause was taking Kenya back to the dark days. I am sure it was in contravention of the whole Constitution, the spirit of a free society and the spirit of making sure that under Article 35 of the Constitution that access to information is a guarantee not only to the media and other institutions, but also to each and every Kenyan.

I support the deletion. As a House, we need to be more progressive to make the Constitution a progressive document. Let us not take the Constitution back in a very retrogressive way.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I can see there is a lot of interest in this clause. Allow me to give a few more members to contribute, and whoever is given the opportunity should go straight to the point.

Hon. Keynan, go straight to the point please.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. From the outset, I would like to say that every Hon. Member here, as an elected representative of the people of Kenya pursuant to the Constitution, has the inherent right at any given time to come up with any legislation. "Madam Chair", the framers of our Constitution---

The Temporary Deputy Chairman (Hon. Cheboi): That does not help at all. Whether you call me madam speaker or madam chair, it is not useful.

Hon. Keynan: Hon. Temporary Deputy Chairman, I am used to seeing Madam Laboso here.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, that is why it was said that no Hon. Member should pass between the Chair and the Hon. Member who is contributing. You can now see the confusion that was created by someone who was passing.

(Laughter)

Hon. Keynan: Hon. Temporary Deputy Chairman, I stand guided. I want to go on record and repeat that the process of legislation is clearly spelt out in the Constitution, our Standing Orders and many other legal frameworks. The reason why an Hon. Member has to contextualise something in the form of a Bill, take it to the Committee for scrutiny, take it to the Speaker, publish it and then bring it for First Reading and Second Reading---

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, I am trying to follow you. You are not speaking to the specific clause. I had just requested that Hon. Members should speak straight to the point. What you have done is to create a very lengthy background of something which is actually known to the House. This is something that has been done, and it is before the House. Kindly speak to the specific clause.

Hon. Keynan: Hon. Temporary Deputy Chairman, an experienced legislator like myself must be respected. Allow me to say what informed the deletion of this particular amendment. That is the essence and that is what the Leader of the Majority Party was alluding to. This has become a very contentious issue with the members of the Fourth Estate and the Kenyan public. I want to say they had every right to propose because the Constitution allows for public participation. Indeed, this is what the framers of the current Constitution had in mind, that when a Bill is published, it must allow the members of the public and any other interested person to participate, and say this particular proposed law is either offensive, retrogressive or unconstitutional. Because we have received---

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, you are actually bringing up the Bill---

Hon. Keynan: Hon. Temporary Deputy Chairman, then I will keep quiet.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, that will be up to you. I have given you an opportunity and I want you to contribute on the issue of deletion. We should be magnanimous as hon. Members especially the ones who bring Bills. We want other Hon. Members to have an opportunity to contribute. They are probably helping you in this Bill.

Hon. Keynan: Hon. Temporary Deputy Chairman, because I can see you are not receptive to what I want to say, I would like to tell members of the Fourth Estate that the intention was not to gag the media but to create a debate. That debate has been created and we are well informed. This is why we unanimously agreed that Clause 27 should be deleted. Therefore, we rest our case there.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I must comment on that one. That is when we speak to the gallery. I want us to speak to the specific clauses. We will save time and Members will have an opportunity to speak. I will allow some more Members to speak. I can see there is some interest. I will start with the Member for Juja.

Hon. Francis Waititu: Thank you, Hon. Temporary Deputy Chairman, for giving me this chance to contribute to the deletion of Clause 27. From what the Leader of the Majority Party has just answered, and from what my friend, Hon. Keynan has said, this is very important. According to our Constitution and the Standing Orders, he is now deleting the clause to remove all the confusion that would have been there. After the deletion of that clause, it is now flowing.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Yes the Member for Wajir North.

Hon. Saney: Hon. Temporary Deputy Chairman, I fully support the deletion. I think Parliament is a House of representation, and limiting the right to information and the rule of law

will result in parliamentary dictatorship. The entire clause is draconian. I fully support the deletion.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, the Member for Limuru, Eng. Kiragu.

Hon. J.K. Chege: Hon. Temporary Deputy Chairman, I rise to support the deletion. It will remove the notion that we have something to hide in this House.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. (Ms.) Chae, the Member for Nyamira.

Hon. (Ms.) Chae: Hon. Temporary Deputy Chairman, I also support the deletion of the clause because with its deletion, members of the Fourth Estate will be free to access information from this House. That is their work.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, the Minority Whip

Hon. Mwadeghu: Asante, Mhe. Naibu Mwenyekiti wa Muda. Ninasimama kuunga mkono kuondolewa kwa kipengele hiki, kwa sababu waandishi wa taarifa na mtu yeyote ana haki ya kupata taarifa zote.

The Temporary Deputy Chairman (Hon. Cheboi): Yes the Member for Kajiado North, Hon. Manje.

Hon. Manje: Hon. Temporary Deputy Chairman, I support the deletion of that clause because we do not want to gag the media as it is good in giving information which is good for development, reduction of corruption and for public participation. It is through the media that the public can participate in this case.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I am giving a little leeway because I can see there is a lot of interest. Yes, Hon. Aghostinho Neto.

Hon. Oyugi: Hon. Temporary Deputy Chairman, I would like to say three things. First, I think this deletion is the best thing that can be done to this Bill. It was as draconian as it could get because it was going contrary to Article 35 of the Constitution on access to information.

Secondly, Parliament has also made legislation to make sure that the broadcasting and information goes to the public and there is a lot to that effect.

Thirdly, the manner in which the member was trying to limit rights under Article 94 of the Constitution is not proper because you cannot limit rights by taking the entire core content of that right. Therefore, I think this amendment is in order.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, the Member for Turbo, Hon. Busienei.

Hon. Busienei: Hon. Temporary Deputy Chairman, I support the deletion of Clause 27. The deletion will bring sanity to the House and freedom of accessing information.

The Temporary Deputy Chairman (Hon. Cheboi): The Member for Molo, proceed.

Hon. Macharia: Hon. Temporary Deputy Chairman, as leaders, we always seek for news in newspapers and all over. Therefore, it is important that we allow the media to access information. Likewise, the country and members of the public are also eager to get what is happening in Parliament. We cannot afford to gag the media.

I support the deletion. Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, the Member for Wajir, Abdikadir Ore.

Hon. A.O. Ahmed: Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity. I also support the deletion of this clause.

Hon. Temporary Deputy Chairman, you know very well that the media is very important to us as Kenyans. As parliamentarians, it is in order for us to support them. It is not always that what they report is negative. We should support them and that is the only way we can advance this progressive Constitution that we have had since 2010.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. That is it, Hon. Members. I have given you a lot of time.

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

(Clause 27 deleted)

Clause 28

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Emanikor.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 28 of the Bill be amended in sub clause (2) by deleting the word “including” appearing immediately after the word “person” and substituting therefor the word “or”.

The amendment seeks to correct an error in grammar.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give a chance to a few Members only. Let us start with Hon. Gumbo who is on top of the list.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I actually had a very different view on Clause 27, which I was pleading you give me a chance because everybody was supporting the deletion. I was not.

The Temporary Deputy Chairman (Hon. Cheboi): The train has left the station as I have heard from the Floor.

Hon. (Eng.) Gumbo: I wish you could have allowed an alternative view because I did not agree with the wholesale deletion.

The Temporary Deputy Chairman (Hon. Cheboi): Well the majority view was taken. The minority was also silently recorded. By the way, let us proceed on this amendment. If you have nothing on this, Hon. Gumbo, I will give another Member a chance. Let me give the Member for Nakuru Town East a chance

Hon. Gikaria: Just like Hon. Gumbo, I support it.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us give Hon. Onyura a chance. Do you have something on this amendment?

Hon. Onyura: Hon. Temporary Deputy Chairman, I support it. It is a fairly straightforward amendment. It is an amendment to correct the language. It is just the English there. It is straightforward. I support it.

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

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

(Clause 28 as amended agreed to)

Clause 29

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 29 of the Bill be amended in sub clause (3) by inserting the word “a” immediately after the words “directed at” appearing in paragraph (b). Like the previous clause, this amendment is also to correct grammar.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give a chance to two Members only. Let us start with the Member for Kaiti, Hon. Makenga.

Hon. Makenga: Thank you, Hon. Temporary Deputy Chairman. I support the amendment as proposed by Hon. Emanikor.

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

(Clause 29 as amended agreed to)

(Clauses 30, 31, 32, and 33 agreed to)

Clause 34

Hon. Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 34.

This amendment seeks to align the provisions of the Bill with Article 34 of the Constitution which provides for freedom of the media and their right not to be penalised for any opinion or view or the content of any broadcast, publication or dissemination.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members a chance. Let us start with the Member for Eldas. I can see you were having another proposal.

Hon. Keynan: Hon. Temporary Deputy Chairman, I also want to state that this is one of the clauses that the members of the Fourth Estate have really complained about. Therefore, I entirely agree with the amendment. There was an issue of misinterpretation of the definition of

what constitutes Parliament. Therefore, because it has raised many issues, I entirely concur with the suggestion. This issue should now rest here.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): I will give the Leader of the Majority Party this chance.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman. This amendment is scandalous and serious. We cannot accept it. I am happy that it has been proposed to be deleted. How do you make a person commit a crime by publishing parliamentary reports? How? We represent the people of Kenya. We cannot have the cake and eat it. If you chose to be a public servant or a Member of Parliament and Parliament itself and its committees, you must be ready for public scrutiny.

This clause talks about defamatory reports of Parliament, its committees and proceedings. Parliament is an institution that represents the people unlike the Executive. It is in Parliament where we must have openness, accountability, transparency and everything that we do must be open to public scrutiny including the media.

What some of us go through in the social media---We are happy and we want to thank those who say bad things about us because we chose to be leaders and public servants. If you do not want to be criticised, you can only survive if you stick with your wife and children in your house and nobody will say anything about you. But if you become a Member of County Assembly (MCA) or public servant, be ready for the consequences.

I support the deletion.

The Temporary Deputy Chairman (Hon. Cheboi): With a light touch, it is also not true. Even if you chose to be just a husband, you can still get criticism from within.

Let me give Hon. Wanyonyi a chance.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Chairman, I am not going with the rest. I will differ because we have cases where, for example, we get very inaccurate information spoken in public about you and me. It is put in public domain and I want to agree that, that can go without being questioned. I am not with you on that because it says false information. We are talking about inaccurate information. If we allow that, we are going to have all sorts of information about you, I and so and so, and you say it is okay because there is liberty and freedom of expression? No!

I oppose.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give the Hon. Member for Endebess this chance.

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Chairman. I stand to oppose that deletion because recently, we even had a case of somebody being quoted as a gynaecologist when he was not. The media needs to also take responsibility. We must have people being accountable for their actions. Journalism should be like any other profession.

I rise to oppose.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, Hon. Nyikal.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I rise to oppose this amendment for a very simple reason. The word is "false". If you publicise something that is false, honestly, you have to be sanctioned for that. Anything else that is done here that is true, however bad or scandalous it is, should be reported but if it is false, then somebody needs to be sanctioned for that.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Melly, Member for Tinderet.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairman. I want to say that in a fledgling democracy, the media is very important and the deletion of Clause 34 is very important for this country. I, therefore, support Hon. Emanikor for what she has done.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I also stand to strongly oppose this deletion. I think the fact that you are a Member of Parliament does not mean that anybody can just write anything about you. The clause is very clear. We are allowing this House to be a subject of unnecessary mob justice. The clause says a person commits an offence if they publish any false and scandalous information. Are we just going to allow false and scandalous information to be written about us merely because we are Members of Parliament? This is a good clause and I totally oppose its deletion.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give hon. Mwamkale. You have removed your card.

Hon. Mwamkale: Hon. Temporary Deputy Chairman, I stand to oppose. I am not really opposing the freedom that is envisaged in Article 34. Indeed, what we are purporting to delete is something that is self explanatory. Nobody should have the right and freedom to give false information. For example, it has been in the public domain that we are making laws that are bad to the Press. Surely, we have a process of making laws here. They should wait until we are through with a session like this before they criticize or write anything. So, for this reason, they have been telling lies that we are making laws to protect ourselves. Here, we are trying to make good what looks like bad. I do oppose this deletion.

The Temporary Deputy Chairman (Hon. Cheboi): That is it, hon. Members. Make your decision.

(Several hon. Members stood up in their places)

Let me see the Members who are standing. Well, you do not meet the threshold.

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

(Clause 34 agreed to)

(Clause 35 agreed to)

Clause 36

Hon. Keynan: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 36.

After looking at this clause, we realized that it is going to give an open-ended cheque to the clerks on any issue appertaining and, therefore, it negates the spirit of having the Powers and Privileges Committee. I want Members to read and listen to what the earlier version said and this is why I decided I should delete it, of course, subject to approval by Members. This is what the earlier proposal said:-

“Where an offence is suspected to have been committed under this Act, the relevant Clerk shall, on the direction of the Speaker, make a request to the Director of Public Prosecution (DPP) to take an action as may be appropriate.”

What we realized is that this is giving an open-ended cheque against Members because this is a political House and there are bound to be differences in opinion. Therefore, we felt that anything to do with the Member should go through the usual processes envisaged under the Powers and Privileges Act, and not giving a blank cheque to the Clerk under the instigation of the Speaker. We felt that would be very dangerous to an institution; not only this one but any civilized Parliament and, therefore, I felt if there is any justification that an offence has been committed, then there is due process. We should not allow the Clerk of the House, through the direction of the Speaker, take action against a Member. We felt that would be very dangerous and, therefore, this is why I proposed that this be amended.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give a few Members. Let me give about four Members. We will start with the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I oppose the deletion of this Clause. I will go back if you give me time. This House created the institution of the DPP and the Ethics and Anti-Corruption Commission (EACC). You cannot - and it is not even morally right for you - subject the people we represent and the citizens to those institutions while we insulate ourselves when we commit a crime from the same institution.

If a serious corruption issue, for example, happens in this House, you do not want to face the Office of the DPP. Sen. Muthama, a very good friend of mine, has been charged in a court of law because of his utterances or perceptions of what he did at Uhuru Park. You want to tell me if a similar crime is committed, the Clerk is not supposed to write to the relevant Speaker and ask him to request the DPP to take action?

Hon. Temporary Deputy Chairman, let us live the way our citizens and the people we represent live. Let us not use Parliament and its privileges to shield---

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

Hon. Keynan: On a point of order, Hon. Temporary Deputy Chairman. My good friend, Hon. Duale, has not understood what the deletion is supposed to serve. The Office of the DPP is not under the direction of anybody. It is an independent office. They analyze, investigate and make reports. What we are trying to cure here is a situation where you disagree with the Speaker or the Clerk and they say the hon. Member for Turkana be investigated. That should be left purely at the discretion of those investigation agencies like the DPP or the Criminal Investigation Department (CID), and not under the direction and instigation of the Speaker or Clerk. Therefore, is it in order for Hon. Duale to mislead when really he has not understood what this particular clause talks about?

The Temporary Deputy Chairman (Hon. Cheboi): Allow Hon. Duale to finish as we wind up.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I really cannot mislead because I am a son of a Sheikh. You can see the way Hon. Keynan is trying to trivialize the matter. It is not about the hon. Member for Turkana doing it. We are talking of a serious crime being

committed in the precincts of Parliament. By deleting this amendment, you are saying the Speaker and the Clerk, who are our leaders, cannot ask. How does the DPP come to Parliament because Members enjoy privilege? Hon. Keynan, let us not trivialize this issue. I want to say again that we cannot have the cake and eat it. We cannot have two classes of people in this country - laws for citizens and laws for Members of Parliament. We must live to the progressive nature of the new Constitution.

The Temporary Deputy Chairman (Hon. Cheboi): I will give Hon. Kaluma the Floor.

Hon. Kaluma: Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity. I support the deletion of this provision on two accounts. If you look at sub-clause 2 of the proposed Clause 36 of the Bill, it gives the idea that the DPP may be compelled to act on the directions of other officers within Parliament, and that is outright unconstitutional. The Office of the DPP is an independent office under the Constitution. It serves not under the directions of anybody and it would be a dangerous precedent to start. That is how we will be introducing other bodies also being able to direct that Office.

In sub-clause 1, in fact, if you look at the provision where an offence is suspected to have been committed under this Act, the relevant Clerk shall, on the directions of the relevant Speaker---

Hon. Temporary Deputy Chairman, I have two reservations. Whose duty is it to suspect this offence and why are we limiting people who can suspect an offence and take information to those particular offices we are mentioning? This should be left open. We have institutions dealing with those matters. These are provisions we do not need. We have the Powers and Privileges Committee. Let the Committee deal with those issues without giving administrative offices such powers which can be abused.

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairman. I agree with the proposed deletion of this provision. I believe the Powers and Privileges Committee can deal with those issues effectively. If the Director of Public Prosecutions (DPP) has to move in, he can even charge a Member who has done anything criminal. So, I agree with the deletion.

The Temporary Deputy Chairman (Hon. Cheboi): The Member for Maragwa, Hon. Mwangi.

Hon. Mwangi: Thank you, Hon. Temporary Deputy Chairman. I support the deletion. Why do we want to gag Members when they are within the precincts of Parliament? We should not surrender ourselves to the control of other bodies. I support the deletion.

The Temporary Deputy Chairman (Hon. Cheboi): Finally, let us have the Member for Muhoroni.

Hon. Oyoo: Thank you very much, Hon. Temporary Deputy Chairman. In the past, Parliament has been portrayed as if we want to be special people protecting their interests. Time has come when we must open ourselves to the outside world and behave as Parliamentarians, but as Kenyans while we are out there. There is nothing sinister we are doing here that we cannot allow the office of the DPP and any other Government agencies to come in and investigate.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, make your decision.

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

(Clause 36 deleted)

Clause 37

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 37 and substituting therefor the following clause:-

Officers of a House of
Parliament to have
powers of police officer

37. (1) Every officer of a House of Parliament shall, for the purposes of this Act and of the application of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer.

(2) In this section, "officer of a House of Parliament" means any officer acting within the precincts of Parliament under the orders of the Speaker."

Hon. Temporary Deputy Chairman, this amendment seeks to empower the Speaker to designate officers of the House to assist him or her in enforcing the rules of the House. The powers granted to such officers are to be exercised only with the authority of the Speaker.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I give the Floor to the Member for Nakuru Town East.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Chairman. I rise to support. This amendment is in line with the other Acts where we give powers of the police to other officers to be able to undertake their duties. I support.

Hon. Injendi: Thank you, Hon. Temporary Deputy Chairman. I support this amendment. I remember one time we had some confusion in this House and the Speaker had problems controlling us. This provision will enable the Speaker to have officers to support him or her in restoring order in the House. I support.

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

Hon. Kaluma: Hon. Temporary Deputy Chairman, this is a dangerous provision. I request my colleagues to read the clause proposed to substitute the existing one. We are proposing to give officers within the precincts of Parliament power of a police officer. My worry is with the words "have all the powers and enjoy all the privileges of a police officer". I would have not rejected this provision if we gave these officers specific powers of the police relating to some functions and not all powers of a police officer. We are creating police officers outside the regular police service. It is dangerous.

The Temporary Deputy Chairman (Hon. Cheboi): Member for Narok West.

Hon. ole Ntutu: Hon. Temporary Deputy Chairman, I support this amendment because of the experience we have had. We should remember what happened in this House some time back. We must bring order through our own Standing Orders. This provision will help the Speaker to control the House and bring order.

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

Hon. Mwaura: Hon. Temporary Deputy Chairman, I rise to oppose this amendment because the substance of the provision is very dangerous. In fact, it is going to subjugate Members to staff of Parliament, especially when you say that these orders---

(Hon. (Ms.) Odhiambo-Mabona stood in the gangway)

The Temporary Deputy Chairman (Hon. Cheboi): Order, Hon. Millie! Take your seat. You are creating some confusion in that corner.

Proceed, Hon. Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Chairman. When you give powers of a police officer to an officer within the precincts of Parliament under the orders of the Speaker, it is very dangerous because we already have Serjeant-at-Arms and the police within the precincts of Parliament. Therefore, having this unilateral definition is only going to cause chaos and may actually subject Members to harassment. I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Lentoimaga.

Hon. Lentoimaga: Thank you, Hon. Temporary Deputy Chairman. I rise to oppose this amendment. When you say “all the powers of a police officer”, it means we will be arrested inside this Chamber. These officers will also have a cell within the precincts of Parliament where parliamentarians will be locked up. This is harassment. I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Mwadime, the Member for Mwatate.

Hon. Mwadime: Hon. Temporary Deputy Chairman, I totally oppose this amendment. Most of the Members supporting it are on the Government side, but in future, they will also be on the Opposition side. This provision can be misused. Already we have police officers within the precincts of Parliament. I believe Members of Parliament should be as free as possible. Therefore, I totally oppose this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Member for Emurua Dikirr.

Hon. Kipyegon: Hon. Temporary Deputy Chairman, I also stand to oppose this amendment. The Serjeant-at-Arms officers in this House have the powers of the police, but not all the powers *per se*. They can even claim powers to shoot whenever they want or to arrest us in this House. As much as I agree with Hon. Duale on some other matters, I do not agree with him on this one.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Leader of the Majority Party briefly, because I want to put the Question.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, this provision is giving an officer, who is not even identified, absolute powers - a blank cheque. Is the officer a Serjeant-at-Arms officer or the Clerk? My good friend, Hon. Millie Odhiambo, or I can be framed by this officer and taken out of the precincts of Parliament on flimsy grounds. I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Where does Hon. Millie Odhiambo come in on this? However, let us have Hon. Otichilo.

Hon. (Dr.) Otichilo: Thank you, Hon. Temporary Deputy Chairman---

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

The Temporary Deputy Chairman (Hon. Cheboi): Allow Hon. Otichilo to continue.

Hon. (Dr.) Otichilo: Hon. Temporary Deputy Chairman, I oppose this amendment. This amendment is not proper and we cannot allow it to pass. I oppose totally.

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

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Millie Odhiambo, what is your point of order?

Hon. (Ms.) Odhiambo-Mabona: The Temporary Deputy Chairman, my point of order is that Hon. Duale knows that I oppose this amendment. So, he was just inciting me to stand and say I oppose.

The Temporary Deputy Chairman (Hon. Cheboi): You are actually out of order. Let me give the chance to two more Members. Let us start with Hon. Okoth of Kibra Constituency. He has not spoken this morning.

Hon. Okoth: Thank you, Hon. Temporary Deputy Chairman. I rise to also oppose this proposal. Can you imagine the full powers of the police to include the power to shoot and use force upon arrest. At this rate, Hon. Duale, who said something that does not please that officer, can be shot in the process of being taken away from Parliament. We cannot risk this. That is why I fully oppose. Let Members of this House look at this very carefully. The full powers and privileges of police officers include the power to use force during arrest. You can see Members here who could even lose their lives in the process of being arrested for being Members of Parliament who have independent thoughts.

With those few remarks, I beg to oppose.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I want you to be clear. This is just guidance I am giving. If at the end of it all you oppose it, it will remain as it is in Clause 37. So, it is good for you to be alive to that. Read it and make your decision. Look at Clause 37 in the proposed Bill. I will give the Floor to two more Members as Members familiarise themselves with the decision they are going to make.

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

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

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, would I be in order to request the proposer of this amendment--- Just like you have said, if this proposed amendment is defeated, we will go back to Clause 37 which, in my view, appears more draconian. Would I be in order to request that you allow the proposer of the amendment to explain the consequences of defeating this amendment? This is because we will go back to the original Clause 37 which is just as draconian.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, you do not need to recommit it at this point. You can do a Floor amendment. Consult the Mover and make your decision.

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

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, explain first and then you might make a decision on what you really want to proceed with. Let us hear what you have.

Hon. Keynan: Hon. Temporary Deputy Chairman, I now see a lot of sense in what Members have said. The whole of Clause 37 is offensive. The amendment suggested by the Member for Turkana was trying to improve on the language of the original Bill. Therefore, even if we adopt it, the amendment does not change anything. What I ask Members to do is to completely remove the whole of Clause 37. That is allowed. It does not have an effect if the

amendment is defeated or passed. When it comes to voting on the whole clause, we can agree to reject it and have it deleted. The other option is this: I can quickly draft an amendment.

The Temporary Deputy Chairman (Hon. Cheboi): You know you have the right to do that.

Hon. Keynan: But the whole House can also reject the whole clause.

The Temporary Deputy Chairman (Hon. Cheboi): So, it is really up to you Members. You are the ones who will make your decision. Let me give the chance to two to three Members. As those Members give their contributions, you will make the decision on what you actually want to have in that particular clause.

Let us have the Leader of the Majority Party and then I will come to two Members from the left of the Chair.

(Loud consultations)

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I want Hon. Keynan to listen to me.

The Temporary Deputy Chairman (Hon. Cheboi): Order, Hon. Members. Please let us listen to each other.

Hon. A.B. Duale: This provision is already in the current Parliamentary Powers and Privileges Act. You can pick the law. It is here. Let me finish. The intention of this was to empower the Serjeant-at-Arms to summon even a Member of this House when he is called or summoned before a Committee. This thing happened during the Ninth Parliament during the Commission to investigate the death of Robert Ouko. Hon. Biwott refused to appear.

So, if you allow us some time, we will re-do this amendment properly and have this officer called the Serjeant-at-Arms. This clause only talks about an officer. We must give the officer the name "Serjeant-at-Arms". The Serjeant-at-Arms has the powers to summon Hon. Kaluma or Hon. Duale when he is needed to appear before a Committee. That was the gist of the matter. So, even if we delete it, if you read the Parliamentary Powers and Privileges Act--- I do not need to teach you, I am not your teacher. Go and read it.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give the chance to Hon. Baiya, Member for Githunguri Constituency. Let us have him and then we will have two Members from the left of the Chair.

Hon. Baiya: Thank you, Hon. Temporary Deputy Chairman. The way this clause is currently worded is really dangerous. It is dangerous because the institution of Parliament in any meaningful democracy is such that Members should have the opportunity and privilege to express themselves freely without fear. On the other hand, we know that there is the need to maintain law and order in the House. Those powers are already conferred on the Speaker and the Serjeant-at-Arms. The way this clause is worded dangerously introduces harsh police measures as to curb the freedom of expression.

I, therefore, do not support the amendment or the original clause.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Mong'are and then Hon. Wanyonyi.

Hon. Geni: Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity so that I can also throw my little weight behind those who are opposing this clause. As we are all aware, this is a House of rules and laws. We should not allow such fake clauses to

enter into the law we have of privileges and to dilute it and make us irrelevant in this Parliament. As we are aware, it is not all officers who work in this Parliament who are trained as police officers. If we start allowing this, then we will dilute the whole law and then render ourselves irrelevant in this House.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Wanyonyi.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Chairman, it has been overtaken by events but, if you look at the original Bill, it is not workable.

Secondly, to me, the amendment is ambiguous, extravagant and very dangerous. This is because we are talking about every officer in these premises. That is very dangerous. We cannot allow ourselves to be humiliated by officers we have actually employed here. It is not possible. To me, this is very dangerous, extravagant and ambiguous. We cannot allow this.

I, therefore, oppose.

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

Hon. Dido: Thank you very much, Hon. Temporary Deputy Chairman. As a person who is well versed with the security of this country and what the security arms of this country do, this is a bad law. We know the purpose of establishing parliamentary security officers. Within the precincts of Parliament, we have uniformed police officers from the National Police Service. Clearly, there is separation of roles on what they are supposed to do. If the parliamentary security staff behave as if they are police officers or are empowered to carry out the role of police officers, then we are changing the law of this land through the back door. It will be a bad law and, therefore, we are trying to debate in vain.

I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Dalmas Anyango Otieno, you have the Floor.

Hon. Anyango: Thank you very much, Hon. Temporary Deputy Chairman. Honestly, the amendment is not an improvement. The original Clause 37 was already very bad. We can do with the current provisions under which it is the Serjeant-at-Arms that has the powers to exercise some of those functions. So, we should find a mechanism not only of rejecting the amendment, but also withdrawing the previous Clause 37 as it was. Those would be my observations.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have the Minority Chief Whip.

Hon. Mwadeghu: Asante kwa nafasi hii, Mhe. Naibu Mwenyekiti wa Muda. Kipengele hiki kinahujumu Wabunge vile kilivyo. Kuhusu nguvu zinazopendekezwa kwa maafisa wa usalama humu ndani, nina uoga na wasiwasi kuwa watatumia nafasi hiyo vibaya. Kwa hivyo, namuomba aliyeanzisha kipengele hiki, Mhe. Keynan, atafute mbinu ya kukiondoa ili ahakikishe kuwa kimerekebisha ili kilete sera aliyoitaka katika sheria hiyo.

Sikubaliani na hiki kipengele kabisa.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. From this other side, let us have Hon. Nakara. Is he seated to the right of the Hon. Temporary Deputy Chairman?

Hon. Nakara: Yes. Thank you so much, Hon. Temporary Deputy Chairman. I prefer if the clause would remain the way it was. This is a House of respect and we need to be in this House in harmony with the officers remaining within. If we give more powers to these officers, some of them may misuse the powers because some of them are not trained as policemen. They

may not have discipline in their background. If we allow these people to have such powers, they can summon you any time anywhere within the building.

So, I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we will proceed if we are ready. There is nothing to excite the House. This is a clause which has always existed in the National Assembly Powers and Privileges Act. You have probably not made any decision as I can see. There is one proposed further amendment here which I could easily proceed with. Let me give two more Members a chance and you make your decision on how you want to proceed.

Let us have---

(Hon. Kajwang' spoke off the record)

Are you on a point of order, Hon. Kajwang'?

Hon. Kajwang': Let us have some sobriety in this. I accept and it is manifestly clear that this is a dangerous amendment in the way it is couched. But I think the Mover did not make it clear. When you have Ouko Investigation Committee and you send somebody to, for example, Kitale so that a witness can be summoned to be investigated before the House Committee, if you send the Serjeant-at-Arms or any of the officers, nobody will accept the summons. You will need a police officer seconded to the Parliamentary Service Commission (PSC) to serve those summons. Therefore, it is dangerous the way it is. But, can it be redrafted in such a way that gives these officers an opportunity to serve summons on anybody else that is connected with the investigations that the Committee is handling? I think that is where we are.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. I am giving a chance to one more Member as you make your decision. Obviously, I will go to the right of the Chair. Let us have the Member for Chuka/Igambang'ombe.

Hon. Njuki: Thank you, Hon. Temporary Deputy Chairman. This clause, especially Sub-clause (2), looks very dangerous. I know where the Members are coming from because the time we had the Security (Amendment) Bill, I could see the desperation by the Serjeant-at-Arms when they were trying to protect the Hon. Speaker, the Mace and they could not do anything. Their hands were actually tied. But when we say any officer - Clause 2 says: "Officer of a House of Parliament means any officer acting within the precincts of Parliament". That is a very dangerous thing. We either reject the whole clause as it is or we get an amendment that can actually give a better definition so that we do not make the clause very wide and more vague.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Lelelit Lati.

Hon. Lati: Thank you Hon. Temporary Deputy Chairman, for allowing me to speak for the first time this morning. Looking at both the Act of Parliament and the amendment, I think both of them are very dangerous, borrowing from what Members have already said here. If you look at the words that they are using here; "officer" or "police officers", I do not know what idea people here have of having police officers in this House. There is a reason you call somebody who is in charge of keeping order in this House "Serjeant-at-Arms" and not the "Officer Commanding Police Division (OCPD)" or "police" or something like that. We are playing with very dangerous words here. I understand there is reason to keep order in this House, but I also understand that we need to know what kind of powers we can give to the officers who keep order in this House.

Hon. Temporary Deputy Chairman, I agree with the Member of Parliament who is bringing the amendment because he is trying to improve on what we have in the Bill. In the Bill, it says “any staff can keep order.” That means even the staff who are not supposed to be in this House.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, let us hear what Hon. Keynan has. Okay. Let us have Hon. Dawood.

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairman. First of all, the Leader of the Majority Party and Hon. Okoth have stigmatised the whole police force by saying that they are just good for shooting people. They should withdraw that statement because we cannot stigmatise the whole police force. That is not right.

The Temporary Deputy Chairman (Hon. Cheboi): I did not hear that. So, let us have Hon. Ngikor.

Hon. Ngikor: Thank you, Hon. Temporary Deputy Chairman. The whole clause which is supposed to be deleted here talks about every officer. This House has many people who work here and are officers. We need to define the word “officer” when we talk about it. We have so many officers here who include the Serjeant-at-Arms and the rest who are in this House. I oppose the whole thing, even what they have said they want to replace with. We cannot give the work of police officers to somebody who has not been trained to be a police officer to implement the Speaker’s orders. It is supposed to be done by the officer who has been trained and not anybody who wishes to implement it.

So, I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Hon. Member for Turkana South. We come back to Hon. Keynan. I hope you are ready now, Hon. Keynan. If you are not, we will proceed.

Hon. Ekomwa: Thank you so much, Hon. Temporary Deputy Chairman. I want to support my colleagues that a police officer is a police officer by mandate and by the constitutional functions given.

The reason why I oppose this is because the Speaker and any other person will use these powers to threaten and intimidate Members of Parliament. We are representing constituencies and there is no other person who will take powers to intimidate us. We want to be respected.

The Temporary Deputy Chairman (Hon. Cheboi): All right, Hon. Member for Turkana South. Have you finalised?

Hon. Ekomwa: Thank you, Hon. Temporary Deputy Chairman. You are the Member of Parliament for somewhere and you are representing the people of your constituency. So, when you are intimidated, it is the people of your constituency who have been intimidated. That one should not arise in this Parliament.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Keynan. If you are not ready, then we will proceed. You have given me a raft of amendments.

Hon. Keynan: Finally, we have agreed on one.

The Temporary Deputy Chairman (Hon. Cheboi): Then move your further amendment and Members make your decision quickly. I will not give an opportunity to Members on this one. Listen to him keenly and make your decision.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. I beg to move that:-

THAT, Clause 37 be further amended by deleting it in its entirety and replacing it with the following: “For the purpose of this Act and its application---”

The Temporary Deputy Chairman (Hon. Cheboi): Be a bit clearer because I will not want to give any more Members. So, I want you to be very clear and read it to the microphone so that it is part of the record.

Hon. Keynan: Hon. Temporary Deputy Chairman, I beg to move a further amendment---

The Temporary Deputy Chairman (Hon. Cheboi): You know you are tall. So, sometimes, you might bend a little to make it very clear. Proceed.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. I wish to move a further amendment that Clause 37 be deleted in its entirety and replaced with the following:-

“For the purpose of this Act and its application, the Clerks of either Houses of Parliament shall have the power to enforce summons of either Houses or its Committees”

(Question of further 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 37 as amended agreed to)

(Clauses 38, 39 and 40 agreed to)

Clause 41

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 41 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “the National Assembly” appearing immediately after the words “Speaker of” and substituting therefor the words “either House of Parliament”;

(b) by deleting sub-clause (3) and substituting therefor the following subclause—

“(3) The Code of Conduct regulating the conduct of Members of the respective House of Parliament shall be as set out in the Fourth Schedule.”

(c) in sub-clause (4) by deleting the words “and Code of Conduct” appearing immediately after the words “copies of orders”;

This amendment seeks to empower the Speakers of both Houses of Parliament to issue such orders as may be necessary for carrying out of our legislation function.

(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 41 as amended agreed to)

(Clause 42 agreed to)

New Part IV

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Emanikor, do you have something on this?

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting the following new Part immediately after Clause 18—

PART IVB—OFFICE OF STANDARDS AND ETHICS

Establishment
of Office.

18A. (1) There is established the Office of Standards and Ethics in each House of Parliament as an office in the Parliamentary Service.

(2) The Office shall be headed by an Administrator who shall be—

- (a) nominated for appointment by the Parliamentary Service Commission through a competitive recruitment process;
- (b) vetted by the relevant Committee of Powers and Privileges; and
- (c) approved for appointment by the relevant House of Parliament.

(3) The qualifications for appointment to the Office are the same as for the appointment as a judge of the High Court

Functions of the
Administrator.

18B. The Administrator shall—

- (a) on receipt of a formal complaint from any person or on the recommendation of the relevant Committee of Powers and Privileges, investigate any information or allegation of alleged breaches of parliamentary privilege or the Code of Conduct for Members of Parliament;
- (b) report to the Committee of Powers and Privileges at the conclusion of investigations for the Committee to consider and make recommendations to the House; and
- (c) maintain a register of interests declared by

Members of Parliament.

Administrator's term of office and remuneration.

18C. (1) The Administrator holds office for a term of six years and is not eligible for re-appointment.
(2) The terms and conditions of service for the Administrator shall be specified in the instrument of his or her appointment.

Removal from office.

8D. (1) The Administrator may be removed from office for—

- (a) a serious violation of the Constitution, including a contravention of Chapter Six;
- (b) gross misconduct;
- (c) physical infirmity or mental incapacity to discharge his or her functions;
- (d) incompetence; or
- (e) bankruptcy.

(2) A person desiring the removal of the Administrator on any ground specified in subsection (1) may present a petition to the relevant House of Parliament setting out the alleged facts constituting that ground.

(3) The Committee of Powers and Privileges of the relevant House shall consider the petition and make recommendations to the relevant House of Parliament.

(4) If the Committee reports that it finds the allegations—

- (a) unsubstantiated, no further proceedings shall be undertaken; or
- (b) substantiated, the relevant House of Parliament shall vote on the resolution requiring the Administrator to be removed from office.

(5) If a resolution under subsection (4) (b) requiring the removal from office of an Administrator is supported by a majority of the members of the relevant House of Parliament—

- (a) the relevant Speaker shall deliver the resolution to the Parliamentary Service Commission ; and
- (b) the Commission shall dismiss the Administrator.

The amendment proposes the creation of an office in the Parliamentary Service Commission to assist the Committee of Powers and Privileges execute its mandate of enforcing

discipline of Members. The office is to investigate formal allegations against any Member and report to the relevant Committee of Powers and Privileges. The office is to be headed by an administrator who is to have the same qualifications as that of a judge of the High Court.

The establishment of the office will---

The Temporary Deputy Chairman (Hon. Cheboi): Excuse me. You are supposed to simply propose the New Part IV so that we deal with that and go to the other new clauses. You have already done well.

(Question of the new part proposed)

(New part read the First Time)

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

I will give four Members an opportunity to speak to this one. We will start with Hon. Keynan and then I will give four Members an opportunity. You will have an opportunity. I see there is interest in this one. I can see that with the way you are putting your finger salute which is a bit more familiar to me. Proceed.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. I want to seek the attention of the Members because this is a very important clause. First of all, it is a reality that Members of Parliament being State officers must also subject themselves to thorough scrutiny just like any other State officer.

Having said that, there are critical issues that are already provided for within the Leadership and Integrity Act and the Ethics and Anti-Corruption Act. We are also making provisions on how to deal with issues related to Members of Parliament. I want to go on record and oppose this New Clause for the following reason. I want each and every Member to listen to this. We are not in any way in a popularity contest. What we are legislating for is for posterity. If we allow the inclusion of this particular clause, I want to tell you the following is what will happen. This is what the hon. Member for Turkana is proposing on behalf of a certain group: "There is established the Office of Standards and Ethics in each House of Parliament as an office in the Parliamentary Service."

What they are trying to say is: Parliament shall employ a person who has the same qualification as a High Court judge. That employee will be vetted by committees and approved by the House. You cannot sack that person. What that person will do is to go round looking for information on Members of Parliament, interrogate the same and make a finding whether really that Member of Parliament has breached any law.

This is totally unacceptable. What I am proposing under a new clause called the Fourth Schedule is to empower the Speakers of either Houses, through the Powers and Privileges Committee, to deal with all issues pertaining to Members of Parliament. I believe in all civilised parliamentary jurisdictions; in the United Kingdom (UK), there is an Ethics Committee which is equivalent to the Powers and Privileges Committee.

The Temporary Deputy Chairman (Hon.) Cheboi): Order, Hon. Keynan! You might be prosecuting your case very well, but I also want you to do it factually. When you talk about the United Kingdom (UK) case and I am speaking from the Chair, there is this office which you are

talking about. So, I want you to prosecute your case without misleading the House. Please be brief. Allow Hon. Members also to make their decisions.

Hon. Keynan: Okay, Hon. Temporary Deputy Chairman. This is what I want to suggest.

Hon. A.B. Duale: On a point of Order.

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

Hon. A.B. Duale: My point of order is that I agree with Hon. Keynan. He has the numbers, but he is misleading. There is no Ethics Committee in the House of Commons. What is in the House of Commons is exactly what is provided for in this amendment.

The Temporary Deputy Chairman (Hon.) Cheboi: Okay. Hon. Keynan, wind up so that I can give Hon. Members a chance to make a decision. It is better also for Hon. Members to have ---

Hon. Keynan: I want to urge Hon. Members to reject this new clause and allow for the enactment of Schedule Four which will empower the Hon. Speaker to deal with issues pertaining to Hon. Members through Parliament.

The Temporary Deputy Chairman (Hon.) Cheboi: I will give a few Members. I know the African Parliamentarians' Network Against Corruption (APNAC) is very interested in this. Let me start with the Hon. Chairman for APNAC and then I will give a chance to a few more Members. You will make your decisions

Hon. S.S. Ahmed: Thank you, Hon. Temporary Deputy Chairman. I do not want to go to the background as it has been covered very well. The issue is this: We are all Hon. Members and all of you are eligible to be members of APNAC. We are of the opinion that as much as the Office of Standards and Ethics must be maintained, we have a problem in actual enforcement of some of these issues. We cannot have somebody being an inspector, a policeman and a prefect.

The issue of ethics and standards is something all of us must deal with in our own consciousness. To have a prefect who is outside Parliament to do investigation is irrelevant. The Clerk's Office and the Powers and Privileges Committee already have facilities to do all the investigation they need. We are of the opinion that as Parliamentarians, we must maintain our dignity and ethics. Therefore, bringing somebody else here to do the job is admitting that we are not ethical and we need policing.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Remember we are at the Committee level. We cannot have the luxury of time. Let us not debate at this point in time. Let us have the Hon. Leader of the Majority Party and then I will give Hon. Members an opportunity.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman. I want my colleagues to listen to me. The genesis of this amendment is based on the Powers and Privileges Report on cases investigated by the Public Accounts Committee (PAC) and this House is aware of it. This office is not unique, that is where we can disagree. This office has been created in the House of Commons in the UK; it is in the Parliament of Australia and the United States Congress. It is in all progressive legislations---

(Loud consultations)

Just listen to me. I have the right to talk.

Secondly, when this kind of office was introduced in the House of Commons during the time of John Major as the Prime Minister, what was happening then is exactly what has happened in many African Parliaments, including Kenya. Cash for questions, claims of travelling allowances and breach of parliamentary code of conduct. This amendment gives us a choice, either to have our own self-regulatory mechanism within Parliament, or we subject ourselves to the external institutions that we have created.

(Loud Consultations)

Let me finish. We can reject this amendment and subject ourselves to the Ethics and Anti-Corruption Commission (EACC), to the Director of Public Prosecutions (DPP) and forego our privileges. This reminds me of The Hague issue where some of us said: "Let us form a local tribunal" and others said "Let us go to The Hague." This is the same thing where some people are saying "Let us go to the EACC and let us not do it here". This is about self-regulation.

(Loud consultations)

The Temporary Deputy Chairman (Hon.) Cheboi: Okay, let us have the Hon. Deputy Leader of the Minority Party. Let us keep order. Proceed.

Hon. Midiwo: Thank you, Hon. Temporary Deputy Chairman. Let me rise to support this amendment. Maybe, the explanation by Hon. Duale is not coming out clearly.

The Temporary Deputy Chairman (Hon.) Cheboi: Order, Members, let us listen to each other.

Hon. Midiwo: A lot of times, we turn a blind eye on things which are --- The question remains: Who watches the watchman? I know we have disagreed on this issue with the Chairman of the Departmental Committee on Administration and National Security from Mombasa to here. However, I want to plead with him. There is this issue of mileage claims; we need somebody to check the system to protect Parliament from frivolous accusations. Now the EACC is the only way for us to clear our names because some of these things are utter lies. There is need to have somebody to answer for Parliament and who can say: "This is the system and this is how it works." That person is this administrator. We are too many. If you are saying you do not need this office, you must also tell Kenyans that the EACC must have total access to everything and everywhere we do our things.

For me, I accept both scenarios. I can tell you the scenario you are about to reject is the scenario that works best for an institution which is as supreme as Parliament. I beg you and I submit.

The Temporary Deputy Chairman (Hon.) Cheboi: Hon. Emaase.

Hon. (Ms.) Otucho: Thank you, Hon. Temporary Deputy Chairman. As leaders, we must accept to be accountable and responsible. I support that clause; I support the position by the Hon. Leader of the Majority Party and the Deputy Hon. Leader of the Minority Party. We need to have an administrator. This is an equivalent of an ombudsman that exists in all other institutions. We need to have an office that addresses grievances that---

Hon. Keynan: On a point of information.

The Temporary Deputy Chairman (Hon.) Cheboi: Hon. Keynan, whom do you want to inform. Hon. Emaase, do you require information from Hon. Keynan?

Well, proceed Hon. Wafula.

Hon. Wekesa: Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity.

I stand to oppose.

The Temporary Deputy Chairman (Hon.) Cheboi: Hon. Keynan, let us hear Hon. Wekesa. We will give you an opportunity at the end. We cannot have all the time for you.

Proceed, hon. Wekesa.

Hon. Wekesa: Hon. Temporary Deputy Chairman, unless we are looking to employ somebody, we do not need prefects here. We have enough prefects in this House. This one is taken care of by other organs and that includes our constituents who will judge us.

Thank you.

The Temporary Deputy Chairman (Hon.) Cheboi: Okay, Hon. Members I am looking for Hon. Members who have not spoken too much this morning. Hon. Member for Ruaraka.

Hon. Kajwang': Hon. Members, we need to be sober in this, because we are defining ---

(Loud consultations)

Just a minute. I plead with you Hon. Members--- Hon. Temporary Deputy Chairman, protect me. Let me be heard!

The Temporary Deputy Chairman (Hon. Cheboi): Can we allow Hon. Tom Joseph Kajwang' to proceed?

Hon. Kajwang': Hon. Temporary Deputy Chairman, I withdraw the insinuation that Members could not be sober. I withdraw unreservedly, but I beg to be heard. There are a lot of consultations that will not allow us to digest the issue the way we have to. We are dealing with Constitution 2010 in a new dispensation. We are also dealing with questions of governance. We have to make a choice because if we do not make a choice, the choice will change us. One of the things which we must do is to see if we are going to be self-regulated or open ourselves to regulation outside there. We will have to choose whether regulation outside there is easier than regulations inside here.

If you check what the administrator has to do here, he is going to be some kind of depository – like the ombudsman who is a depository that every complaint comes through and then he investigates and sends it to the Committee. If you want that Members will be going to Ethics and Anti-Corruption Commission (EACC) and make their complaints there and you do not--- You will be pulled from the Chamber every day. This is how it is. We have the privilege of hiring and firing him here.

Two, there is a conflict of interest. It is in the Constitution. You know that if you have a conflict of interest in the Standing Orders, it is out of order. Now, we need somebody who will be a depository of pecuniary conflict of interest. I am speaking because you know this. In fact, Members should know that this is coming as a result of the Cheboi Committee which investigated matters here including the Public Investments Committee (PIC). We thought that we need somebody to whom we can deposit those financial or pecuniary conflicts of interest. So, let us not only be sober, but reasonable as we debate this.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Member for Nyeri.

Hon. Lati: *(Inaudible)*

The Temporary Deputy Chairman (Hon. Cheboi): You are totally out of order, Hon. Lelelit.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairman. Let me support this inclusion on the theory that self-regulation is self-preservation. A political class like ourselves cannot go forward for as long as it does not even self-preserve. One of the things that we do not do and why we have the 70 per cent turnover is lack of self-preservation. If we want to preserve ourselves here, we should have an internal mechanism that is confidential and that is going to be the strength of Parliament that helps us to deal with issues when they arise. There is no reason why a Member of Parliament should, at the first instance, be called by the EACC. It should come in much later after the internal mechanism has worked. Self-regulation is self-preservation. A political class must preserve itself. The only way we preserve ourselves is by allowing this internal audit mechanism to come in. The United Kingdom (UK) Congress has it. It works very well. The other countries that have it work very well. More importantly, the Judiciary has instituted a mechanism like this. We no longer hear embarrassing things about judges. Embarrassing things about Members of Parliament should be covered within the House and locked here with confidentiality. I support the inclusion.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Regina Muia.

Hon. (Ms.) Muia: Thank you, Hon. Temporary Deputy Chairman. I stand to support this new Motion.

The Temporary Deputy Chairman (Hon. Cheboi): I am sure that you are speaking to these new clauses. Proceed anyway.

Hon. (Ms.) Muia: I am opposing it because we are talking about the clause.

(Laughter)

I am supporting to have somebody who is supposed to sit with us here. Hon. Members, there is nothing for us to fear. These are people we are going to sit with, negotiate with and talk to, rather than you being exposed by EACC. These are people who have no business with you. They have no time to speak to you as opposed to the person we are going to be with here throughout. You do not want to see these people here because you have a reason. All of us would want to have tea with them. We want to speak to them and they tell us where we are going wrong. If you have got issues, it is up to you. Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Members, if you want to use the point of order to contribute, I will give you the opportunity. Can we have Hon. Barchilei?

Hon. Barchilei: Thank you, Hon. Temporary Deputy Chairman. I would like to support the inclusion of this clause because we have considered several issues. Let us not worry as hon. Members because this is a member of staff of Parliament. It is very important to have this person. It is also good to inform Members that this is just an employee who reports to the Committee of Powers and Privileges. Therefore, we have no cause to fear. I support the inclusion of this clause.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Maweu Kyengo.

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

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

Hon. Abongotum: I want to inform you or the House that I have had a lot of interest in this. Will I be in order to beg that I be given the chance to prosecute this matter because I am the strongest opposer of this one?

(Laughter)

The Temporary Deputy Chairman (Hon. Cheboi): You know that you are totally out of order, but your sentiments have been heard, Member of Tiaty. We will see how you will have an opportunity. Let us have Hon. Maweu.

Hon. Maweu: Thank you, Hon. Temporary Deputy Chairman. I stand to oppose the inclusion of this clause. In a country where people work for the downfall of others, I do not see how this will work. It will be witch-hunting and all kinds of things. So, for heaven's sake, let us forget about it. Let us work the way we are today.

The Temporary Deputy Chairman (Hon. Cheboi): Member for Tiaty.

Hon. Abongotum: Thank you, Hon. Temporary Deputy Chairman. As one of the highest ranking Members of this House, I want you to listen to me very carefully. These Members have been vetted three times before they came to this Parliament. One, they were vetted by the EACC. Two, they got certificate of good conduct from the Criminal Investigation Department (CID). Three, they were elected by the great people of the Republic of Kenya. To subject them to some prefect is introducing a prefecture system that prevails in France.

From the time of Speaker Humphrey Slade, the Committee of Powers and Privileges has served this Parliament in an excellent manner. So, I want to plead with Members that, that office, as we all know, will be misused. If you approve this clause, you will regret for many years. So, I want to call upon Members to reject it in total.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Onyancha.

Hon. Omagwa: Hon. Temporary Deputy Chairman, I stand to strongly oppose the inclusion of this clause. We are talking about appointment of an officer who is equivalent to a judge of the High Court. We know very well that we are discussing the wage bill. Why are we including more staff in the Parliamentary Service Commission (PSC) now?

Two, we do not want a prefect. Just like my friend from Tiaty has said, we have been vetted and voted for. In any case, even if we had this person appointed, we still are subject to scrutiny by the EACC. You do not keep these other authorities out of this. So, I strongly oppose this clause.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, you have spoken. You are the ones who make the decision. I want us to be clear on how we will proceed with this. We have had arguments for and against the proposed new part. It is time for you to make your own decision. This is how we will proceed.

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

(Several Hon. Members stood in their places)

Hon. Members, you obviously do not have the numbers. Resume your seats. I see the attempt by the Hon. Members to call for a division but you clearly do not have the numbers.

(First Schedule agreed to)

(Second Schedule agreed to)

New Third Schedule

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting the following new schedules immediately after the Second Schedule—

THIRD SCHEDULE

CONSIDERATION OF REPORT BY THE COMMITTEE OF POWERS AND PRIVILEGES

(s. 16 (7))

1. Every Report by the Committee of Powers and Privileges concerning any inquiry into the conduct of a Member shall, as soon as possible after it has been completed, be laid by a member of that Committee on the Table of the House.
2. If the Report does not recommend any disciplinary action there shall be no further proceedings whatsoever in respect thereof, other than (where necessary) further inquiry and Report by the Committee of Powers and Privileges.
3. (1) If the Report recommends any disciplinary action, a member of the Committee of Powers and Privileges shall as soon as possible after the report has been laid, but after giving at least one day's previous notice, move that the House adopts the Report.
(2) A Motion to adopt the Report shall be debated in the usual manner and in the open; except that—
 - (a) in exceptional circumstances to be determined by the Speaker, strangers may be ordered to withdraw throughout the debate; and
 - (b) no amendment may be moved, other than an amendment of the disciplinary action recommended by the Report or an amendment to the effect that the Report be referred back to the Committee of Powers and Privileges for further inquiry.
4. Where the House adopts any recommendation of the Report for disciplinary action, with or without amendment, the Speaker shall forthwith take action accordingly.

Hon. Temporary Deputy Chairman, the amendment sets out the procedure to be used by the House in considering the Report of the Committee on Powers and Privileges.

(Question of the new schedule proposed)

(New schedule read the First Time)

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

The Temporary Deputy Chairman (Hon. Cheboi): I do not see a lot of interest on this one.

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

(The new schedule was read a Second Time)

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

New Fourth Schedule

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting the following new schedule immediately after the Second Schedule—

FOURTH SCHEDULE

CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

(s. 41(3))

Application and Purpose.

1. (1) This Code applies to and provides a framework of reference for Members of Parliament when discharging their duties and responsibilities.
2. The purpose of this Code is to create public trust and confidence in Members of Parliament and to protect the integrity of Parliament.

Members bound by General Principles of Conduct.

2. (1) Members are bound by the General Principles of Conduct whenever any of them performs the roles of either House of Parliament set out under Articles 97 and 98 of the Constitution.
- (2) The General Principles of Conduct include—
 - (a) selflessness;
 - (b) integrity;
 - (c) objectivity;
 - (d) accountability;
 - (e) openness;
 - (f) honesty; and
 - (g) leadership

Members to be faithful,
Conscientious and
impartial.

3. Members of the House shall—

- (a) be faithful and bear true allegiance to the people and the Republic of Kenya.
- (b) faithfully and conscientiously discharge their duties and obey, respect, uphold, preserve, protect and defend the Constitution and the rule of law;
- (c) do right to all persons in accordance with the Constitution and the laws and conventions of Parliament; and
- (d) promote unity among Kenyans, irrespective of race, tribe, colour, creed or sex.

Members to act
in the public
interest.

4. Members of the House shall, in the conduct of their parliamentary duties, act in the public interest, and resolve any conflict between their personal interest and the public interest in favour of the public interest.

Members not to
accept improper
reward.

5. Members of the House shall not—

- (a) accept or agree to accept any financial inducement as an incentive or reward for the performance of their duties;
- (b) seek to profit or profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services; or
- (c) incur a financial or other obligation that unduly influences the Member in the performance of his or her duties.

Members to register
interests.

6. (1) Members of the House shall—

- (a) register with the Office of Standards and Ethics all financial and nonfinancial interests that may reasonably influence their parliamentary actions;
- (b) before contributing to debate in the House or its Committees, or communicating with State Officers or other public servants, declare any relevant interest in the context of parliamentary debate or the matter under discussion; and
- (c) observe any rules agreed of the House in respect of financial support for Members or the facilities of the House.

(2) A relevant interest is an interest that may be seen by a reasonable member of the public to influence the way in which a Member discharges his or her parliamentary duties.

(3) Members shall ensure that registered interests are accurate and updated within one month of any change in particulars.

Members to uphold the dignity of the House.

7. A member of the House shall uphold the dignity and integrity of the House by—

- (a) promoting respect for the House and its institutions at all times.
- (b) ensuring that the member's non-parliamentary activities do not interfere with or compromise the member's official duties or bring the House into disrepute.

Members to treat others with respect.

8. A member of the House shall treat other members with respect and strive to have cordial relations with all other members.

Members' official duties to take precedence.

9. A member of the House shall ensure that parliamentary duties of the member take precedence over the member's other activities.

Members to abide by Code.

10. Members undertake to abide by this Code upon taking the oath of office and at the start of each Parliament.

Members to comply with General Code. No. 19 of 2012.

11. A member of the House shall comply with the requirements imposed under the General Leadership and Integrity Code set out in Part II of the Leadership and Integrity Act, 2012.

Committee to enforce Code, prescribe penalties for breach.

12. The Committee shall enforce this Code and have power to recommend penalties for its breach similar to penalties for breach of parliamentary privilege.

Hon. Temporary Deputy Chairman, the rationale is that the amendment provides a code of conduct applicable to Members of both Houses of Parliament in the discharge of their duties. The uniform code is in line with the requirements of Section 37 of the Leadership and Integrity Act which obligates all public entities to prescribe a specific leadership and integrity code for the State officers in that public entity.

Finally, the proposed code seeks to create public trust and confidence in Members of Parliament and protect the integrity of Parliament.

(Question of the new schedule proposed)

(New schedule read the First Time)

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

The Temporary Deputy Chairman (Hon. Cheboi): I note that Hon. Keynan and Hon. T.J. Kajwang' have proposed further amendments. In this new schedule, obviously the proposal by Hon. Keynan will take precedence. We will then see what comes out of it. Hon. Keynan, what is your proposal?

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

THAT, the Bill be amended by inserting the following new schedule immediately after the Second Schedule—

FOURTH SCHEDULE

CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

(s. 41(3))

Application and Purpose.

3. (1) This Code applies to and provides a framework of reference for Members of Parliament when discharging their duties and responsibilities.
4. The purpose of this Code is to create public trust and confidence in Members of Parliament and to protect the integrity of Parliament.

Members bound by General Principles of Conduct.

2. (1) Members are bound by the General Principles of Conduct whenever any of them performs the roles of either House of Parliament set out under Articles 97 and 98 of the Constitution.
- (2) The General Principles of Conduct include—
 - (a) selflessness;
 - (b) integrity;
 - (c) objectivity;
 - (d) accountability;
 - (e) openness;
 - (f) honesty; and
 - (g) leadership

Members to be faithful, Conscientious and impartial.

3. Members of the House shall—
 - (e) be faithful and bear true allegiance to the people and the Republic of Kenya.
 - (f) faithfully and conscientiously discharge their duties and obey, respect, uphold, preserve, protect and defend the Constitution and the rule of law;
 - (g) do right to all persons in accordance with the Constitution and the laws and conventions of Parliament; and
 - (h) promote unity among Kenyans, irrespective of race, tribe, colour, creed or sex.

Members to act in the public interest.

4. Members of the House shall, in the conduct of their parliamentary duties, act in the public interest, and resolve any conflict between their personal interest and the public interest in favour of the public interest.

Members not to accept improper reward.

5. Members of the House shall not—

- (d) accept or agree to accept any financial inducement as an incentive or reward for the performance of their duties;
- (e) seek to profit or profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services; or
- (f) incur a financial or other obligation that unduly influences the Member in the performance of his or her duties.

Members to register interests.

6. (1) Members of the House shall—

- (a) register with the relevant Speaker all financial and non-financial interests that may reasonably influence their parliamentary actions;
- (b) before contributing to debate in the House or its Committees, or communicating with State Officers or other public servants, declare any relevant interest in the context of parliamentary debate or the matter under discussion;

(2) A relevant interest is an interest that may be seen by a reasonable member of the public to influence the way in which a Member discharges his or her parliamentary duties.

(3) Members shall ensure that registered interests are accurate and updated within one month of any change in particulars.

Members to uphold the dignity of the House.

7. A member of the House shall uphold the dignity and integrity of the House by—

- (c) promoting respect for the House and its institutions at all times.
- (d) ensuring that the member's non-parliamentary activities do not interfere with or compromise the member's official duties or bring the House into disrepute.

Members to treat others with respect.

8. A member of the House shall treat other members with respect and strive to have cordial relations with all other members.

Members' official duties to take precedence.

9. A member of the House shall ensure that parliamentary duties of the member take precedence over the member's other activities.

Members to abide by Code.

10. Members undertake to abide by this Code upon taking the oath of office and at the start of each Parliament.

Members to
comply with
General Code.
No. 19 of 2012.

11. A member of the House shall comply with the requirements imposed under the General Leadership and Integrity Code set out in Part II of the Leadership and Integrity Act, 2012.

Committee to enforce
Code, prescribe
penalties for breach.

12. The Committee shall enforce this Code and have power to recommend penalties for its breach similar to penalties for breach of parliamentary privilege.

Hon. Temporary Deputy Chairman, the difference here is slight. My amendment was in anticipation of the rejection of new Clause 18A. Since that has been done, my amendment gives an elaborate *modus operandi* on the conduct of the Members of Parliament. It clearly spells out what a Member of Parliament is supposed to or not supposed to do in the process of executing his mandate as an elected representative of the people of Kenya. This is the area that will allay the fears expressed by many Members who felt that the deletion of new Clause 18 will affect the image of this institution. If you look at this amendment, this code applies to and provides for a framework of reference for Members of Parliament when discharging their duties and responsibilities.

Allow me to take the Members and the entire nation through this amendment so that people appreciate that all is not lost since we have refused to support new Clause 18. This code intends to create public trust and confidence in the Members of Parliament and to protect the integrity of the House. Members are bound by the general provisions of conduct whenever any one of them performs the roles of either House of Parliament set out under Articles 97 and 98 of the Constitution. The general principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, that is in the Order Paper. Once you have explained it in that manner, the Members can make their decision. We do not need to take a lot of time on it. Let us agree on that amendment.

Hon. Keynan: Hon. Temporary Deputy Speaker, item (6) of my amendment to the Fourth Schedule states that the Members shall register with the relevant Speaker all the financial and non-financial interests that may reasonably influence their parliamentary actions. Part 6 (b) states that before contributing to a debate in either House, the Members should declare their interest in the matter under discussion.

Finally, and this is the bit where every one of us who participate in the debate of new Clause 18 should appreciate, the Member of Parliament shall not accept or agree to accept any financial inducement as an incentive or reward for the purpose of performing their duties.

In summary, all the issues that would have been envisaged under new Clause 18 are now covered under this Schedule. The only difference is the executor here; the Powers and Privileges Committee and eventually the Speaker.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Keynan, Members must have heard that. We will need to have Hon. Emanikor dropping her amendment because the issue of the Office of the Standards and Ethics has been defeated in new Clause 18. We will be proceeding with the amendment by Hon. Keynan. If there will be a further amendment it will be by Hon. T. J. Kajwang'. It is Hon. Keynan's amendment which will be transacted but which Hon. T. J. Kajwang' can seek a further amendment on. I hope that is clear to Members. We will not have the amendment by Hon. Emanikor. It stands suspended because new Clause 18 has been defeated. We will now dispense with the further amendment to Hon. Keynan's amendment.

(Proposed amendment by Hon. (Ms.) Emanikor withdrawn)

(Question of the new schedule proposed)

(New schedule read the First Time)

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

Hon. Kajwang’: Hon. Temporary Deputy Chairman, I appreciate the amendment proposed by the Member for Eldas. Paragraph 3(c) of the code of conduct states that Members of the House shall do right to all persons in accordance with the Constitution and the laws and conventions of Parliament. The drafter must have meant that Members of the House shall proceed in a judicious manner to members of the public. The words “do right to members of the public” do not make sense at all, in my view.

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

THAT, the Fourth Schedule be further amended by deleting the words “do right to” appearing in 3(c) and insert therefor the words “shall proceed in a judicious manner when dealing with”.

The wording will then flow.

Another further amendment is to Clause 12. I do not agree that the Committee should by themselves recommend. No, I think this is all right; they can recommend penalties because they do not make those penalties.

That is all that I have to say, Hon. Temporary Deputy Chairman

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): We then go to Keynan’s amendment as further amendment by Hon. T.J. Kajwang’. Hon. Members, I will give a few Members to speak to it. Among the top on the list is Hon. Millie Odhiambo. You want to speak on this one?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman, I wish to support this amendment. The reason I support this amendment is because it speaks to the issues of concern that were raised about self-regulation; as a Member of African Parliamentarians’ Network Against Corruption (APNAC) and Parliamentarians for Global Action that is concerned about issues of ethics and governance, I think when we provide a layer of protection within Parliament, then we are not being honest because the administrator we were bringing was basically to shield us, but we are using a language that makes it appear that we are providing a higher standard. If we have issues of corruption, let it go to the Ethics and Anti-Corruption Commission (EACC).

Hon. Temporary Deputy Chairman, I want to support this. It provides very clear standards for Members of Parliament. I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Jimmy Angwenyi.

Hon. (Ms.) Odhiambo-Mabona: My microphone is still on

The Temporary Deputy Chairman (Hon. Cheboi): We have a small problem here. Give me a moment, Hon. Angwenyi as we--- Yes. You are now okay.

Hon. Angwenyi: Thank you, Hon. Temporary Deputy Chairman. I rise to support this amendment. I would like to tell the entire world that Parliament has risen to occasion, and wants to follow and implement the Constitution of Kenya. Chapter Six of the Constitution of Kenya clearly lays down the standards State officers and the citizens of Kenya should attain as they carry out their activities.

This amendment also shows clearly that we are answerable to the institutions that we have established through this House and the referendum by Kenyans; we must, therefore, behave in a particular manner, and if we do not, there will be consequences to that kind of misbehaviour.

Hon. Temporary Deputy Chairman, I beg to support.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Let us have Hon. Dennita Ghati, Member for Migori.

Hon. (Ms.) Ghati: Thank you very much, Hon. Temporary Deputy Chairman. I join my colleagues to support the amendments and say that the code of conduct of Members of Parliament is ideal at this crucial time when we have a Constitution; every State or public officer is guided by a code of conduct. It is clear to the world, particularly to Kenyans, that Members of Parliament are not above the law. We also abide by the Constitution. We are guided by our principles. Having a code of conduct is the best thing that has happened to this Parliament. It will guide and give a framework for how Members of Parliament are going to operate. I fully support.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Member for Baringo, Hon. Grace Kiptui.

Hon. (Ms.) Kiptui: Thank you very much, Hon. Temporary Deputy Chairman. I stand to oppose the issue of a code of conduct. It is important and it will improve the standards that we aspire to have as Members of Parliament. However, by the time you are coming to the House, you have been vetted by so many other bodies that are in the law.

The Temporary Deputy Chairman (Hon. Cheboi): You see, the problem is, Hon. Member for Baringo, you are speaking to the one which we have already disposed of. If you are speaking in that manner, you are then obviously supporting the new---

Hon. (Ms.) Kiptui: Yes, I am supporting, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): But you are talking of opposing. Then proceed and support.

Hon. (Ms.) Kiptui: I was saying that by the time we come to Parliament, we are vetted by other bodies that the law provides. However, improving the code of conduct and the way we operate here will help us to weed out some people who may spoil for us in the House. For instance, the petition we have heard may come to the House challenging the issue of mileage, yet we know that for a very long time, mileage has been paid to Members of Parliament. In that respect, if we had a code of conduct, it would weed out irresponsible Members.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Hon. Members, let us dispense with this one.

*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)*

Clause 2

The Temporary Deputy Chairman (Hon. Cheboi): Let us dispense with this quickly, Hon. Emanikor.

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 2 of the Bill be amended by inserting the following definition in its proper alphabetical sequence—
“proceedings” means—

- (a) all things said, done or written by a Member or by any officer of either House of Parliament or by any person ordered or authorised to attend before such House or its committees, in or in the presence of such House or its committees and in the course of a sitting for the purpose of transacting the business of the House or its committees; and
- (a) all things said, done or written between Members or between Members and officers of either House of Parliament for the purpose of enabling any Member or any such officer to carry out his or her functions.

The amendment defines what constitutes proceedings of Parliament to enable Members or staff of Parliament to effectively carry out their duties.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Can we now have the Mover moving the reporting? The Mover here is Hon. Keynan. I know there might be a little confusion because there are quite a number of amendments that have been moved by Hon. Emanikor, but the Mover of this particular Bill is Hon. Keynan. Let us have him moving for reporting.

Hon. Keynan: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Powers and the Privileges Bill, Bill No, 35 of 2014 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS AND THIRD READINGS

THE KENYA NATIONAL EXAMINATION COUNCIL (AMENDMENT) BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Kenya National Examination Council (Amendment) Bill, and approved the same with amendments.

Hon. Wangwe: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I would like to request Hon. Melly, to second the Bill for agreement with the report of the whole House.

Hon. Melly: I second.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Homa Bay, are you on an intervention?

Hon. Kaluma: Yes, Hon. Temporary Deputy Speaker. I am standing under the relevant Standing Order seeking recommitment of a clause of this Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Re-committal? Where are we? Order! Hon. Kaluma, can you remind yourself where we are. You may have been overtaken by overthinking. We are still dealing with the Kenya National Examination Council (Amendment) Bill; is this where you want some recommitment?

Hon. Kaluma: I am sorry Hon. Temporary Deputy Speaker. I was still on the Parliamentary Powers and Privileges Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Kaluma, I am sure you must have been consulting with members from Homa Bay, As you do so, try to look around your Standing Orders, so that when I come there it will not be a challenge to you. This is because I can see you will have some challenge.

(Question proposed)

(Question put and agreed to)

Hon. Wangwe: Hon. Temporary Deputy Speaker, I beg to move that the the Kenya National Examination Council (Amendment) Bill be now read the Third Time. I will request Hon. Melly to second.

Hon. Melly: I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang’): This is a Private Members’ Bill; I therefore, order that it be printed in this afternoon’s Order Paper, if possible. If not, then in tomorrow afternoon’s Order Paper for purposes of taking a vote.

(Third Reading ordered for tomorrow)

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Parliamentary Powers and Privileges Bill, and approved the same with amendments.

Hon. Keynan: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I would like to request Hon. Millie Odhiambo to second the Motion for agreement with the report of the Committee of the whole House.

Hon. (Ms.) Odhiambo-Mabona: I second.

(Question proposed)

(Question put and agreed to)

Hon. Keynan: Hon. Temporary Deputy Speaker, I beg to move that the Parliamentary Powers and Privileges Bill, be now read a Third Time. I would like to request Hon. (Eng.) Gumbo to second.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I second. I would also like to thank my good friend, Hon. Keynan, who has brought very progressive Bills in this House. I must confess that on Clause 27, you were pummelled into submission. But that is life, as you sometimes move three steps forward and two steps back. I think this is a progressive Bill and it will improve not only the workings of Parliament, but also public life as a whole is in our country.

I second.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Homa Bay Town, I am sure that since you are sitting between seasoned hon. Members you have understood the use of Standing Orders. The important question is how to use the Standing Orders when you want to recommit. It is an issue we need to clean up.

(Question proposed)

I also order that this Bill be printed in this afternoon’s Order Paper failure to which, it should be printed in tomorrow’s Order Paper, for purposes of taking a vote.

It is so ordered.

(Third Reading ordered for tomorrow)

BILL

Second Reading

THE AGRICULTURE, FISHERIES AND
FOOD AUTHORITY (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Tiren, please proceed.

Hon. Tiren: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to move the Bill.

The main objective of this Bill is to propose the maximum permissible weight for the manual transportation of agricultural loads in order to ease transportation of agricultural commodities like maize, beans, potatoes, wheat, millet and protect the health and safety of workers who carry the loads and may experience health complications later in their lives. It provides for development of a training manual that will guide the manner in which such operations will be carried out. It provides for giving appropriate instructions to the workers on the manner in which such operations can be carried out safely.

As most manual jobs are by low cadre workers, they will be able to save on medical costs. On the part of those who produce for consumption, they should also be subjected to the law since manual workers rely mainly on them to assist them do the work.

Research has also shown that about 25 per cent of back injuries are caused by manual handling of heavy objects. Insurance cover may protect people from the suffering but at a cost. So, preventive measures may be a better option for healthier Kenyans and would have impact on the economic expenditure of our nation. In terms of lost work, time and associated monetary cost---

I beg to move this Bill and I would ask Justice Hon. Kemei to second me. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you for being brief. Your seconder is not on my list. Yes, Member for Sigowet/Soin.

Hon. Kemei: Thank you, Hon. Temporary Deputy Speaker. As I second this Bill, I want to be as brief as the Member for Moiben.

This country, and indeed, the entire human race still relies on human labour. The principal object of somebody working as a labourer is to earn a just wage. The problem is that when we use weights beyond 50 kilogrammes, workers end up being collateral damage. Their bodies, physique, health are damaged as a result of carrying big weights over a long period of time.

I also wish to mention that the International Labour Organisation (ILO) has prohibited the carrying of weights above 50 kilogrammes. If we still continue to use them in this country, it is against the ILO laws. We must, therefore, guard against a situation where we end up putting our people in a position where their health is damaged. The Mover has said that 25 per cent of all back injuries are caused by carrying excessive weights. Most of these people are unable to afford medical insurance and they are also unable to afford proper treatment if they are injured. Therefore, the fact of the matter is that we should stop carrying weights above 50 kilogrammes in this country.

Lastly, the excess weight we carry in this country also leads to the exploitation of our farmers. Most farmers who get their produce weighed to more than 50 kilogrammes and 90 kilogrammes are exploited by middlemen who occupy the market chain in this country.

With those few remarks, I second the Bill.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kibra, what is out of order or what type of intervention is this?

Hon. Okoth: On point of order, Hon. Temporary Deputy Speaker. This is such a nice Bill. Would I be in order to request that Members be allowed to speak on it for only five minutes instead of 10? This is to allow more Members to speak.

The Temporary Deputy Speaker (Hon. Kajwang'): Okay. That is your Motion but Members are fairly sizeable. You still can have good discussions on this. The proposer and the seconder have saved you a lot of time. But that is now on the Floor. You want me to put the Question?

*(Question, that debating time be reduced,
put and agreed to)*

But that does not give you the first chance to speak. Member for Molo, are you in the Chamber? Absent, though willing to participate. Nominated Member, Isaac Mwaura, are you in the Chamber? Absent, though desiring to speak. Member for Turkana.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. This Bill has taken into consideration the fundamental issue of safety and protection of workers in manual transportation of loads. It ensures that workers are trained and given instructions in a manner in which they should carry loads and that they should undergo medical examination to ascertain their fitness to undertake the task.

The Bill also ensures that there should be good packaging by the employers. It spells out 50 kilogrammes weight for an adult, thus not exceeding the physical capacity of the person. We know very well that many people have injured their spines which, have caused them disabilities; this has had cost implications on both the workers, who are often unable to meet the cost, and also the employer.

The Bill protects women in the industry, especially during pregnancy and maternity period, to ensure the safety of both the mother and the baby. It is also in line with Article 53 for protecting children in the Children Act. It protects children from hazardous and exploitative labour. The Bill spells out punitive measures for employers who contravene the law by giving loads to unfit persons. It imposes on them fines not exceeding Kshs100,000. It also provides for a fine for those giving heavy loads to women who are pregnant; the fine is Kshs100, 000. For assigning a child transport of loads, this Bill prescribes a fine not exceeding Kshs200,000.

Finally, the Bill also allows the Cabinet Secretary (CS) to make appropriate regulations. I fully support.

The Temporary Deputy Speaker (Hon. Kajwang'): You fully support. Thank you. Member for Bureti.

Hon. Sang: Thank you, for giving me this opportunity to contribute to this very important Bill. I support my friend, Hon. Silas Tiren, from Moiben for coming up with a very important Bill. I have known Hon. Tiren for long. He has passion for maize farmers. He has also come up with a very good Bill that will safeguard the health of people who are unable to get white collar jobs like very few of us.

For your information, I know a good number of Kenyans have been transporting materials weighing beyond 50 kilogrammes. We have seen this in Gikomba, Litein and across the country; very young energetic Kenyans transport materials that are very heavy. I know this is causing many problems, as Hon. Tiren has rightly pointed out. About 20 per cent of back pain is caused by this particular work. I know Hon. Tiren in his wisdom came up with maximum weight that young Kenyans are supposed to be carrying to safeguard their health.

Hon. Temporary Deputy Speaker, he had quoted one of these occupational therapists and I want to confirm today that there is a Bill that is coming up, which I am sponsoring on occupational therapy. The founder of occupational therapy, a man called Bernardino Ramazzini, published a book in the 1600s which said that the manual handling of objects accounted for 20 to 25 per cent of all occupational injuries and has exceeded motor vehicle accidents as a cost of loss of work time and associated monetary costs. I know Hon. Tiren in his wisdom knew that at least we need to safeguard young people who are doing manual jobs.

On the issue of expectant mothers, it has been unfortunate. I know that most of the expectant mothers because of some reasons, have been doing these manual jobs and this has caused many miscarriages and complications to their foetuses and babies. I want to congratulate my friend, Hon. Tiren, because some clauses in this Bill say that manual transport of agricultural loads shall not be assigned to women during pregnancy or maternity period if in the opinion of a qualified physician – this is supposed to be an obstetrician – such work is likely to impair their health or that of their children. If an employer contravenes this provision he is liable to a fine not exceeding Kshs100,000. It should have been more but I know this Bill will help a good number of Kenyans who are doing manual jobs.

With those few remarks, I support and extend my congratulations to Hon. Tiren for having passion for maize farmers and Kenyans who do manual jobs.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Embakasi West.

Hon. Theuri: Thank you, Hon. Temporary Deputy Speaker. I stand to support this but with some few reservations, especially when it comes to ensuring that the worker has adequate training and medical insurance, considering that they are low income earners. I do not know how that will be possible but I support it.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kibra, this seems to be a Nairobi day.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. I think it is great when we have a Speaker from Nairobi in the Chair we tend to catch his eye. I would like to support and congratulate Hon. Tiren for bringing this Bill. We are living in a constitutional dispensation that is focused on the rights of citizens, including the rights of workers; this is a very practical Bill that will make sure that employers, manufacturers and other people, who provide packaging will consider that in Kenya a lot of movement of goods and materials is not done using equipment as in other countries; you must consider the manual workers who carry these loads. Loads should be reduced to 50 kilogrammes maximum for men, and if possible 40 kilogrammes which is more manageable and that will help in many ways.

This is a progressive Bill; most importantly when you even think of the women who do manual labour in Kenya in construction and farm sites. If they are involved in carrying heavy

things in their work, they will be exempted from this during the period of pregnancy, so that they do not put the life of their unborn babies at risk.

With those few remarks I congratulate Hon. Tiren again for bringing this timely Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kwanza

Hon. F.K. Wanyonyi: Thank you, Hon. Temporary Deputy Speaker. I want to take this opportunity to thank my friend, Hon. Silas Tiren, for coming up with this Bill. This country is an agricultural country and almost 99 per cent of farm land is not mechanized. Therefore you expect that most of the work in the farms and distribution of farm produce to market centers is done manually. Therefore, I want to congratulate him for coming up with this Bill; most of the work is done manually. The International Labour Organization (ILO) recommends that packages be lighter because of the risks that are involved.

In fact, most of the transportation and handling of the agricultural produce is done by very poor labourers; if you look at the remuneration it does not match the work they do. They start at 6.00 in the morning, go to the warehouse and carry bags of sugar, maize and even potatoes.

Hon. Ndiege: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kwanza just one minute. Member for Suna West you are on an intervention, what is the problem?

Hon. Ndiege: Thank you, Hon. Speaker, as I can read the mood of the House---

The Temporary Deputy Speaker (Hon. Kajwang'): No! Which mood are you reading before the Member for Kwanza? No! I will shut you out of the microphone. Can you allow the Member for Kwanza to deliver his "baby" before you look at the mood of the House?

Hon. F.K. Wanyonyi: You know he handles fish and I handle maize; so, he should actually listen to me explaining what we undergo. He does not even handle fish.

The Temporary Deputy Speaker (Hon. Kajwang'): He handles gold.

Hon. F.K. Wanyonyi: Gold; so I am informed.

Hon. Temporary Deputy Speaker, I was making a very important point about manual workers either in a factory or storage in cereals board. You see young men carrying loads as heavy as 80 kilogrammes. In fact, some of them carry it alone. When you see them you sympathize because after that you can imagine how much they are paid per day. It is not more than Kshs200. What does that tell you? You find some of them die at the age of 30 because they cannot afford medical examination and medicine. What they do next is to just drink *chang'aa* to please themselves, and be fit to work the following day; they do not even eat well.

So, I want to thank Hon. Tiren for having come up with this Bill. We should pass it because our boys and girls are suffering. If you reduce the load to 50 kilogrammes, this will attract more labourers and we can get ladies handling this. Most ladies are not even employed and this will be one way of creating employment.

The other thing is the penalty to go with this. I want it to be enforced immediately, so that factories can start producing packages of 50 kilogrammes as opposed to 90 kilogrammes; that they will be handled appropriately, and anybody breaking the law should be punished.

Lastly, I want to say that they should also look at the remuneration of these workers; maybe at the Committee Stage we will come up with how much they should be paid, so that people handling this kind of work can be paid better and stop going for *chang'aa*.

I support the Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Suna West, what were you saying?

Hon. Ndiege: Going by Members' contributions, would it be in order to move that the Mover be called upon to reply? Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): You are out of order because it is only the Speaker who can determine the mood of the House. You cannot determine the mood of the House from where you are sitting. I am seeing a lot of requests here.

Secondly, this is a Private Members' Bill. It has taken a Member so many parliamentary hours to come up with this Bill. So, allow this Member to feel that his Bill has been well prosecuted.

Member for Subukia.

Hon. Gaichuhie: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. At the outset, I support the Bill. When you go to agricultural areas, you will find that people who buy farm produce make sure that farmers overload the produce, whether it is potatoes or tomatoes. To provide that nobody should carry more than 50 kilogrammes will assist the farmers in controlling how much goods they pack. This limitation on the maximum load to 50 kilogrammes will help the farmer and the person carrying the produce. Most young men carry heavy loads and later in life they have problems. It will reduce the cost incurred in hospitals. This Bill has many advantages. That is why I am supporting it. I thank the Mover of the Bill.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Ndhiwa.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. I would like to support this Bill. It is really progressive. I like the fact that the Member wants the employer to take labourers through some training, so that at least they know how to handle farm equipment. That is a progressive provision.

The only thing I have an issue with, and I will be moving an amendment towards this extent, is the amount of penalty in the Bill. It is fairly very lenient. You are talking about Kshs100,000, but the kind of spinal damage that is attendant to heavy loads is too costly for a Kshs100,000 penalty. Ordinarily, the penalty should be one that measures to the magnitude of the injury that will have been caused. It is a good thing that the penalty has been provided for, but we need to increase it.

The second thing is that the proposed new Section 29B speaks to the fact that there ought to be appropriate packaging equipment. The Bill also says that there shall be a maximum of 50 kilogrammes packaging of agricultural produce. However, to leave the proposed new Section 29B in that loose manner will make it very difficult to implement. There ought to be specifics in terms of what packaging ought to be done so that even if we are talking about a maximum of 50 kilogrammes, the bags will have been packaged fairly differently.

The third thing is that the proposed new Section 29D speaks very well to the fact that pregnant women and lactating mothers ought not to be subjected to the carrying of loads, but he leaves that to the opinion of qualified physicians. This ought to be an express provision. So long as a woman is pregnant or lactating, she ought not to be given such heavy loads. The loads would interfere with lactation or occasion the miscarriage of the pregnancy. Let us not leave this to the whims of a physician. So long as a woman can prove she is pregnant or lactating, we should not subject her to heavy loads.

The Bill is very progressive and I support it.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill from a human rights perspective. We must protect our workers, especially those who do manual labour. One of the things I like about the Bill is that it provides a limit on the weights that would be carried by manual labourers. I would urge the Member to look at the proposed new Section 29C(1) and (2) because the provisions therein appear to contradict each other. On the one hand it provides for a maximum weight based on physiological characteristics and on the other hand it says the maximum weight will be 50 kilogrammes.

One of the other reasons why I support this Bill is because it protects pregnant and lactating mothers. I did a lot of work on human rights-based approach to programming with different organisations and this is part of mainstreaming human rights and gender issues.

The other issue for which I want to congratulate the Member is the very bold provisions excluding children from carrying any weight. Under the Children Act, we are not as bold. I will be bringing comprehensive amendments to the Children Act that will ensure that at least this time we are very bold about the issue of child labour. We had made provisions which do not pronounce--- I know we are a very poor country, but we have not made very bold provisions that completely exclude children from labour.

I congratulate the Member for this Bill. I support it.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Mbita, just before you sit down, I understand you are a member of the Departmental Committee on Agriculture, Livestock and Fisheries. Is that correct?

Hon. (Ms.) Odhiambo-Mabona: Yes.

The Temporary Deputy Speaker (Hon. Kajwang'): Do you know if this matter has been committed to your Committee?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, you know that I was away in the US on parliamentary duty. Indeed, I had 77 pages of amendments to the Fisheries Bill, which was prosecuted in my absence. So, I would not really say whether it has come before the Committee. However, when I was around I did not see it before the Committee.

The Temporary Deputy Speaker (Hon. Kajwang'): The only reason I mention it is so that when you sit in the Committee you may want to consider those proposals. The Member, in his wisdom, and with very good intentions, is looking at labourers who are employed probably in the tea farms. I am not so sure whether he has factored in persons who are detailed by agents in Gikomba and in some of those places which the Member for Kibra represents, who are not generally employers but agents; two, is whether there should be a sanction on the person who carries the load itself. When this matter comes before your Committee, you may want to interrogate the Member and see if you could make legislative proposals on those areas.

Yes, Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, I hear you. We will look at those areas in the Committee, if the Bill has not already come before the Committee. People who carry loads because they are desperate for money sometimes have lower negotiation power. That is why as Parliament we need to force employers to follow certain standards. We will look at the concerns.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Mogotio.

Hon. (Prof.) Sambili: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I begin by thanking the Member for bringing the amendments. Heavy loads affect people's health, although that effect comes much later in life. Even traditionally among our people, people know that when they overwork themselves when they are younger, the effects come much later in life.

Hon. Temporary Deputy Speaker, I really thank the Member for bringing out the details of taking care of our people. With respect to training, I would like to point out that there are very few people who are trained in occupational therapy in this country. We need to train the producers themselves. Knowing that we are an agricultural country, we need to train the producers, so that they know that they should not overwork their workers right from the production level. It is important that people are protected. Members have already talked about expectant mothers and young children. I would not like to repeat that.

I support this Bill because it creates employment. Instead of someone carrying 100 or 120 kilogramme bags of maize, when this Bill is enacted, someone will carry 50 kilogramme bags. Carrying 120 kilogramme bags is work for three people or at least two people and so, it will create employment.

Finally, I would like to say that we should be sensitive with respect to packaging. The packaging should be user friendly. It is important to really detail what we mean by sensitive packaging, so that there are no pointed objects. We should use materials that are user friendly. We know that we still have challenges in this country maybe because of our economic power or abilities but we are growing and we are optimistic that we will be able to move forward in these areas of helping our people, protecting young people and women. We used to say that agriculture depended on women in this country. It is true that they do a lot of work. That is why it is important to train, so that lactating mothers are protected in rural areas, the young and older men can help the mothers who will always go out of their way to support the families. This Bill will support them, so that they are not overworked.

It is important that we all get an opportunity to support this Bill; I will stop there and congratulate the Member who sponsored the Bill. I fully support this Bill.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you very much. Member for Homa Bay Town, what is the nature of this intervention?

Hon. Kaluma: Thank you, Hon. Temporary Deputy Speaker. The House has spoken to the important matter we have. I am also noting there are more matters to be canvassed.

Hon. Temporary Deputy Speaker, would I be in order, with the indulgence of my colleagues and the Chair, to request that the Mover replies?

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

The Temporary Deputy Speaker (Hon. Kajwang'): Let us have the Mover. Just press the intervention button and I will recognise you. Proceed.

Hon. Tiren: Thank you, Hon. Temporary Deputy Speaker. I thank you for giving me this opportunity. I also want to give my colleague, Hon. Melly, a few minutes.

The Temporary Deputy Speaker (Hon. Kajwang'): Order! Where the House has resolved that the Mover replies, you are unable to donate time to other Members.

Hon. Tiren: My colleagues are requesting for only one minute.

The Temporary Deputy Speaker (Hon. Kajwang'): I am referring to the Standing Orders that say that where the House has resolved to call the Mover, the Mover does not have authority to donate time.

Hon. Tiren: Hon. Temporary Deputy Speaker. I beg to reply.

The Temporary Deputy Speaker (Hon. Kajwang'): That is very okay. You can either leave it there or proceed as you want.

Hon. Tiren: With your indulgence, Hon. Temporary Deputy Speaker, I beg to move the Motion.

The Temporary Deputy Speaker (Hon. Kajwang'): All right, thank you very much. I, therefore, order that the Agriculture, Fisheries and Food Authority (Amendment) Bill, 2015 appears on the Order Paper of Wednesday next week for purposes of taking a vote of Second Reading. It is so ordered.

Next Order, please.

BILL

Second Reading

THE HEALTH RECORDS AND INFORMATION MANAGERS BILL

The Temporary Deputy Speaker (Hon. Kajwang'): This is a Private Members' Bill; who is the sponsor of this Bill? It is the Member for Ndhiwa. I only have four minutes for you, according to my digital clock. So, if you can share that time that is all right. If you do not, we will give you the balance of the time when the Bill is next on the Order Paper.

Proceed, please.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. This being my first Bill, I would have wanted to use all my 20 minutes. I will try to do what I can in these four minutes. I wish I started earlier.

First of all, let me thank the people who helped to do this Bill. They are my very two able assistants, Irene and Kwame and also the Clerk to the Committee, Mr. Walala, who worked very tirelessly to help us come up with this Bill.

Hon. Temporary Deputy Speaker, this Bill has taken us a couple of years. Indeed, I agree that it is difficult to put a Bill together as a Private Member. It has been one-and-a-half years of work and it has been very rigorous. I thank Members who worked with me, particularly the Committee on Health, for working with us very well. We have gone through a couple of sessions at the publication scrutiny stage with the Committee on Health and they have been very supportive. There are a couple of concerns that will still be addressed during this Second Reading. I have got a lot of support from both the Legal Department of Parliament and also the various Clerk Assistants I have been working with.

This Bill almost hits some headwind with the proposal of the Health Bill. There was a concern from the Committee on Health that all Bills that were touching on health issues wait to be dealt with under the Health Bill. But, having undertaken sessions with that Committee, we agreed that it is true that the Health Bill is of importance, but not all factors can be dealt with

within the meaning of the Health Bill. That is the reason the Committee on Health agreed to let this Bill be moved.

Hon. Temporary Deputy Speaker, this Bill seeks to do a couple of things. The first one is that there are people in charge of health records in hospitals. A person who falls sick and goes either to a private or public hospital first engages with a health practitioner. What the health practitioner does is to take ones' details like age, epidemiology, health history and things like those. That then constitutes your health record for purposes of future reference, or the prescription to be given. That cadre of people, who have been doing this important job, has never been regulated. It has been left to all and sundry and so we have had people who are not professionally regulated performing the work of health information managers and health record keepers. Then, you end up with cases like the one we had in Busia and a couple of other places, where people were given wrong injections because records were not properly kept. Essentially, you end up with people being given treatment that they do not warrant. Therefore, this Bill deals with the training of records and information managers.

At present, there is only one institution, the Kenya Medical Training College (KMTC) that has been offering training and is officially recognised. But, we appreciate that several institutions have come up and are now giving medical-related training over the last couple of years. Several universities are now offering medical-related training. Whereas, it used to be only the KMTC giving this training, it is now possible to set a curriculum to regulate whoever provides this training. That is one of the things this Bill seeks to provide.

The second thing---

The Temporary Deputy Speaker (Hon. Kajwang'): Before you go to the second thing, is that the appropriate place that you will now want to rest your case this afternoon?

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. I appreciate your guidance. I will rest my case here; I shall resume prosecuting the soonest you give me another chance.

The Temporary Deputy Speaker (Hon. Kajwang'): Undoubtedly, you will have 26 minutes when we resume. But, that will be on Wednesday next week, and you must be present in the Chamber when it will be called out. Otherwise, you may not reclaim those minutes.

Hon. Oyugi: Hon. Temporary Deputy Speaker, I intend to be present.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): There will be a balance of three hours to debate this Bill.

Hon. Oyugi: I appreciate. Thank you so much.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang'): The time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.

