

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th May, 2019

The House met at 2.30 p.m.

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

PRAYERS

PETITION

Hon. Speaker: Hon. Members, Standing Order, No.225(2)(b) requires the Speaker to report to the House any public petition other than that one presented by a Member.

(The Clerk-at-the-Table consulted Hon. Speaker)

I am sorry, Hon. Members. What I was reading was about a petition. This is supposed to be a Message from the Senate.

(Two Members entered the Chamber while Hon. Speaker was on his feet)

Who are the two Members trotting around?

MESSAGE

THE SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL

Hon. Members, pursuant to the provisions of Standing Order No.41 relating to Messages from the Senate, I wish to report to the House that I have received a Message from the Senate regarding the passage of the Division of Revenue Bill, National Assembly Bill No.11 of 2019.

The Message reads in part: "The Senate considered and passed the said Bill with amendments on Tuesday, 30th April, 2019". The Senate now seeks the concurrence of the National Assembly to the Senate amendments.

Hon. Members, you are notified that the Senate amended various parts of the Bill, including Clause 5 which provides for the variation in revenue. The Senate also amended the Schedule to the Bill by decreasing the amount of revenue raised nationally to be allocated to the national Government by about Kshs20 billion and increased the total county allocations from Kshs371.6 billion to Kshs391 billion.

Considering the urgency of this legislation in unlocking the budget process in counties and pursuant to the provisions of Standing Order No.145, I direct that the Chairperson of the Budget and Appropriations Committee prepares to move the Motion contemplated under Standing Order No.146 being consideration of Senate amendments to Bills originating in the National Assembly tomorrow, Wednesday, 8th May, 2019 in the afternoon. This will enable the House to decide whether to immediately proceed and consider the Senate's amendments in the Committee of the whole House or refer the Bill to a mediation process in accordance to the provisions of Article 112(1)(a) of the Constitution before the commencement of the recess period.

The House is accordingly guided.

(Several Hon. Members walked into the Chamber)

PETITION

GAZETTMENT OF BUURI WEST SUB-COUNTY AS HARDSHIP AREA

Hon. Speaker: The Members making their way in, please, do so quickly. Hon. Members, Standing Order No.225(2)(b) requires the Speaker to report to the House any public petition other than the one presented by a Member. In this regard, I wish to convey to the House that my Office is in receipt of a Petition signed by representatives of teachers and public servants employed in Buuri West Sub-County, Meru County.

The petitioners hold the view that Buuri West Sub-County is a hardship area characterised by hardship, remoteness, harsh climatic conditions, poverty, human wildlife conflict, poor housing and lack of some essential services like healthcare, clean water and accessible roads.

The petitioners further aver that whereas Buuri West Sub-County borders and experiences similar hardships with Laikipia East Sub-County, the latter is gazetted as a hardship area while Buuri West is not. The petitioners are, therefore, concerned over the discriminatory nature of the gazettment despite the two sub counties lying within the same geographical area. As a result of these disparities, Buuri West Sub-County is faced with the challenge of understaffing as compared to Laikipia East Sub-County. Consequently, the shortage of teachers and other professionals in Buuri West Sub-County has led to a high turnover of officers and poor delivery of essential government services.

The Petitioners are, therefore, praying that the National Assembly, through the Departmental Committee on Education and Research, intervenes in the matter with a view to recommending to the Teachers Service Commission to review the gazetted hardship areas to include Buuri West Sub-County.

The Petition stands committed to the Departmental Committee on Education and Research for consideration. The Committee is requested to consider the Petition and report its findings to the petitioners and the House in accordance with Standing Order No.227(2). In so considering the Petition, the Committee should engage the petitioners and may thereafter make recommendations on the matter as it deems appropriate.

I thank you.

PAPERS LAID

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

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2018, and the certificates therein:

1. University of Nairobi;
2. Kenya National Examinations Council;
3. Kenya Institute of Special Education;
4. Kenya Dairy Board;
5. State Department of Environment;
6. Kenya National Qualifications Authority;
7. Kenyatta University;
8. Kenya National Commission for UNESCO;
9. Multimedia University; and,
10. Independent Electoral and Boundaries Commission.

Hon. Speaker: Next Order!

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by Hon. Sakwa John Bunyasi. He is absent. Next question is by the Member for Nakuru Town East, Hon. Gikaria. Do you have a card?

Question No.176/2019

IMPLEMENTATION STATUS OF MUSIKOMA-BUYOFU-MUNGATSI ROAD

Hon. David Gikaria (Nakuru Town East, JP): Yes, Hon. Speaker. I am trying to operate this machine so that I can access the Question but I cannot. I have tried for the last three minutes. I do not know whether I can get a hard copy?

Hon. Speaker: Your Vice-Chairman is willing to take you through a quick orientation within two minutes. Let us get the next Question by the Member for Endebess.

Question No.189/2019

COMPLETION OF NAKURU-KIAMBOGO ROAD PROJECT

Question No.196/2019

STAFFING OF SCHOOLS IN ENDEBESS

Hon. (Dr.) Robert Pukose (Endebess, JP) asked Cabinet Secretary for Education, Science and Technology:

(i) whether he is aware that three secondary schools, namely Chepchoina, Kietkei and Lutaso in Endebess Constituency are facing possible closures for lack of principals and teachers; and,

(ii) whether he could undertake to ensure that the said schools are provided with principals and teachers.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Education and Research. Let us move on to the next Question by the Member for Navakholo, Hon. Wangwe.

Question No.217/2019

REVIVAL OF PAN PAPER MILLS IN WEBUYE

Hon. Emmanuel Wangwe (Navakholo, JP) asked the Cabinet Secretary for Industry, Trade and Co-operatives:

(i) whether he could give a detailed status of the Pan Paper Mills Company in Webuye with regard to milling, modernization, revival of the company and its ability to offer employment to the youth in the region; and,

(ii) whether he could state the number of youth employed by the company and the status of former employees *vis-à-vis* redundancy and redeployment.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Trade, Industry and Co-operatives. The next Question is by the Member for Kajiado North, Hon. Manje.

Question No.218/2019

BETTER CONTROL AND MANAGEMENT OF TRAFFIC

Hon. Joseph Manje (Kajiado North, JP) asked the Cabinet Secretary for Interior and Coordination of National Government:

(i) whether he could explain the status of implementation of the traffic policy in regard to control and management of traffic and, in particular, the apparent overlapping roles between the National Government and county governments; and,

(ii) what measures the Ministry is putting in place for better control and management of traffic, particularly in cities and towns.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Administration and National Security. Let us move on to the next Question by the Member for Tigania East, Hon. Josphat Kabeabea.

Question No.221/2019

COMPLETION OF MIKINDURI-KUNATI-GATITHINE ROAD

Hon. Josphat Kabeabea (Tigania East, PNU) asked the Cabinet Secretary, Transport, Infrastructure, Housing and Urban Development:

(i) whether he is aware that the tender for the upgrading of Mikinduri-Kunati-Gatithine Road to bitumen standard was awarded to M/s. Elite Construction Company three years ago and, to date, the construction is yet to commence; and,

(ii) whether he could explain what plans are in place to ensure the whole road is upgraded to bitumen standard before 2020 and, further, that the road is motorable before the long rains start.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Transport, Public Works and Housing.

Hon. Members, second round. Question by the Member for Nambale.

Question No.176/2019

IMPLEMENTATION STATUS OF MUSIKOMA-BUYOFU-MUNGATSI ROAD

Hon. Sakwa Bunyasi (Nambale, ANC): Hon. Speaker, I am still trying to get this.

Hon. Speaker: What is happening? Hon. Members are not opening up their gadgets in good time.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Speaker. I had relied on technology but it was not cooperating fully.

Hon. Speaker: Proceed.

Hon. Sakwa Bunyasi (Nambale, ANC) asked the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

- (i) whether he is aware that the construction of Musikoma-Buyofu-Mungatsi Road (D258) to bitumen standards, which is largely in Nambale Constituency, has stalled;
- (ii) whether he could provide details on the implementation status of the said road and its budgetary allocation in the financial year 2018/2019; and,
- (iii) what measures the Ministry is putting in place to ensure the road is completed within the planned project period.

Thank you, Hon. Speaker.

Hon. Speaker: That Question will be responded to before the Departmental Committee on Transport, Public Works and Housing.

For the second time, I call out the Question by the Member for Nakuru Town East.

Hon. David Gikaria (Nakuru Town East, JP): I am sorry for the inconvenience, Hon. Speaker.

Question No.189/2019

COMPLETION OF NAKURU-KIAMBOGO ROAD PROJECT

Hon. David Gikaria (Nakuru Town East, JP) asked the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

- (i) whether he is aware that the construction of Nakuru-Kiambogo Road has stalled; and,
- (ii) whether he could provide details of the project with regard to the contractor awarded the contract, the amount of money allocated to the project and its expected time of completion.

Thank you, Hon. Speaker.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Transport, Public Works and Housing.

That concludes issues about Questions. Before we proceed, allow me to recognise the presence, in the Public Gallery, of students from Bishop Mazzoldi Secondary School from Kajiado North Constituency, Kajiado County. They are welcome to observe the proceedings in the National Assembly.

(Applause)

I would like to draw the attention of the House to the fact that there is a Member who wishes to raise something under Zero Hour, but I do not see her card. It will not be by raising your hand. Where is your card?

Hon. (Ms.) Elsie Muhanda (Kakamega CWR, ODM): It is here.

Hon. Speaker: Where?

Hon. (Ms.) Elsie Muhanda (Kakamega CWR, ODM): It is inside the card reader.

(Laughter)

Hon. Speaker: Hon. Member, I have no indication on my screen as to whether, indeed, the card is where you said it is. I have no way of confirming that it is where you said it is because it is not showing on the screen. Since you are up standing and you have been given the microphone, proceed, Hon. Muhanda.

NOTICE OF MOTION UNDER STANDING ORDER NO.43

INSECURITY IN KAKAMEGA COUNTY

Hon. (Ms.) Elsie Muhanda (Kakamega CWR, ODM): Hon. Speaker, pursuant to Standing Order No.43, I rise to seek leave of the House to raise a matter regarding the state of insecurity and continuous killing of residents in Kakamega County for the last three months – that is in March, April and May, 2019.

In the last three months, more than 10 lives have been lost in Kakamega County. Most of the killings happened in Matungu Constituency. Among those who lost their lives are a pregnant woman and her three-year old daughter, who were killed at midnight at Shihangwe Village of Koyonzo Ward on 4th May, 2019. Her husband and a nine-year old girl were seriously wounded.

Further, a secondary school student was killed on 21st April, 2019 in Namamali Ward, Matungu Constituency, leading to rising tensions in learning institutions and schools within the area. It is sad to note that watchmen have also been the main target during the killings. More than three watchmen have lost their lives. It is, therefore, from the above that I seek leave to raise the matter during Zero Hour today.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I am persuaded. She is not rising under Standing Order No.33. This is under Zero Hour. Given the business on the Order Paper, I accede to the request. Therefore, Hon. Elsie Muhanda will, at exactly 6.30 p.m. or such time as the House will have concluded business appearing on the Order Paper, rise to move that Motion. She has already supplied the details but we advise that she cannot go to the great length. Hon. Elsie Muhanda, you will be at liberty, at 6.30 p.m., to go on.

Hon. Members, at the last sitting of the House...

(Hon. Ali Adan stood in his place)

Member for Mandera you do not have the advantage of not being seen. Your height is such that you must be seen when you are upstanding.

Hon. Members, before we proceed to transact the business appearing as Order No.8, being a Committee of the whole House, when the Committee was sitting, an issue of quorum was raised. The Mover of the Bill moved to seek leave to adjourn and meet again. That Question was not put. Therefore, the House should give that leave.

PROGRESS REPORTED

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Putting of Question deferred on 2.5.2019)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya) took the Chair]

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Resumption of consideration interrupted in Committee on 2.5.2019)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, we resume consideration of the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.13 of 2018). We will start from where we stopped last time - the National Hospital Insurance Fund Act (No.9 of 1998).

THE NATIONAL HOSPITAL INSURANCE FUND ACT, 1998 (NO. 9 OF 1998)

Section 30 (1A)

Hon. Zachary Thuku (Kinangop, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998—

(1) in the proposed amendment to section 30—

(i) by deleting the proposed new subsection (1A);

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, briefly, explain what the amendment is about.

The Leader of the Majority Party

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this is very wrong. The Mover should move the amendment and give reasons or drop his amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): No, he is just taking time to organise himself.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Chairlady.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, kindly let us listen to the Chair so that you can contribute effectively.

Hon. Zachary Thuku (Kinangop, JP): This amendment retains the power of the board to enter into contracts with health service providers. Such contracts shall only be entered into in terms of the regulations prescribed by the board, in consultation with the Cabinet Secretary. The proposed subsection 9 as contained in the Bill creates an offence without prescribing a penalty under this subsection. The general penalty in the section of the Act of a fine not exceeding Kshs 50,000 would apply and this penalty may be too lenient to impose on health service provider who does not comply with the requirements prescribed by the board. The amendment therefore proposes to impose a heavier penalty.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): When I look at what the Committee is proposing to delete, there is nothing to do with the penalties you are talking about. We will give him time to organize himself so that we do the right thing. The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, once you read out Section 30 (1A), there is no room for reorganisation. You must reorganise yourself before you come to the Chamber. I want you to confirm whether the Committee is deleting the provision in the Bill in Section 30(1A). You must state what he is deleting and what he is substituting with. Secondly, there are no penalties in this particular provision.

Hon. Zachary Thuku (Kinangop, JP): I am well guided, Leader of the Majority Party. The amendment retains the power of the board to enter into contract with health service providers but such contracts shall only be entered into in terms of regulations by the board in consultation with the Cabinet Secretary.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Funyula, we need to propose the Question on it first, then I will give you a chance to contribute.

(Question of the amendment proposed)

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, I have looked at the provisions contained in the Bill and to some extent, I agree with the Committee in deleting the specific sub-clause because as we stand now, the focus should be to strengthen our health services and not to contemplate entering into arrangements for specialised treatments in other countries. Secondly, knowing the history of this country and the poor management at the National Hospital Insurance Fund (NHIF), we feel that this could be an avenue for another corruption scandal. So, I totally agree and support the amendment by the Committee. Thank you.

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

(Section 30 (1A) as amended agreed to)

Section 30 (3)

Hon. Zachary Thuku (Kinangop, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998—

(1) in the proposed amendment to section 30—

(ii) by deleting the proposed new subsection (3) and substituting therefor the following new subsection—

“(3) The Board shall use the regulations prescribed under section 29(1)(d) of this Act to enter into contracts with health service providers.”

iii) in the proposed new subsection (9), by inserting the words “and shall be liable on conviction to a fine not exceeding five hundred thousand shillings” immediately after the word “offence”.

The proposed new subsection 9 as contained in the Bill creates an offence without prescribing a penalty. In the absence of a penalty under this subsection, the general penalty in Section 45 of the Act of a fine not exceeding Kshs 50,000 would apply. This penalty will be too

lenient to impose on a health service provider who does comply with the requirement prescribed by the board. The amendment therefore proposes to impose a heavier penalty.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, you seem to be reading the wrong thing. This one is talking about...

Hon. Zachary Thuku (Kinangop, JP): We are deleting subsection (3) and substituting the following new subsection...There is section (iii) of it in the proposed new subsection 9 which inserts the words, "and shall be liable on conviction to a fine not exceeding five hundred thousand shillings" immediately after the word "offence".

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You have gone over. Have you confined yourself to 30(3)?

Hon. Zachary Thuku (Kinangop, JP): Yes, Hon. Temporary Deputy Chairlady.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, we are dealing with Section 30(3). This section has eight subsections. The Chair must first tell us slowly, which one he is amending and what he is deleting. We will wait for him. This is the problem of the Chair and the Vice Chair being absent, now we have a Member who is consulting with the legal team. We are in Section 30(3). So where exactly are we?

Hon. Zachary Thuku (Kinangop, JP): We are in Section 30(3). I think I am faster than all of you but I am learning the ropes. I stand guided.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Take your time and explain it.

Hon. Zachary Thuku (Kinangop, JP): As I had said, this amendment retains the power of the board to enter into contracts with health service providers but such contracts shall only be entered into in terms of the regulations prescribed by the board in consultation with the Cabinet Secretary. I think we are now together.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Kimunya. Sorry, the Mover is also chasing me. Allow me to propose then I will allow you to contribute.

(Question of the amendment proposed)

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. Before we adjourned on Thursday last week, we amended Section 29(1) in part (k) by inserting a new paragraph immediately after paragraph (c) that said: "(d) prescribing the manner and procedure of entering into contracts between the Board and health service providers"

So, having provided that in section 29, it makes sense to delete the amendment contained in section 30(3) because we have taken care of it in Section 29(1)(d).

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I think you are also running ahead. That is a new section.

Hon. Amos Kimunya (Kipipiri, JP): It is not a new section, Hon. Temporary Deputy Chairlady; unless we are looking at different Order Papers. We are at item No. (1) on page 625 of the Order Paper. That is what we are looking at. In (1)(ii) it is proposing the deletion of the proposed new subsection (3) and substituting therefor the following new subsection “The Board shall use the regulations prescribed under section 29(1)(d) of this Act to enter into contracts with health service providers.” which we did on Thursday of last week. So, it is already part of the Bill. Now, we do not need Section 30(3) because section 29(1)(d) has provided for the regulations prescribing how the board will enter into contracts. That is what Section 30(3) was doing. We do not need the two sections. More than anything else, it is a housekeeping amendment. I support that we move in that direction.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, you are supporting the proposal by the Chairperson.

Hon. Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I agree with what Hon. Kimunya has said. When you look at Section 29(1)(d) it is prescribing the manner and procedure of entering into contracts between the board and health service providers.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Eseli. Please speak up.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Chairlady, when we get to Section 30(3), it proposes the deletion of the proposed new subsection (3) and substituting therefor the following new subsection “(3) The Board shall use the regulations prescribed under section 29(1)(d) of this Act to enter into contracts with health service providers.”. It will be right to delete it but, substituting it makes it redundant, however, I do not think it will cause any harm. So, I agree with the Chairman’s amendment.

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

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

(Section 30(3) as amended agreed to)

New Subsections 30(4), 30(5), 30(6), 30(7) and 30(8) agreed to)

New Subsection 30(9)

Hon. Zachary Thuku (Kinangop JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998—

(l) in the proposed amendment to section 30—

(iii) in the proposed new subsection (9), by inserting the words “and shall be liable on conviction to a fine not exceeding five hundred thousand shillings” immediately after the word “offence”.

The proposed new subsection (9) as contained in the Bill creates an offence without prescribing a penalty. In the absence of a penalty under this new subsection (9), the general penalty in Section 45 of the Act of not exceeding Kshs50,000 will apply. This penalty will be lenient to impose on a health service provider who does not comply with the requirements prescribed by the board. The amendment, therefore, proposes to impose a heavier penalty.

(Question of the amendment proposed)

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

(New Subsection 30(9) as amended agreed to)

Section 34(1)

Hon. Zachary Thuku (Kinangop JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998—

(m) in the proposed amendment to section 34(1), by deleting the words “in quoted equities, fixed income, property, guaranteed funds, fixed deposits accounts and” appearing in paragraph (c);

The reason is that, the fund requires liquid assets to respond to its core mandate and investment in some of these options may not, always, allow for convenient access to funds when they will be needed by the fund to discharge its mandate. The amendment, therefore, proposes to retain only the investment in government securities as an additional mode of investment of the funds of the National Hospital Insurance Fund.

(Question of the amendment proposed)

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. History has come to haunt us and that is why we have proposed these amendments. In my reasonable understanding, quoted equities are as liquid as government securities and fixed deposit accounts are as liquid as government securities. Whereas this seems to be a laudable approach, there is danger lurking in it. I suggest that the Chairperson rethinks this proposed amendment so that as we remove property we can, probably, fix deposit guaranteed funds and leave equity and government securities for purposes of this particular section.

Thank you.

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I am supporting with amendments, if they will be allowed. If not, I am opposing.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Member, you cannot have amendments on your feet.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Fair enough. I oppose the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You are either supporting or not supporting. Let us have Hon. Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Chairlady, this amendment was informed by the fact that, in the past, we have seen a lot of misbehaviour with public funds. If we give them an open cheque that they invest in all these areas we are talking about, then we shall be opening NHIF to a lot of mischief whereby the board would invest money in places where there are no returns. You all remember the Euro Bank saga where Kenyatta National Hospital invested Kshs250 million. There is a law also that government institutions can keep their surplus funds. For NHIF, they require that money all the time. So, we felt that opening for them this sort of investment will mean opening them to what we call financial speculation. And that is not the core business of NHIF! They will be getting out of their core business. So, we felt that, especially with the current environment in the country... Unless the environment changes – we have a high level of financial mischief and corruption - we do not want to open that box for any institution.

So, I support the Chair's amendment.

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

(Section 34(1) as amended agreed to)

(Section 36 agreed to)

Section 43

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Mover.

Hon. Zachary Thuku (Kinangop, JP): I beg to move that:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998-

(n) by deleting the proposed amendment to section 43 and substituting therefor the following—

s.43 Delete the expression “Workmen’s Compensation Act (Cap. 236)” and substitute therefor the expression “Work Injury Benefits Act (No. 13 of 2007)”.

This amendment is necessary for purposes of correct referencing of the Act. It is because what we have now is Work Injury Benefits Act and not Workmen’s Compensation Act.

(Question of the amendment proposed)

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

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

(Section 43 as amended agreed to)

(First Schedule, Paragraph (1) agreed to)

(Title agreed to)

(Long Title agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We move on to the new sections.

New Section 6

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We had a proposed amendment by Hon. Sossion, which has since been dropped.

New Section 21(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, what you are supposed to do is to move this new section for Second Reading.

Hon. Zachary Thuku (Kinangop, JP): I beg to move-

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998-

(f) by inserting the following new amendment immediately after the proposed amendment to section 16 –

S.21 (1) Delete the word “Hospital” and substitute therefor the word “Health”.

This amendment seeks to bring this section in line with the amendments proposed in the Bill so as to change the name of the card from National Hospital Insurance Card to National Health Insurance Card. We are substituting “hospital” with “health”.

Again, as you may see on the Order Paper, the New Sections 22(1A) and 22(5) are part of what has since been dropped by Hon. Sossion.

Hon. Members, I beg your pardon. We need to complete New Section 21(1).

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

New Section 26

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Mover.

Hon. Zachary Thuku (Kinangop, JP): I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998-

(j) in the proposed amendment to section 26, by inserting the following new amendment-
S.26 Delete the word “Minister” appearing in the opening sentence and substitute therefor the words “Cabinet Secretary”.

This amendment serves to eliminate the word “Minister” which is no longer in use and substitute the same with the term “Cabinet Secretary” to be in line with the Constitution.

(Question of the new section proposed)

(New section read the First Time)

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

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

(The new section was read a Second Time)

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

New Section 29(1)

Hon. Zachary Thuku (Kinangop, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Schedule to the Bill be amended in the proposed amendments to the National Hospital Insurance Fund Act No. 9 of 1998—

(k) by inserting the following new amendment immediately after the proposed amendment to section 26—

s.29 (1) Insert the following new paragraph immediately after paragraph (c)—

“(d) prescribing the manner and procedure of entering into contracts between the Board and health service providers”

The proposed new subsection in paragraph “d” provides an additional matter in respect of which regulations under the Act may be made. The regulations relate to the powers of the board to enter into contracts with foreign health service providers which shall be made in consultation with the CS.

(Question of the new section proposed)

(New section read the First Time)

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

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

*(The new section was read a Second Time)
(Question, that the new section be added to the Schedule, put and agreed to)*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, we have now finished considerations touching on the National Hospital Insurance Fund Act. We are going on to put the global Question

(Provisions relating to the National Hospital Insurance Fund Act No.9 of 1998 as amended agreed to)

THE URBAN AREAS AND CITIES ACT, 2011 (NO. 13 OF 2011)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have no amendments on this.

(Section 3 agreed to)

(New Section 3A agreed to)

(Provisions relating to the Urban Areas and Cities Act, 2011 (No. 13 of 2011) agreed to)

THE MICRO AND SMALL ENTERPRISES ACT, 2012, (NO.55 OF 2012)

The Micro and Small Enterprises Act, 2012, (No.55 of 2012), Sections 4(1), 4(2), 4(3), 29, 31, 48, 49, 51(4), 51(5)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have no amendments on these ones and so I will go on to propose the Question.

(Sections 4(1), 4(2), 4(3), 29, 31, 48, 49, 51(4) and 51(5) agreed to)

Section 53 (1)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Micro and Small Enterprises Act, 2012, (No. 55 of 2012) by deleting the proposed amendments to section 53 (1).

The proposed amendment only allows umbrella organisations to apply for support. Sometimes, you find in rural areas we do not have those umbrella organisations. You have small Non-Governmental Organisations (NGOs) and Community-Based Organisations (CBOs). If we only leave it to umbrella organisations, it means we are only limiting it to organisations that are likely to be in the city and cutting off organisations that are in the rural areas. So, I am proposing that we do not remove the NGOs and CBOs but allow them to apply on merit. In any event, there will be somebody who will be vetting to determine their qualifications.

I thank you and move.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I want Hon. Millie to explain further whether she is removing the NGOs. If she is not removing, then I will have no problem if the CBOs remain. Are you deleting?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Millie just clarify. He wants to know whether you are deleting the NGOs.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): The proposed amendment is the one that is removing NGOs and CBOs. It is only leaving umbrella organisations to be the ones that can apply. If we do that we are likely to only empower city-based organisations because if you look at the rural areas, there are very few umbrella organisations. We have CBOs and NGOs. If we do that we will have big entities picking the money and not give it to the smaller organisations. I am not removing but seeking to retain the NGOs and CBOs.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Yes, Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. In as much as I can see the intention of our Hon. Colleague, if you look at the respective section in the main Act, it talks about any community-based organisation, non-governmental organisations, associations, umbrella organisations or any other institutions.

The intention, from what we gathered from the Ministry because I happened to sit in the Committee, was to avoid this restrictive tendency to consider CBOs and NGOs and generally leave out associations and institutions. It was to encompass all these bodies and enable them to have an easier and more open approach to dealing with these applicants.

So, I am not so sure whether the change proposed by Hon. Millie Odhiambo really is in line with the provisions related to Micro and Small Enterprises Act considering what has been provided for in the budget. I am just requesting her indulgence to leave the amendments as they are as indeed her concerns could be covered under the group of associations or any other institutions. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, you are requesting Hon. Millie to drop her amendment?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Yes.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Speaking as a lawyer I want to advise my Hon. Colleague that whenever there is an amendment, he should always ask the mischief intended. When you delete where there is NGO and CBO, the mischief is you do not want them to benefit. If you say any other, then these people can make reference to the old Act and say that they were included but they have been deliberately excluded by the Legislature.

When you say any other, this does not necessarily cover them, yet they were already included and now expressly excluded. That is the intention of the legislation when you remove them. I want to urge my Hon. Colleague that there is no harm to have them as it is and then say any other. If you remove that it is to say immediately CBOs and NGOs do not apply. That is the reality.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I agree but you know Prof. Oundo is not aware there are people with NGO background in this House. They are here because of NGO work, the way I am here on behalf of pastoralists. The moment you remove CBO and NGO, you have completely finished them, they have no recourse in this Act. You even saw Hon. Sophia and Prof. Oduol coming back. I will give you the list. When matters NGO come, it is just like the Atwoli people. Today, they are not here. Do not think Atwoli supported us out of nowhere. MPs had no choice because they supported him in staying in office in the National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF). So, he has paid your *deni* by supporting you on the matter of salaries.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, you have now digressed.

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

Hon. (Ms.) Sophia Noor (Ijara, PDR): Thank you, Hon. Temporary Deputy Chairlady. I want to support the amendments of Hon. Millie Odhiambo. I want to declare my interest as a

person who started and founded an NGO which is addressing a lot of community interest. It is in existence even today and is a reputable organisation. For that reason, I know Hon. Millie Odhiambo has done great for this nation. There are many NGOs which have done a lot in this country. If you go to all pastoralists communities you will find...

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is out of order, Leader of the Majority Party? I thought you just supported Hon. Sophia.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairlady. You should not allow the Hon. Members with NGO background to use the Floor of the House to talk to donors. They are now talking to donors. They cannot use the Floor of the House, they need to call a breakfast meeting with the donors. They should not use the august House to solicit for funds for their NGOs.

(Laughter)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Leader of the Majority Party! I think Hon. Sophia is addressing the Chair or is she not?

Hon. (Ms.) Sophia Noor (Ijara, PDR): Thank you, Hon. Temporary Deputy Chairlady. I am addressing you. The Leader of the Majority Party is my brother and I respect him so much. Whenever we are contributing on the Floor of the House, we are either addressing the Government of Kenya or international communities to support this country. So, I am not out of order, because I am looking for a way of NGOs getting support in this country. You know I have helped your people, so mine is just to support.

Thank you, Hon. Temporary Deputy Chairlady for giving me this chance. I am supporting this amendment because I believe NGOs have supported this country and particularly the pastoralists' communities. Wherever you see a water structure, it has been built by NGOs. So, mine is just to support so that they are included and we appreciate their work.

Thank you so much.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That is well said. I think whoever is called NGO background people as said by the Leader of the Majority Party are representatives of the people so, I think we are in order. I will go on to put the Question.

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

(Section 53(1) as amended agreed to)

(Section 53(4) agreed to)

(Provisions relating to the Micro and Small Enterprises Act, 2012 (No.55 of 2012), as amended agreed to)

THE PUBLIC PRIVATE PARTNERSHIP ACT 2013 (NO.15 OF 2013)

The Public Private Partnership Act 2013 (No.15 of 2013), Section 4

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(a) proposed amendment to section 4.

The proposed amendment seeks to do away with a committee that is called the Public Private Partnership (PPP) Committee. This Committee consists of various Principal Secretaries (PSs). My concern with removing that Committee is who will be left, unless the Mover can advise? The Cabinet Secretary is the only one who will be left, without that Committee.

Hon. Temporary Deputy Chairlady, putting so much power in the hands of one person is very bad governance practice. This is because power in the hands of one person is always subject to abuse. Unless the Leader of the Majority Party will show us a compensatory body that ensures accountability by the CS, I am very concerned. I have seen a growing tendency by Cabinet Secretaries to bring amendments that give them power and authority without committees or boards. Again, I stand guided. We should be shown a body that takes over the role of this Committee. However, without that compensatory body, I am very concerned that it is setting a very bad governance practice.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, I see you have gone double digital.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Hon. Temporary Deputy Chairlady. When you are dealing with so many pieces of legislation, you have no choice but to go double digital, otherwise I will not remember why I moved this amendment.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I agree because this is a high-level committee where the Principal Secretary for the State Department responsible for finance sits. The PS for the State Department for Coordination of government functions also sits there. I am wondering where the Chair of the Departmental Committee on

Finance and National Planning is. Chairs of Committees must be here. The Chair of the Departmental Committee on Finance and National Planning looked at this Act. In fact, we cannot move when the Chairs of the various Committees are not here. What Hon. Millie is saying is true. A very important committee is being deleted without a replacement. This can go as I look for the Chair of the Departmental Committee on Finance and National Planning

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

(Section 4 as amended agreed to)

Section 5

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by —

(b) deleting the proposed amendment to section 5;

If Section 5 is passed, then automatically the rest of the sections follow because the proposed amendments were doing away with the Committee. However, now that we have retained the Committee, what it does is that it only provides that the members of the Committee shall be paid such allowances as the CS shall determine in consultation with the Salaries and Remuneration Commission. So, it is just retaining what is there.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Sections 4, 5 and 6 are all on the same line. They talk about the terms and conditions of service. So, once we have retained them, then we have no choice. Let us go one by one.

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

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

(Section 5 as amended agreed to)

Section 6

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by —

(b) deleting the proposed amendment to section 6;

Hon. Temporary Deputy Chairlady, to save time, the amendment just seeks to entrench the roles of the Committee.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I want to go on record that when we deal with Statute Law (Miscellaneous Amendments) Bills, Chairs of Committee are expected to have filed reports with this House. So, they must be here, apart from the Mover of the Bill. At least the Chair of the Departmental Committee on Finance and National Planning has now come. Section 6 is on vacation of office of those members. So, if we are to retain them, then we can also not remove how they vacate office. So, I support that, but on the public private partnership sections and public procurement, I think the Chair of the Departmental Committee on Finance and National Planning can now answer questions as we move forward.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Chair of the Departmental Committee on Finance and National Planning has just walked in. I am not sure whether he is... Maybe we go on and then the Chair can speak to it along the way.

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

(Section 6 as amended agreed to)

Section 14 (1)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by —

(b) deleting the proposed amendment to section 14 (1);

Hon. Temporary Deputy Chairlady, if you notice that section talks about the unit that would be the secretariat to the Committee. So, if we delete it, it means the Committee will have

no secretariat. Given that we have retained the Committee, this basically just helps in terms of the work of the Committee.

(Question of the amendment proposed)

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

(Section 14(1) as amended agreed to)

Section 14(2)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(b) proposed amendment to section 14(2);

Hon. Temporary Deputy Chairlady, this part actually shows what I was talking about in terms of governance. It is now giving the role of the Committee to the Cabinet Secretary. So, what it basically does is to replace the word “Committee” wherever it appears with the words “Cabinet Secretary”. It does help in terms of accountability and good governance. I am proposing that we amend as per the Order Paper. It is in tandem with my previous amendments.

(Question of the amendment proposed)

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, much as we agreed with the earlier proposals, if you look at the current proposed amendment to Section 17 (1), it actually seeks to only delete (j) within Section 17 (1).

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kimunya, we are dealing with Section 14 (2).

Hon. Amos Kimunya (Kipipiri, JP): I agree totally on Section 14.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You have run so fast.

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

(Section 14(2) as amended agreed to)

Section 17(1)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(f) proposed amendment to Section 17(1);

Section 17 (1) as per the current Act states: “Prepare projects in accordance with guidelines, standards and documents issued by the committee under this Act.” The Bill seeks to replace the committee with the Cabinet Secretary. I am pre-empting because I have heard my friend, Hon. Kimunya, raising concerns. If you have a committee that cannot prepare projects...I can see his concern. The Act states: “Prepare projects in accordance with guidelines, standards and documents issued by the committee.” I can drop that amendment. That is the role of the CS.

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

(Section 17 (1) agreed to)

Section 27

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(g) proposed amendment to Section 27;

You will excuse me because the amendments are many so I am also taking time to comprehend. This amendment basically seeks to entrench the role the committee and not give the CS too many powers.

(Question of the amendment proposed)

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, the amendment as proposed basically deletes the words “where it considers” and substitutes them with the words “where he considers”. The current Bill states that the CS may, in consultation with the debt management office and committee, where he considers it necessary... The operative words are “the CS may...where he considers it necessary”. This was mainly for housekeeping to clarify who makes a consideration and initiates the process of supporting a project by issuing a guarantee undertaking or letters of comfort. It is only the CS who may issue those letters after

consultations. The wording was wrong. It is not good English. I urge Hon. Millie to either withdraw that amendment or we vote against it for purposes of good order.

The essence of this amendment is to clarify Section 27. I can see the Member for Funyula agitating. “The CS may, in consultation with the debt management office and the committee, where he considers it necessary, support a project and in order to reduce its premiums, issue a guarantee undertaking or binding letters of comfort in relation to a project.” That is how it will read. Like I said, it is only the CS who can issue those letters. He will only do it after consultation with the debt office and the committee. It is not the committee to issue.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I want Hon. Millie to drop this because that is the function of the CS. Even where the committee that we have retained makes a decision, ultimately they will forward it to the CS. This is dealing more with the role and function of the CS and bringing on board the debt management office. That is why the Bill says the CS will consider it. Now that we have retained the committee, this is more of a function of the CS. The Bill says that the CS may, in consultation with the debt management office and the committee, where it considers it necessary to support a project and in order to reduce the premiums factored for political risk, issue guarantee, undertaking or binding. This is more of a function of the CS of the National Treasury. It is only correcting grammar.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Listening to Hon. Kimunya, the English construction was wrong. However, what we are proposing is also wrong. Because it is neither here nor there, I can let it go and drop it. As I look at my proposal, the sentence construction is still wrong. It will read wrongly in English. It is neither here nor there. I can drop it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya: There is no duress, Hon. Millie.

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

(Section 27 agreed to)

Section 28 (3)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(h) proposed amendment to Section 28(3);

In the parent Act, Section 28(3) gives the committee the role, where it considered it appropriate and in consultation with the unit, to impose a success fee on a transaction to be paid by a successful bidder in accordance with the tender documents. The amendment seeks to take that power away from the committee and give it to the CS. Especially on issues of tenders, when you give the authority to one person, it is subject to abuse. That is why I propose that it remains with the committee.

(Hon. (Ms.) Sabina Chege and Hon. Moses Kuria consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Member for Murang'a and Hon. M.K, your consultations are turning into a *kamukunji*. Please consult in low tones. Leader of the Majority Party, what is out of order?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you have heard what she has said. I am sure the people of Murang'a are watching. She is comparing Hon. Moses Kuria to His Excellency the President who is our party leader. Hon. Moses Kuria is not His Excellency. He is the Member of Parliament for His Excellency. I am sure the people of Murang'a are watching. Hon. Moses Kuria cannot be equated to the Head of State. She better say that she is consulting with the Member for Gatundu South.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Member for Murang'a, Hon. Moses Kuria is the Member for Gatundu South Constituency. Let us have Hon. Sabina.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. It is always good for the Leader of the Majority Party to also know that governors are called His Excellency. I was not on record referring to anybody as His Excellency. Can he prove that I referred to the Member for Gatundu as His Excellency? But dreams are also valid. Some want to become governors.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Member for Murang'a, your *kamukunji* stands disbanded. Can you resume consulting in acceptable tones? Hon. Millie, I think you were still on your feet. Were you done prosecuting your amendment?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Okay. I will go on to propose the Question.

(Question of the amendment proposed)

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, I have two concerns in relation to the amendment proposed by my colleague. One, if you look at Section 4 of Clause 28 of the main Act, it gives the Cabinet Secretary the power to make rules for determining the success fee under this section. I imagine that the drafters of the amendments wanted to tie it up to make it neat because any work by the Committee might be negated or pre-set by the CS. Why not just consolidate it in one office to avoid unnecessary duplication and

generally a waste of time? There must be an independent second party that assesses the cost of any success fee because the Committee, having literally gone through the process and approved the project, will not be a very impartial party to determine it, and moreso when you look at the history of this country. So, I suggest that we deliberate on the matter. I suggest that she looks at it, including Section 4, so that we tie-up the entire matter.

Thank you.

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I wish to support Hon. Millie in this amendment. Having reinstated the Committee...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Member for Kipipiri. Whom are you supporting?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Millie Odhiambo.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Okay. I heard a strange name but you can go on.

Hon. Amos Kimunya (Kipipiri, JP): I said Hon. Millie. I support her on the premise that this amendment in the Bill was presupposing that we will have removed the Committee and replaced it with the CS. Now that we have reinstated the Committee, it is only fair that we retain the Bill as it was whereby the Committee was the one to impose a success fee, but it then has a proviso in the subsequent Section 4 that the CS will make the rules. The two are tied as the Member for Funyala is proposing within the original Bill. If we do not do this, then we will end up with a duplication.

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

(Section 28(3) as amended agreed to)

Section 30

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(i) proposed amendment to Section 30;

Section 30 in the parent Act provides that the Committee shall issue guidelines for the identification, selection, pre-tender approval, tendering negotiations, post-tender approval and monitoring process of Public Private Partnership (PPP). The amendment seeks to give that role again to the CS. In the same spirit, the CS was supposed to do everything. If we retain the Committee, that should stay as part of the role of the Committee.

(Hon. (Ms.) Odhiambo Mabona consulted Hon. Joseph Limo)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie and the Chair of the Departmental Committee on Finance and National Planning, you are out of order.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am sorry, Hon. Temporary Deputy Chairlady. The Chair of the Departmental Committee on Finance and National Planning is raising a very fundamental issue.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): He should not do that across the aisle. Hon. Chair, do you have something you want to say and it has to be on record? Hon. Limo.

(Question of the amendment proposed)

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Chairlady. We had this proposed amendment in the Statute Law (Miscellaneous Amendments) Bill. At the same time, there was a substantive Public Private Partnership Bill which is still at the Senate now. The decision was made that the amendments in the Statute Law (Miscellaneous Amendments) Bill relating to Public Private Partnership be moved to the substantive law. That was the request by the National Treasury. Instead of the amendments being considered in the Statute Law (Miscellaneous Amendments) Bill, they were moved to the substantive law which was already in this House. As a Committee, we did exactly what Hon. Millie is doing. We reinstated the Committee. I have just recollected because it was in the last Session. I have confirmed that the Bill is still in the Senate. Therefore, we need to get the view of the Leader of the Majority Party on how we will proceed with Hon. Millie's amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, are you addressing all the amendments that Hon. Millie has fronted? You can see from the Communication from the Speaker that there are those sections that have been taken out with regard to what you are alluding to; that they were dealt with in another substantive legislation.

Hon. Joseph Limo (Kipkelion East, JP): What came to my attention is the issue of the Committee. We addressed it properly in that other Bill.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady that is why I said that these Chairs of the Committees must be here. When we were beginning with Section 4, the Chair was not here. I have not received any communication from the National Treasury telling me to withdraw these amendments. I have withdrawn the amendments in the Statistics Act because I got a communication from the Attorney-General. Let us continue. This Bill will also go to the Senate. If the other Bill leaves the Senate, we will tell the Senate colleagues in the Finance Committee to amend the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): In any case, we have dealt with what the Chair is talking about. Hon. Millie, are you done so that we propose the Question to Section 30?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes.

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

(Section 30 as amended agreed to)

Section 33(1)

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(j) proposed amendment to Section 31(3);

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Move the amendment in Section 33(1), Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Is it Section 33(1)? What happened to Section 31(3)?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, Section 31(3) was dealt with in a Communication from the Speaker. So, we will not consider that anymore.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am sorry. Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(j) proposed amendment to Section 33(3);

The reasons for the amendment are basically the same because the idea was to remove the Committee and replace it with the unit because the work of the Committee was to be taken over by the CS. If we have retained the Committee, then they should also retain their work. So, it does not go to the unit.

(Question of the amendment proposed)

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

(Section 33(1) as amended agreed to)

(Section 48(4) agreed to)

Section 52(1)

The Temporary Deputy Chairlady (Hon. (Ms.) SoipanTuya): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the—

(n) proposed amendment to Section 52(1);

The section was taking away the power of the Committee for approval because it presumed that it is going to the Cabinet Secretary. So, I am seeking to retain the role of the Committee.

(Question of the amendment proposed)

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

(Section 52(1) as amended agreed to)

Section 58

The Temporary Deputy Chairlady (Hon. (Ms.) SoipanTuya): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the-

(q) proposed amendment to Section 58.

The reasons are as above, so that we can give the powers back to the Committee.

(Question of the amendment proposed)

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

(Section 58 as amended agreed to)

Section 61(2)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the-

(r) proposed amendments to Section 61(2).

This is for the same reasons as those given earlier.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Millie, could you expound it.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, bear with me a little. I am looking for it. Technology disappeared with my amendments. I am very technologically alert.

The reason I propose to amend Section 61(2) is because the Committee plays a significant oversight role and should not be removed from the process. The process in the parent Act says that “A contracting authority shall before commencing negotiations with a private party under this section...” and it gives all that should be done, but it takes the authority from the Committee. So, I am basically seeking to return the authority back to the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Leader of the Majority Party, are you satisfied?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I agree because it is a follow up of what we have been doing from Section 4. I support the amendment.

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

Hon. Amos Kimunya (Kipipiri, JP): I do not know whether I am ahead again, but looking at Section 61(2)(b), in the original Bill, it was to submit the proposal to the unit for consideration and recommendation. Then (c) looks at what the Committee does upon obtaining the recommendations from the unit. Now, the Member is proposing to reinstate it to what it was before. The explanation was not exactly the same and that is why I got lost, but if it is to reinstate it to what it was before, we are together.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): So, you are okay.

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

(Section 61(2) as amended agreed to)

Section 63(3)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by deleting the-
(s) proposed amendment to Section 63(3).

Again, the justification for the amendment is for the same reasons as explained earlier. The proposed amendment takes away the role of the Committee on dispute resolution. So, I am basically returning the role of the Committee in dispute resolution.

(Question of the amendment proposed)

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, I suppose the purpose of any legislation, progressive as it might be, is to reduce bureaucracy and cumbersome processes involved in the process of arbitration because in any commercial agreement or arrangement, there will be disagreements. Requiring the approval of the Committee before referring the matter to arbitration is an unnecessary bureaucracy and an impediment to speedy conclusion of commercial agreements. I suppose the proposal presented in the amendment generally gives the leeway to the contracting parties because the Committee is not a contracting party. It will be neater to allow the contracting parties to go straight to arbitration without having to go through the cumbersome process of referring the matter to the Committee.

I imagine that is the intention of the drafters of the amendment.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I agree with Prof. Oundo. I want Hon. Millie to listen to me. Currently, the Act gives the Committee some powers to adjudicate. So, it is better she withdraws this amendment because the one in the Bill is better.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I see what Prof. Oundo is saying and I agree. When we want to make business better, we do not put too much bureaucracy in place. I see the sense of what he has said.

So, I withdraw the amendment.

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

(Section 63(3) agreed to)

Section 64

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. This Bill in itself shows the reason why we say miscellaneous Bills should not come with substantive amendments.

I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) —

(t) by deleting the proposed amendment to Section 64.

The reason is that even though it may be important to provide graduated levels of approval depending on the magnitude of the project, we are creating avenues for corruption by vesting unchecked powers to the Cabinet Secretary. Good governance requires dispersal of powers in different units and not putting them in an individual's hands. I propose deletion of it.

(Question of the amendment proposed)

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, much as I agree with Hon. Millie, there is a fundamental introduction being made within the Bill of bringing the second level of Government. When this Bill was prepared, we did not have the county governments and, therefore, they were not captured. But now, Public Private Partnerships have envisaged it at both levels of Government. The proposed amendments to Sections 64 and 64(1)(b) seek to bring that into play. In case of a county government-level project that is not provided for in the original Bill, then you can obtain the concurrence of Cabinet Secretaries at both levels. It is not just a matter of bureaucracy, but it is fundamental in terms of bringing into play the role of the Cabinet Secretary, recognising the fact that Public Private Partnerships could also be taking place at the county level. On this one, I urge Hon. Millie to yield to this new development so that we can make progress.

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

Hon. Aden Duale (Garissa Township, JP): I ask Hon. Millie that business in this House is conducted on the basis of give-and-take. First, if we agree with her amendments, the whole concept of county government is lost. Second, even in (a), the Cabinet Secretary will only act on behalf of the Committee. Let us also have the element of the county government in place.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I have looked at it again. In the spirit of give-and-take, I withdraw the amendment.

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

(Section 64 agreed to)

Section 65(5)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by—

(u) deleting the proposed amendment to Section 65(5);

This one says that the Committee shall oversee the implementation of every project under this Act. If we drop it and leave it to the unit, it means we are making the role of the Committee irrelevant.

(Question of the amendment proposed)

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

(Section 65(5) as amended agreed to)

Section 71(1)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by—

(v) deleting the proposed amendment to Section 71(1).

Section 71(1) gave the Cabinet Secretary the power to make regulations generally for the better carrying out of functions under this Act and in particular for prescribing certain things. Because it was presumed that the Cabinet Secretary will take over the role of the Committee, the role of the Cabinet Secretary was done away with. If we amend it, then it means we are taking away certain important functions of the Cabinet Secretary, which I think should stay. As I propose that amendment, let me say that this Act reminds me of the love of Jesus. It does not end. It goes on and on.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is a good reminder, Hon. Millie.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): I agree with Hon. Millie. One of the key functions of the Cabinet Secretary is to make regulations. So, I am wondering why somebody wants to delete this amendment. That is as per the Statutory Instruments Act.

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

(Section 71(1) as amended agreed to)

First schedule

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Private Partnership Act, 2013 (No.15 of 2013) by—

(w) by deleting the proposed amendments to the First Schedule.

You can see the First Schedule is about the conduct of business and affairs of the committee. If we delete it, it means we will have a committee without regulations as to how they conduct their business. I propose, in light of what we passed earlier, that we retain this one.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, because this is the last amendment of Hon. Millie, I have an advice to my good friend, Atwoli. He should hire Hon. Millie Odhiambo to bring amendments with very serious justification and not a crowd of flower girls and many others to come and shout. Hon. Millie Odhiambo is the right person Atwoli should look for so that she can convince us and not the people who were making noise yesterday - trade unionists and those other girls - who are his good friends.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What about the people of Suba North?

Hon. Aden Duale (Garissa Township, JP): Even if you have an amendment and you want to oppose me as the Mover, you must convince me. Do not bring a crowd to Parliament. I am fasting. So, I do not want to go further. Hon. Millie is the right person, if people want to use a very good legislator during a Committee of the whole House.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Certainly, if it is within the confines of her role as a representative of the people of Suba North and a legislator, it is fair enough.

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

(First Schedule as amended agreed to)

*(Provisions relating to the Public
Private Partnership Act No.15 of 2013 as amended agreed to)*

THE CROPS ACT, 2013 (NO.16 OF 2013)

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

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

Hon. Aden Duale (Garissa Township, JP): We are meant to look for the Chair of the Departmental Committee on Agriculture and Livestock.

(Hon. (Ms.) Odhiambo-Mabona spoke off record)

You know, Hon. Millie, there is a difference between “he was here” and “he is not here”.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is very important to have the respective Chairs present.

Hon. Aden Duale (Garissa Township, JP): If he is not there, we should drop the amendment. We remove it!

Hon. Temporary Deputy Chairlady, there is nothing here like “he is coming” or “he was here”. If he is not present, drop the amendments the way it is done for amendments by individual Members. The Chairs are not special.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have a Member of the Committee who is standing in for the Chair. I do not see any proposed amendment by the Chair, but it is important that they be here for any arising questions. I understand Hon. Millie has proposed amendments.

Hon. Tuitoek, we take it that you are standing in for the Chair of the Departmental Committee on Agriculture and Livestock. We are moving to the Crops Act. We have no amendments. I will go on to propose.

Hon. Daniel Tuitoek (Mogotio, JP): Section 2 and Section 8(n).

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, we will come to you.

(Section 2 agreed to)

(Section 8(n) agreed to)

Section 9

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Crops Act, No.16 of 2013—

(a) in the proposed amendments to Section 9 by inserting the following new subsection immediately after the subsection (5)—

“(6) In appointing members under paragraphs (e) and (f), the appointing authority shall take into consideration gender representation, ethnic diversity, youth and representation of persons with disability.”

I do not have a problem with the amendment as proposed by the Committee save that I would want that for appointment to the board, there be consideration of gender, ethnic balance, and representation of youth and persons with disability as possible. That is all about my proposed amendment.

The Temporary Deputy Chairlady (Hon. SoipanTuya): Is that on Section 9?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes. I have two amendments. There is Section 9A and Section 9(6). In one of them, the Committee has proposed amendments in the form of New Section 9(4), New Section 9(5) and New Section 9(6). So, I am proposing a New Section 9(5) to include that representation of gender, ethnic balance and need for representation of youth and persons with disability.

(Question of the amendment proposed)

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, what Hon. Millie is proposing is a constitutional requirement. Does it have to appear in this particular statute?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, if you look at the practice of the House, you will realise that in every Bill, we have made provision even though it exists in the Constitution. The practice is that in some ministries, when it is not provided for, they tend to overlook. We are even told: “Remind them even when they know”. So, when you put it here, people will know that you need to provide. So, the practice in the House has been that even though it is in the Constitution, for most Bills, for purposes of emphasis, we still put it in there, so that we do not forget our male and women colleagues and issues of ethnic representation.

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Leader of the Majority Party. That is your pet topic.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I really want to ask Hon. Millie to drop this amendment. This is just a standard thing. I think we shall be over legislating. Always, they will put in the issues of gender. For instance, if the Chair is a man,

the Vice-Chair will automatically be a woman. So, we would like to urge her to drop this one and then we can move to the next one.

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Let us hear Hon. Makali. He is the one who started this matter.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Chairlady, what she is saying makes a lot of sense, but then we can always make reference to the Constitution with regard to that particular requirement. We do not have to list that down. We can state that if they do that, then this particular requirement of the Constitution has to be met.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I have no problem in making a further amendment to my own amendment except that I do not have the particular Article of the Constitution. I do not know if it is Article 27. I think that one is on affirmative action. So, I can say that after the words, “persons with disability” we add the words, “as per Article 27 of the Constitution.” That will be okay.

For marginalised communities like the one the Leader of the Majority comes from - I understand him and I hear him - I wish he would have requested me for something else. But because I speak for the marginalised and the vulnerable, if you do not include, the tendency and the practice is to exclude. So, because of that, I always push for issues of the marginalised and the vulnerable. It is in the Constitution, but you should put it for purposes of emphasis. I know the practice in most ministries is that when they are implementing, they do not look at the Constitution. They look at the parent Act. Therefore, I have provided a further amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, you need to read for us your new version.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): It reads: “In appointing members under Section 9, paragraphs (e) and (f), regard shall be on gender representation, ethnic balance and the need for representation of youth and persons with disabilities as provided for under Article 27 of the Constitution.”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Is that all?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is wordy. Can we hear it again? We may require you to write it out.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady. Let me be clear. I was giving my proposed amendment before the Departmental Committee on Justice and Legal Affairs. It will read as follows:

“In appointing members under paragraphs (e) and (f), the appointing authority shall take into consideration gender representation, ethnic diversity, youth and representation of persons with disability under Article 27 of the Constitution.”

I have only added the words “under Article 27 of the Constitution.”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Is it not “as per Article 27 of the Constitution”?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I can have it as: “As per Article 27 of the Constitution.” So, I will amend it to say: “In appointing members under paragraphs (e) and (f), the appointing authority shall take into consideration gender representation, ethnic diversity, youth and representation of persons with disabilities as per Article 27 of the Constitution.”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Can we proceed?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Makali, you seem not satisfied. What is it?

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. What Hon. Millie has done does not solve the problem we are discussing. I thought she was to delete the first part of her amendment and just say: “As per Article 27 of the Constitution”. She should delete the issue of marginalisation, tribe and gender.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, can you make your proposed amendment neater?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I can by saying: “In appointing members under paragraphs (e) and (f), the appointing authority shall take into account Article 27 of the Constitution.” That is for emphasis. That is all.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Very well. That is in order. Can we hear Hon. Tuitoek?

Hon. Daniel Tuitoek (Mogotio, JP): Hon. Temporary Deputy Chairlady, I have no objection as far as Paragraph (e) is concerned. However, I have an objection to Paragraph (f).

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Tuitoek, pull out your microphone.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Chairlady. I was saying that in Paragraph (e), there are three people to be appointed, but in Paragraph (f), it is only one person. I do not know how you will take into consideration gender when it is one person to be appointed. We are automatically looking for an expert. Paragraph (f) states that: “One person appointed by virtue of knowledge and experience in matters relating to agriculture, co-operative or law”. So, it can be from either gender.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, since I am dealing with them under one paragraph, that means when they go to Article 27, they will look at them in totality so that if in Paragraph (f) they appointed a man, in Paragraph (e) they will look at both women and men. So, it still makes sense.

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

(Question of the further amendment proposed)

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

(Section 9 as amended agreed to)

Section 9A

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Crops Act, No.16 of 2013—

(b) in the proposed New Section 9A(1) by deleting the words “through a” and substituting therefor the words “ through an open, transparent.”

I am adding the words “open and transparent”, so that when you are appointing, the process is not only competitive. I noticed during the times Parliament was conducting its selection process in the 10th Parliament that there were offices that would come and claim they have selected people through a competitive process that nobody knew. It can be competitive, but neither open nor transparent. So, in tandem with good governance practice, I am adding the words “open and transparent”, so that it is competitive, open and transparent.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Hon. Millie Odhiambo is over-legislating. How can you be competitive and you are not transparent? Please, drop that amendment. We are over-legislating on that subsection.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, as a governance expert, words have significance. You can be competitive without being open and transparent. I can decide to call people and ask them to apply for a position. It will be competitive because I have included 20 people, but it will not be open and transparent because I will have called my friends to apply. In good governance, when you add the words “open, transparent and competitive”, they complete the circle of good governance.

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

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady, I agree with Hon. Millie. As she has explained, it is not good enough to say you are competitive. You must add and include openness in its write-up to make the whole exercise complete. When you are open and transparent, it is not the same as being competitive. Therefore, I agree with Hon. Millie. That proposed amendment is in order.

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Sorry, Hon. Temporary Deputy Chairlady. Words, as she says, have significance. However, some words become a mouthful when it comes to implementation. I have all along believed that if you are transparent and you comply with the laws and regulations concerning recruitment, you have literally been open and transparent. In most of the laws we have passed in this Parliament, we have had reference to competitive appointment or filling vacant positions. It will be in order that we retain the same trend so that we do not sound to be too legalistic so to speak or look as though we are imposing the civil society mentality to legislation process.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Let us have Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, this particular law is not being legislated in isolation. The Crops Act, No.16 of 2001 is only one of the several legislations touching on boards and appointment of staff on the boards. The wording has always been “competitive.” So, by trying to highlight one law, we will be inconsistent with all other laws. It is important for us to remember that in all the other laws. When the word “competitive” was adopted, there was also a *Mwongozo* code that guides how boards do it. There is the wider State Corporations Act that also guides how things are done. Let us not be over-legislating on one to the exclusion of the others. “Competitive” implies openness and transparency. You can be open and competitive with 10 people. What is the yardstick for openness and transparency? We can know a process is competitive if, for example, the board demonstrates that the opportunity was afforded to every eligible Kenyan. That is the measure for competitiveness. So, perhaps, Hon. Millie, should allow us to not overload the law and go with the simple thing that we can test.

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

Hon. (Ms.) Millie Odhiambo (Suba North, ODM): Hon. Temporary Deputy Chairlady, my point of order is that Hon. Kimunya is misleading the House. I have been in this House and I legislate a lot and in many pieces of legislation the standard wording is “open, transparent and competitive.” I know that because I have moved most of them. I am not going to withdraw this amendment. It can be put to the vote. I do not mind losing, but I will go on record that I prefer open, competitive and transparent process. I want to tell Prof. Oundo that there is nothing wrong with the civil society or the NGOs. It is actually what has brought this country this far. Issues of openness and transparency are what have brought us this far. Some of us are not embarrassed by our background in the civil society and we should not make it look like reference to standards - and they are not necessarily civil society standards - but standards that obtain, one, in Government documents and, two, in treaties that this country has ratified on governance is wrong. So, it is not civil society. Civil society is only using laws that we have ratified.

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

(Section 9A agreed to)

(Sections 10(1), 10(2), 13(1)(j) and 18(1) agreed to)

(Provisions relating to the Crops Act, No.16 of 2013 as amended agreed to)

THE TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING ACT, 2013 (No.29 OF 2013)

The Technical and Vocational Education and Training Act, 2013 (No.29 of 2013), Section 2

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, the Schedule to the Bill be amended in the proposed amendments to the Technical and Vocational Education and Training Act, 2013- (1) by deleting the proposed amendments to Section 2.

This is basically to delete that proposed amendment because when we looked at it as a Committee, we found that the proposed amendment to Section 2, and indeed, to Section 58 thereafter, are intended to exclude some institutions which, although public, are then being excluded from the ambit of the TVET Act. We believe that all public technical and vocational education institutions should be governed by the same one Act.

You realise that within the definition of a public institution, which is in Section 2, it is any institution that is established or maintained by use of public funds or by the community. This amendment addresses the issue of institutions established under any other law or which are not expressly subjected to this Act. When we look at it, we wonder which are the other institutions which are established by another law, though public-funded, and are being excluded from being public institutions. So, for clarity, we would like to ensure that all public institutions under the TVET Act are governed by the same Act, hence our proposal that we delete this amendment that seeks to subject some to exemptions from the Act.

I beg to move.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, on this amendment, I support the Vice-Chair of the Education and Research Committee. It is a very dangerous amendment. We are opening the gates for private institutions to access public money

and still work and administer their business outside this Act. So, what the Vice-Chair is saying is that any public institution, be it vocational or technical, must be run as per the Act and there are no exceptions. There are no private or individual people who own them.

So, I support.

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

(Section 2 as amended agreed to)

Section 46

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Mover.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Technical and Vocational Education and Training Act, 2013—

(2) by inserting the expression “(1)” immediately after the expression “s. 46”.

(3) by inserting the following new paragraph immediately after the proposed new paragraph (ba) in the proposed amendments to section 46 –

“Delete the word “three” appearing in paragraph (d)(iv) and substitute therefor the word “two”.

You will find that the Bill is amending Section 46(1), but it does not state expressly so within the Bill. So we want to amend the amendment within the Bill to be more specific to what we are amending, which is Section 46(1). It is purely a typographic insertion.

(Question of the amendment proposed)

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

(Section 46 as amended agreed to)

Section 52

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Mover.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Technical and Vocational Education and Training Act, 2013 –

(4) by deleting the proposed amendments to Section 52.

This is basically to delete the amendment. As I explained, it is tied to what we already have removed in Section 2, which is the same reference to public institutions excluding some institutions. Having amended the proposed amendment to Section 2, the proposed amendment to Sections 52 and 58 die naturally. So it is just a cleaning up consequential to the amendments we have done to Section 2.

(Question of the amendment proposed)

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

(Section 52 as amended agreed to)

Section 58

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, the Schedule to the Bill be amended in the proposed amendments to the Technical and Vocational Education and Training Act, 2013 –

(5) by deleting the proposed amendments to Section 58.

It is for the same reason having amended Section 2 then Section 58 is inconsequential.

(Question of the amendment proposed)

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

(Section 58 as amended agreed to)

New Section 16

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kiarie on behalf of Hon. Jude Njomo.

Hon. John Kiarie (Dagoretti South, JP): Hon. Temporary Deputy Chairlady, it is true I am holding brief for Hon. Jude Njomo, Member for Kiambu Town.

I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Technical and Vocational Education and Training Act, 2013—

(a) by inserting the following new amendment immediately after the proposed amendment to Section 2—

s. 16 Delete and substitute therefor the following new section—

Vesting of
property.

16. (1) All such movable property, shares, funds and securities shall vest in the institution and shall be dealt with in such manner as the Board may determine.

(2) All such immovable property shall vest in the person under whose name the property is registered and shall be dealt with in such manner as the owners of the property may determine

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. K.J., you need to move it for Second Reading, being a new section.

Hon. John Kiarie (Dagoretti South, JP): I am well guided. I am moving that the Schedule to the Bill be amended in the proposed amendment to the Technical and Vocational Education and Training Act, 2013...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. K.J., just to tidy the records of the House, you could just say: I move that the New Section 16 be read a Second Time and then give a justification for that.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much and I am well guided. I propose that the New Section 16 be read a Second Time.

Hon. Temporary Deputy Chairlady, Hon. Jude Njomo is seeking to cure the situation where land that belongs to TVETs is ending in a lot of squabbles between the original sponsors and owners of the land and other interested parties. Precedent has been set in areas where church or religious-sponsored institutions have continually received Government funding such as in the case of national schools. I am giving an example that is very close to Dagoretti South Constituency - the Alliance High School, which we all know, which is well sponsored by the church.

The Government understands the dichotomy between the original sponsors and what the Government comes to do later as an investor in this educational institutions. Such a situation exists in Dagoretti South Constituency. The land for the Kinyanjui Technical Institute was originally donated by the Kinyanjui family, but as we speak, the Orthodox Church sponsors through His Eminence, Archbishop Makarios. The distinction here is to safeguard the immovable assets of these institutions.

I beg to move.

(Question of the new section proposed)

(New section read the First Time)

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady. I have keenly listened to the Mover of this amendment and I beg to oppose it vehemently. The Mover alluded that Hon. Jude Njomo wants to cure a mischief. However, the mischief that Hon. Jude wants to create is to have a situation where somebody or some group of people donate land for a public institution, the public puts money in it, creates an institution and then one day down the line... This amendment is seeking to say that all such immovable property shall vest in the person under whose name the property is registered and shall be dealt with in such manner as the owners of the property may determine. It now means that after we have put a TVET on a land that has been donated by the community, which is now registered under the donor such as Bishop Makarios, his son then comes one day and says that that institution is registered in their name and the Act allows him to deal with it in such a manner as he may determine, therefore, remove your college because he now wants to put up flats.

We are having situations in this country where people purporting to be original trustees of land that was vested by the community in them to hold trust for the community have now started subdividing it and denying the institutions the fair title to the institutions. Public money has been invested in them and they are no longer protected. When we crafted the original provision in Section 16 of the existing Act, and I want Members to listen to this so that we can know, we put in very clearly that; “All such immovable property, shares, funds and securities as may from time to time become the property of the Board shall be dealt with in such manner as the Board may determine, subject to the conditions upon which grants are made from public funds for capital and recurrent purposes and the conditions upon which any endowment, bequest or donation is made for any purpose connected to the Board.”

*[The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya)
left the Chair]*

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

In other words, the existing law covers protection of public funds. It also covers where land has been given by some donor, be it the Aga Khan Foundation or Kimunya Trust, but the condition that you put are protected by the law. However, when we are trying to open it up and say movable property be given to the board, immovable property be given to the original owner of the land, we are creating a situation like in those stories of “*Abunwasi*” where somebody tells me the land is mine, but the buses and the computers are yours. Take away your computers and give me back the land. It is a very dangerous amendment. It does not cure any mischief. It creates mischief and this House should vote against it.

I thank you.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairman, I oppose. You know Hon. Jude Njomo is not here. His representative is here and is holding brief for him. He is used to the interest rates amendments which we supported him. This is a very dangerous amendment. This amendment is intended to vest the movable property shares, funds and securities of the institutions on the institution and shall be dealt with in such manner as the board may make a determination.

Then, when you come to immovable property, it is vested in the name of a person whose name is registered. So, there will be chaos as to who owns the institution. This amendment, in fact, has very ulterior motives. The moment we pass it and it is assented into law, you will see invasions into colleges by communities and leaders.

So, Hon. Jude Njomo and your representative, I oppose and it should not see the light of day. You know, Hon. K.J. is a good friend of mine, but he wants to sell pork to Muslims in the holy month of Ramadhan. I do not agree with this and I oppose.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. When I look at this amendment and the way it has been moved, I agree there is a problem. Some sponsors have taken advantage of public land and they want to behave as if it is theirs. But despite that problem being there, I do not think what is being proposed is the solution because it will cause more problems. That is why I oppose.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Makali, you think there is more mischief than the one which is being sought to be cured. Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. I oppose the amendment. You know being a messenger sometimes you are unable to pass the message as the inventor or the owner of the message. I have heard him struggle to justify, but nevertheless, he has done his best.

Secondly, matters relating to vesting of properties is adequately covered in the Land Registration Act, the National Land Commission Act and the Community Land Act. Bringing in this particular issue at this moment is being mischievous. We have many cases where there is a very hazy relationship between the community, the sponsor and the Government in relation to public institutions.

Literary, if these amendments pass, as my colleagues have said, you will have opened a Pandora's box of the so called historical land injustice, frivolous claims and generally, we are treading on dangerous grounds. I ask my friend, Hon. K.J. to forget about this issue. He should go and tell the sender that he was unable to deliver the message clearly and will can come back another day.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo, you are opposing the amendment and sending it back to the sender. Hon. Members, allow me to put the Question.

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

(Proposed New Section 16 rejected)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kiarie, that is it. Hon. Members, allow me to put the global Question. Hon. Kimunya!

*(Provisions relating to the Technical and Vocational Education and
Training Act, No.29 of 2013 as amended agreed to)*

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT, 2015(No.33 OF 2015)

The Public Procurement and Asset Disposal Act, 2015 (No.33 of 2015), Section 2

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover, I see amendments to this and the Mover is the Chair of the Departmental Committee on Finance and National Planning.

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act —

(a) in the proposed amendment to Section 2 by inserting the following definition—
“publicize” has the meaning assigned to it under the Public Finance Management Act.

This amendment to Section 2 is to introduce the word “publicise”, which has the same meaning under the Public Finance Management (PFM) Act. This is just to clarify that the term has been inserted to be consistent with the PFM Act, 2012.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a further proposed amendment to the same Section 2 by Hon. Florence Mutua. Hon. Tuitoek, you have been nominated to do that for her.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. On behalf of Hon. Florence, I propose the amendment. Notice is given that the Member for Busia,

Hon. Florence Mutua intends to move the following amendments to the Statute Law (Miscellaneous Amendment) (No.2) Bill, 2018 in the Schedule.

That the Schedule of the Bill be amended...

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Tuitoek, move straight to the proposed amendment.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act by—

(a) inserting the following in the amendments proposed to Section (2)—

Delete the definition of the term “goods” and substitute therefor the following new definition—

"goods" includes raw materials, plant and animal products, equipment, commodities in solid, liquid or gaseous form, electricity and services that are incidental to the supply of the goods, works and services.

The justification of the new amendment is as a consequence of amending Section 155 of the Public Procurement and Asset Disposal Act, 2015. There is need to redefine the term “goods” in Section 2 of the Act in order to include plants and animal products. The new section amplifies Article 227 of the Constitution that requires for the law to provide preferences in the allocation of contracts to certain categories of persons.

Whereas procuring entities are encouraged to prefer Kenyan goods and services, there is no set minimum on target to ensure compliance. The “buy Kenya build Kenya” strategy launched in 2017 aimed to set the 40 per cent targets, but without the proper legislative framework to support the directive, not much has been achieved since then. There is urgent need for the amendment to pass without delay in order for the law to conform to policy directives. Poor implementation and enforcement of the provisions of the Act has led to inability to shield local products from unfair competition from imports. It is on this basis that this amendment requires at least 40 per cent of goods procured in a procuring entity be Kenyan manufactured, grown and milled.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Tuitoek.

Hon. Daniel Tuitoek (Mogotio, JP): I have gone far. Sorry. The idea here is to define the...

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Just hold on, Hon. Tuitoek. Hon. Oundo, what is out of order?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, is it in order for my good friend, Hon. Tuitoek, to read written materials on the Floor of the House?

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Tuitoek, Hon. Oundo is actually right. Just proceed. I know you have been seconded. Wind up. Summarise so that we can move on.

Hon. Daniel Tuitoek (Mogotio, JP): Hon. Temporary Deputy Chairman, the idea here is to widen the definition of the term “goods” to include plants and animal products to allow manufactured products locally to enjoy a certain preference. I propose that we carry the amendment so that we widen the description and allow products to include goods and services from plant and animal products so that Kenyans can sell more of their products in a restricted manner and competition from outside can be limited. It is aimed at including it in the mind of all Kenyans to support the services they will be selling to the Government and other people buying goods from the market.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): I see interest from Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, thank you. This is a good proposed amendment by my Member for Busia County. Unfortunately, there is a bit of concern. Animal and crop products are defined in the Crops Act. If I am wrong, I need correction. Animal and crop products are also defined in the Livestock and Fisheries Act. You cannot define them without making reference to those particular Acts.

Secondly, there are ongoing developments of crop regulations that have a completely different approach to dealing with crop and food products. Probably, it will be in order for the Committee to apprise the House on the progress made in that respect instead of legislating in vain and having to make amendments in due course.

Thank you.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a further proposed amendment to Section 2 by Hon. Joseph Ngugi, the Member for Gatanga. You have proposed to do something about the contract period. Hon. Millie, we shall come to you.

Hon. Joseph Nduati (Gatanga, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act No.33 of 2015 by inserting the following new proposed amendments in a proper chronological order —

s.2 Delete the definition of the term “contract period” and substitute therefor the following new definition—

"contract period" means the period between commencement and the completion of works;

Hon. Temporary Deputy Chairman, what was proposed was for the “contract period” to mean from the time you sign the contract up to the defect liability period. Sometimes you can sign a contract and it does not commence and the client can even punish you. If a contract is 12 months and you sign it, and then he gives you the work two months towards the end of the contract, you will not be able to implement the project within that period.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): I see interest on this one from Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I think we need to get more details from the Mover. You say the contract becomes effective when implementation starts and not when you sign it. So, when you sign, what is it? What do you sign for? I thought immediately you sign a paper that becomes the effective date of the contract. There could be a bit of confusion. Unless he explains well, I would want to oppose this amendment.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Ngugi, just hold on. The Chair will give you an opportunity if you have something to clarify. Let us hear Hon. Wangwe first.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. In line with what Hon. Makali has asked, when you give an open window between signing and implementation, there is a high chance of abuse of that window. The performer of the contract is likely to abscond duty simply because he has leeway or time to reorganise himself outside that contract period. So, according to me, the Mover needs to clarify exactly that difference and explain why he is leaving the other party to the contract.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Lomenen.

Hon. James Lomenen (Turkana South, JP): Thank you, Hon. Temporary Deputy Chairman. I also join my colleagues in opposing the amendment. This is just the same thing. A contract starts when you sign the contract documents. Signing is commitment that you will abide by the regulations of the contract. The regulations of the contract contain so many things. Saying that it begins on commencement is a contradiction. I oppose the amendment.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Before I give opportunity to Hon. Kimunya, I would like to advise Hon. Ngugi. He might have had contact with the definition of “contract period” that is provided under the Act, where it says:

“Contract period means the period between contract signing and the end of the defects liability period.”

Hon. Kimunya, we will come back to you so that you take all the comments from Members and clarify them.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. Indeed, you highlighted one of the things I wanted to highlight because within the Public Procurement and Asset Disposal Act, it is very clear when a contract is deemed to be in force. It is from the time it is signed to the time a person is discharged of their responsibilities under the contract after the completion of the defect liability period.

Basically, what the Member for Gatanga is trying to do is to now limit the contract to commencement and completion. Between signing and commencement, it is not covered. After finishing the works and the guy disappears, he is not covered. Then there is a defects liability period of one year, which is not covered by any contract. I cannot quite understand what we hope to achieve by exposing public resources between signing and commencement and from completion to defects liability period. I would urge either he withdraws the amendment or we oppose it and work with the existing definition, which is more inclusive and protective of public resources, especially given the high levels of corruption and misuse of public funds that we see at different stages. There is so much happening from signing. You are given the 10 per cent to commit mobilisation before you commence. Who covers that 10 per cent mobilisation fee and under what is it covered? Let us move from signing to when your liability is discharged, when the defects period has expired and you have been discharged...

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us have Hon. Kuria, Member for Gatundu South.

Hon. Moses Kuria (Gatundu South, JP): Thank you, Hon. Temporary Deputy Chairman. I also equally oppose this amendment because the act of signing a contract is a legal issue. Commencement is an administrative issue. It exposes contractors to the mischief of invalidating a contract by way of not giving a commencement letter which is an administrative action. It is neither good for the procuring entity nor for a contractor. I beg to oppose.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a further proposed amendment to this by Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act, (No.33 of 2015) —

(a) in the proposed amendments to Section 2, by deleting the proposed amendment to the definition of the term “procurement profession”;

My amendment seeks to delete the proposed amendment to the definition of the term “procurement professional”. I am borrowing from the legal profession. The legal profession is governed by the Law Society of Kenya (LSK). If we want to take this profession seriously, it is better if they are governed by one body instead of several especially since this is a very serious profession and because of the amount of work currently going on in this relation. If you just leave every entity to be a governing entity for this profession, it makes it very difficult to hold the members accountable. I propose that we leave it as it has been. They should be governed by one body.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Before we debate this, there is a further proposed amendment to it by Hon. Ngugi, the Member for Gatanga. The direction is that now that Hon. Millie proposes to delete the amendment, if her proposed amendment to delete is carried, and then there will be nothing for Hon. Ngugi to amend. If the one by Hon. Millie is carried, we will not proceed with the one by Hon. Ngugi. If the one by Hon. Millie is not carried, then we shall proceed with the one by Hon. Ngugi. We will now have debate on the proposals by Hon. Millie. I see interest from Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I happen to have had the responsibility to midwife this Act and operationalise it in 2006 and 2007. I have gone through it with a fine-tooth comb. The procurement professional does not just refer to a profession. It is somebody who is recognised within the Supplies Practitioners Management Act of 2007, which we passed to give room for the profession to be recognised. It was to ensure that we are not dealing with quacks but with somebody who is subjected to an institution that can provide disciplinary mechanisms for that procurement professional. If we delete the term “procurement professional” here, you have to go all the way to the Act and where references are made to procurement professionals; you need to know who they are.

We are defining them here. Just as Hon. Millie said, lawyers are defined such that it is known that this is a lawyer who is recognised by the LSK. Accountants are those who are recognised by the Accountants Act. Similarly, a procurement professional is one who has professional qualifications in procurement and supply chain management from a recognised institution and is a member of the Kenya Institute of Supplies Management established under the Supplies Practitioners Management Act of 2007. We have already defined who the procurement professional is, what their profession is and what Act regulates their conduct. It is not an amorphous person in the Bill. If we then delete this person as proposed by Hon. Millie, we are allowing anyone masquerading as a procurement person to be employed and start doing procurement and there is no recourse as to what body you can report them to when they misbehave. Professionals must be people who have a body that they can be reported to.

Hon. Millie may not have had the benefit of looking at the Supplies Practitioners Management Act which is very elaborate on matters to do with... I know you are thorough but in terms of...I was actually surprised...

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, there is a point of order by Hon. Millie. Your argument is a good one. I do not know whether you have made a distinction between what is being proposed in the amendment and what is in the Act as it is. I am sure that is what Hon. Millie would like to speak to. Proceed.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I have listened to Hon. Kimunya. His argument supports my amendment. Looking at the Act, the proposed amendment seeks to delete the words “established under the Supplies Practitioners Management Act 2007”. It is deleting the Act which then means we are going back to quacks. I am agreeing with Hon. Kimunya that is why I am bringing the amendments. We need to refer to the Act that talks about supply professionals. If you oppose me, it means you are agreeing with the proposed amendment to do away with the Act so that after we pass that amendment, I will leave here as a supply chain professional which I am not. I am a lawyer. But if we leave it as proposed, then even I qualify.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Kimunya, you might want to chew on that for a little while.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, my profound apologies. I was looking at the one intended to be amended and I am very happy the hawk-eyed Millie has picked this. We do not want quacks coming in. I am in total agreement with her amendment.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo, do you still want to proceed?

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

The amendment by Hon. Ngugi falls by the wayside.

(Proposed amendment by Hon. Joseph Nduati dropped)

(Section 2 as amended agreed to)

Section 7(2)

The Temporary Deputy Chairman (Hon. Christopher Omulele): There are several proposed amendments to this. The first one is by the Chair.

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act —

(b) by deleting the proposed amendment to Section 7(2) and substituting therefor the following new amendment -

s.7(2) Insert the following new paragraphs immediately after paragraph (1)-

(1a) to develop and promote the training and capacity development for procurement and supply chain management services cadre at the national level;

(1b) to support the training and capacity development for procurement and supply chain management services cadre at the county level;

(1c) develop and manage the state portal on procurement and asset disposal and ensure that it is available and easily accessible.

I have several sections to talk about. Do I go one by one?

The Temporary Deputy Chairman (Hon. Christopher Omulele): You need to deal with them one by one. Hold on, Hon. Limo. I have just read your proposal. You are proposing to delete what exists as Section 7(2) and substitute it with a whole new subsection. So, you will deal with what you propose to delete and substitute.

Hon. Joseph Limo (Kipkelion East, JP): We want to delete the proposed amendment to Section 7(2) which talks about promoting, developing and training of procurement and supply chain management services in the national Government and county governments. The second amendment was to develop a portal to take into account or recognise the use of Integrated Financial Management Information System (IFMIS). We felt that this amendment was so squeezed and not very clear. We are breaking it down into clear subsections.

Under (1a), we are proposing to develop and promote training and capacity at the national Government level. The justification for this is to move the procurement and supply chain cadres of staff to be under the National Treasury.

Two, the first amendment was mixing the staff in procurement and the supply chain who belong to the national Government and county governments. Our intention now is to separate them so that we cover those particular staff who belong to the national Government in the first part.

The second part which is under (1b) is to clearly state that the National Treasury shall support the training and capacity development for the county governments staff. So, the staff in the county government level will not belong to the National Treasury, but it will have the responsibility to train and develop them. That is what they normally do, but we are anchoring it in the law.

The amendment in (1c) down there seeks to develop and manage the State portal. This is to anchor the IFMIS system.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Chair, without interrupting you, the proper pronunciation is (l a), (l b) and (l c) but not (I a), (I b) and (I c).

Hon. Joseph Limo (Kipkelion East, JP): I have explained that the amendment in (l a) seeks to make it clear that the old cadres of staff of procurement and supply chain will be under the National Treasury. The amendment in (l b) says that the National Treasury shall support staff in those cadres at the county level. The proposed amendment in (l c) is to recognise or anchor IFMIS system, which is already under the National Treasury, in law. That is the justification for that split.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, allow me to propose the Question first and then I will give you an opportunity.

(Question of the amendment proposed)

Hon. Millie, I will give you the first opportunity.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. If you notice, I had a proposed amendment to now what would be his (l c). One of my concerns is to get an explanation because it does not make sense to me why he should move a portal from a dedicated authority to the National Treasury. If his amendment is passed, then mine falls. So, I would love to know why we would move the portal from an authority that has dedicated technical skills to the National Treasury. That is what he can explain.

The Temporary Deputy Chairman (Hon. Christopher Omulele): You are absolutely right, Hon. Millie. If the proposed amendments by the Chair are carried, then your proposal to amend Section 7(2), (l c) will fall. That is the only interest that we have here. It is proper to ask the Chairman to clear it up before we put the Question. Chair, is it within your power to clear up Hon. Millie's doubts about your proposal on (l c) only?

Hon. Joseph Limo (Kipkelion East, JP): IFMIS is currently used for procurement. Given that the procurement in national Government is squarely under the National Treasury, the development and managing of the State portal to ensure that it is available and easily accessible should ideally be under the National Treasury.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, allow me to weigh in on this matter on two issues. One, the Chair needs to explain further whether there is a different training curriculum of the procurement cadre at the national Government level and the county governments' level and if the Public Procurement and Asset Disposal Act segregates them. That is a very important explanation because the proposed amendment in (l b) is just a repetition, word for word, other than the change of the word from the "national Government" to the "county government".

Two, on the proposed amendment in (1 c), I will support the Chair on that account that we are dealing with public funds here and we have seamless interrelated national Government and county governments. As it has been the practice based on the President's declaration, we need to centralise procurement so that we stem theft and looting of public funds. Most importantly, he needs to explain the difference between the curriculum of training procurement cadre of the national Government and county governments.

Thank you.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Musa Lentoimaga, Member for Samburu North.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you, Hon. Temporary Deputy Chairman. I concur with the Chair, especially on (1b), because we have realised that even though we have procurement officers in the county, we still have a lot of anomalies. They do not follow the required rules and the Public Procurement and Asset Disposal Act. There is a lot of misappropriation of funds and they are not following the correct procedures of the Public Procurement and Asset Disposal Act. Something has to be done to make sure that the national Government builds capacity of the procurement officers in the counties.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairman, I want to pick up from where Hon. (Dr.) Oundo left. The separation of the amendments in (1a) and (1b) amounts to discrimination. I feel that both the county government procurement officers and the national Government procurement officers are the same. It is not fair for us to discriminate them. If you look at the wordings under (1 a), it starts with "to develop" while in (1b) it is "to support". Why is there this discrimination? If it is addressing issues of procurement officers in both levels of Government who are equally important to us, then we should not discriminate.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Lomenen.

Hon. James Lomenen (Turkana South, JP): Thank you, Hon. Temporary Deputy Chairman, for this opportunity. We call upon the Chairman of Departmental Committee on Finance and Planning to shed more light on this issue because as far as we understand, procurement staff in counties require adequate capacity on issues of finance especially the IFMIS. Staff working in National Treasury is trained on how to handle the IFMIS. As Kenyans we are asking that, are those from counties capacitated or trained on the same? Who trains staff at the National Treasury? Who is supposed to train those in counties? Are they not supposed to be in the same chain so that they read the same thing? As Kenyans, we need them to be trained as one way to mitigate corruption. If they are not capacitated or highly trained on IFMIS corruption will be introduced claiming that they do not understand.

So, let the Chair of the Committee explain to us what he is trying to achieve by this amendment.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Chairman, I have not contributed but I see that this is not proper. We should delete Section 7(2) (1b) and say

we are training both. We should take these people to the Kenya School of Government and have the same syllabus for them because they are going to do the same job. Therefore, there should be no difference. In fact, we are spending more money by doing that. We should combine employees of both the national and county governments and train them using one syllabus and that is it. This is provided for in the Kenya School of Government.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Finally, let us have Hon. Kimunya, then the Chair of the Departmental Committee on Finance and Planning to clarify it.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I was trying to get the logic behind the Committee trying to split. In Section 7 (2) we are basically talking of the responsibilities of the National Treasury. If we look at it in conjunction with Section 9, without anticipating debate on the proposed amendment to Section 9, we find that Section 9 deals with the Authority. We are removing the portal as Hon. Millie mentioned it in Section 9(1) (k) and bringing it to Section 7(2). But, we are also giving responsibility to the Authority to develop, train and support all staff in procurement. So, we have the National Treasury doing the development, training and support for all staff and the Authority doing development, support and training of all procurement staff. I do not know whether the Committee addressed itself to those two provisions. If there is no provision on training, who of the two bodies do we blame because we are now assigning the responsibilities to two bodies: the National Treasury and the Authority? If we are not clear on this, we will end up in the same situation of everyone saying that it is not them and thinking that the other is doing it. We either stick to one or the other. If it is the Committee's opinion that it is the National Treasury that should be doing this, it will inform our decision on Section 9 (1) when we get there.

I do not know if Hon. Limo is following my argument but be it as it may, I still do not see the point of drawing the fine line between the national staff and county staff. I know most county staff are seconded to the county.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, you have made yourself clear. That is a point that has been made by all the Members who have spoken to this.

Hon. Amos Kimunya (Kipipiri, JP): If we could persuade Hon. Limo to avoid it and we retain what we have, we will be far much neater. We should cover that regardless of who they are, they will be supported and trained by the National Treasury and county governments. We should not have a case like that of doctors who are seconded to the national Government but right now it is not clear who is in charge of their training at Kenyatta National Hospital. County governments pay. We do not want the same to happen to the procurement staff. Let us be very clear that the National Treasury is in charge of both in terms of training, support and development.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, you have made your point. Hon. Limo, why do you want to split hairs here?

Hon. Joseph Limo (Kipkelion East, JP): First, I should make it very clear because I have heard that most staff in counties are seconded by the national Government. Most staff now in counties are employed directly by counties. In fact, it gives them a lot of problems because some of them who were seconded are still there and at the same time they have employed their own.

The logic of separating is that first we must recognise that county governments operate as such and the national Government as such. We cannot mix the two. What we mean here is that the National Treasury is squarely responsible for training staff who belong to the national Government. But, they now have a second responsibility of supporting county governments because if you bring in and mix the two, it will be construed that the national Government has taken over the county staff. It should be very clear but they will support to ensure that standards are adhered to in terms of training of county staff. That is why we thought it is wise to separate them. There is a difference between training and supporting the training. They will give capacity to county governments.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): Now that we have negated the proposal by the Chair of the Committee, we shall move to the one by Hon. Millie Odhiambo.

Hon. Millie proceed.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): My proposal is basically to delete what would have been (lc) of the proposed amendments by the Chair, but all I needed to find out was why we are moving the portal from the Authority to the National Treasury. I do not have any first hand feeling on this. If I get a good explanation why we are moving the portal from the Authority to the National Treasury, I am willing to withdraw my amendments. This is a dedicate body that deals with procurement.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, have you moved the amendment or have you withdrawn it? It is your proposed amendment. You need to give us one way or the other. If you move it, the Chair can have an opportunity to clarify or give you information. But before you move it, he cannot do that.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act, (No.33 of 2015) -

(b) in the proposed amendments to section 7 (2), by deleting the proposed New Subsection (1)(b);

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): I see interest from Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, I just want to weigh in and I hope the Chair of the Committee will give us guidance.

My view and my understanding is that the Authority is not a procurement entity. The Authority is merely an advisory body that also deals with complaints and issues, gives guidelines, sets a framework and the rest. In my limited understanding of the workings of Government, the National Treasury is the ultimate procurement entity. So, it is obviously in good order. It follows without doubt that they should maintain the portal that deals with procurement. That is my understanding. I hope the Chair of the Committee and the veterans from the Ministry will help us understand the workings of the Ministry but I have put it from my basic understanding.

Thank you.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Committee Chair, you may want to give some guidance on this one after Hon. Kimunya makes his contribution.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, previously, the Authority had the responsibility of developing and managing the State portal for procurement but we have all seen the problems we have gone through with regard to IFMIS and all that. Since IFMIS is anchored within the National Treasury and it is a bigger system, it only makes sense to migrate the portal to the National Treasury. That is the spirit we will see in this amendment as we go to Section 9(1). The proposal is that this portal moves from the Authority to the National Treasury, and give the Authority some other responsibility. By the time the first Bill was there, the Authority was given that responsibility but we have seen the failures. So, let us move the portal to the National Treasury so that everything can be under one roof – from payment all the way to procurement as a seamless operation.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I drop.

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

(Section 7(2) agreed to)

Section 9(1)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I withdraw it.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a further amendment proposed by the Chair.

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act —

(c) in the proposed amendments to section 9(1) by inserting the following new amendment —

Renumber the existing paragraph (s) as (t)

We are trying to correct a referencing error. The last paragraph in the Act is (s) but the amendment is quoting (t). What is stated in the amendment Bill is (t) instead of (s). We are, therefore, correcting that referencing error.

(Question of the amendment proposed)

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

(Section 9(1) as amended agreed to)

(Sections 26(6), 39 and 40(2) agreed to)

Section 41(1) (j)

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act —

(d) by deleting the proposed amendment to section 41 (1) (j) and substituting therefor the following new amendment—

s. 41 (1) Insert the following new paragraph immediately after paragraph (i) —

(j) is determined by the Review Board to have filed a request that is frivolous or vexatious or made solely for the purpose of delaying the procurement or procurement or performance of a contract.

The justification is that there are so many frivolous claims which are moved for the purpose of delaying the process of procurement. Therefore, this amendment is intended to deter filing of frivolous claims. If you have found to have filed frivolous clause, then it is used as a ground to deny you.

(Question of the amendment proposed)

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, I do not stand to oppose or otherwise. I am just curious to know how the Review Board determines what claim is frivolous and vexatious. What are the standards? Do they have the mandate in law to determine what is frivolous and vexatious? I am just curious to know. Probably, the Chair will assist. There is a possibility of abuse of that particular sub-clause by the members of the Review Board simply dismissing an applicant offhand on account that this is frivolous and vexatious.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo, those two terms - “frivolous” and “vexatious” – are technical legal terms. There are tonnes of law and authority on what amounts to frivolous and what is vexatious. But in plain terms, what is vexatious is what you do just to annoy the other party. You do things without any real substance that is intended to annoy and to waste time of the other party. Frivolous is more or less along the same lines. So, if they dismiss your substantive application for review on that basis, there is very good ground for you to move to the High Court and quash it if does not measure up to the standards of those two technical terms.

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

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

(Section 41(1) (j) as amended agreed to)

(Sections 43 and 44 agreed to)

Section 46(4) (c)

The Temporary Deputy Chairman (Hon. Christopher Omulele): I see a proposed amendment by the Chair of the Departmental Committee on Finance and National Planning.

Hon. Joseph Limo (Kipkelion East, JP): Yes. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act –

(e) in the proposed amendment to Section 46(4)(c) by deleting the word “an” appearing before the word “officer” and substituting therefor the words “a qualified and experienced procurement”

What the proposed amendment is trying to achieve is provide for an appointment of an officer to head the procurement function. We were of the opinion that it should not be just an appointment of an officer to head a procurement function; it should be a qualified and

experienced procurement officer, not just any. So, we are providing that in case there is need to appoint an officer to act as a head of a procurement entity or function, that officer should be experienced and qualified – not any other officer.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well.

(Question of the amendment proposed)

I see interest from the Hon. Lomenen.

Hon. James Lomenen (Turkana South, JP): I just support the amendment because it is good to specify. When you say “officer”, it can be a police officer or even State officer.

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

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

(Section 46(4) (c) as amended agreed to)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM) *(Off-record)*

The Temporary Deputy Chairman (Hon. Christopher Omulele): Do you really have an amendment on these? Yours is on 80(6), not 80(1).

*(Sections 46(6), 48(2), 51(2) (b), 53, 54, 67(4),
69, 70, 71(3) and 80(1) agreed to)*

Section 80(1)(6)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie that is the one you alluded to.

You may proceed.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act, (No.33 of 2015) —

(d) in the proposed amendments to section 80 (1) (6), by deleting the word “seven” and substituting therefor the word “fourteen”;

It is proposed that the evaluation shall be carried out within a period of seven days. That is a very short period. So, I am proposing that we move it from seven days to 14 days. The provision before was for 30 days, and the proposed amendment is to move it to seven days, but I think seven days is too short. So, I am proposing that we move it to 14 days.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, I rise to support the amendment by Hon. Millie Odhiambo because ordinarily, it is impossible to evaluate thousands of tender documents within seven days unless the initiator of the amendments had other intentions altogether in contract fixing. I am even apprehensive that 14 days is not possible, but we can go with it so that we push the procurement entity to hastily evaluate and inform the participants.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. I rise to seek clarifications from Hon. Millie whether the 14 days, in her view, is the minimum or maximum. It could be within 14 days, or 14 days to be the baseline for evaluation. It is important she clarifies before we make a decision on which way to go.

The Temporary Deputy Chairman (Hon. Christopher Omulele): I will proceed to put the Question.

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

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

Section 80(1) (6) as amended agreed to)

(Section 89(b) agreed to)

Section 92

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act, (No.33 of 2015) —

(e) in the proposed amendments to section 92, by deleting the proposed new paragraph (1a);

The proposed amendment seeks to delete the proposed amendment that provides for specially permitted procurement procedure. If you have a specially permitted procurement procedure that is not known, it will be subject to abuse. I can wake up and decide that my special procurement procedure is just to call people or to shout in a market place. That amounts to a special procurement procedure. Procurement procedure should be in the law and specified. When you give people a chance and we have even provided for special cases, then we are giving a further one which is not clarified and will be subject to abuse.

(Question of the amendment proposed)

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

(Section 92 as amended agreed to)

Section 94(4)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, you are proposing to delete this.

Kindly proceed.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Which one?

The Temporary Deputy Chairman (Hon. Christopher Omulele): Section 94(4)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, just a moment. I am trying to trace it; my computer has been hanging up.

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

THAT the Schedule to the Bill be amended in the proposed amendments to the Public Procurement and Asset Disposal Act(No.33 of 2015) –

(f) by deleting the proposed amendments to Section 94(4).

This is for the same reasons as the previous ones; I think the time is not enough. Let me just check what it is, Chair, if you can indulge me. That is section 94(4) which says:

“The accounting officer of a procuring entity shall allow the candidates at least 14 days to prepare and submit their application to be prequalified.”

We are saying that we are allowing the candidates seven days.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, what you are proposing to do with your amendment is to retain 14 days.

Hon. (Ms.) Millie Odhiambo (Suba North, ODM): Yes.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I think one of the biggest challenges we are having now is delay in procurement. Here we are talking of prequalification. Everyone who wants to participate in a prequalification thinks about it months before and starts preparing. By the time the call for prequalification is made, they are usually ready. By delaying it for 14 days, we basically dump all those documents and wait for 14 days

when nothing is happening. I would urge that we shorten the period from 14 days. I support what is in the Bill. I disagree with my colleague, Hon. Millie.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, I am pressed for time. Allow me to put the Question.

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

(Section 94(4) agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, you will recall that the Speaker directed that at 6.30 p.m. we shall adjourn so that we can debate the matter of concern that was raised by the Member for Kakamega County, Hon. Elsie Muhanda. I will, therefore, direct that we report progress on this.

Mover, you have the Floor.

PROGRESS REPORTED

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairman, on behalf of the Leader of the Majority Party, I beg to move that the Committee does report to the House its consideration of the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.13 of 2018) up to Section 94(4) of the provisions relating to the Public Procurement and Assets Disposal Act, No. 33 of 2015 and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

Hon. Deputy Speaker: Chairperson.

Hon. Christopher Omulele (Luanda, ODM): Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 13 of 2018) up to Section 94(4) of the provisions relating to the Public Procurement and Assets Disposal Act, No.33 of 2015 and its approval thereof with amendments and seek leave to sit again.

Hon. Deputy Speaker: Very well. Let us have the Mover of the Bill. I request you to move agreement with the Report.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Deputy Speaker, I beg to move that the House does agree with the Committee in the said Report and also request Hon. Kimunya to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Amos Kimunya (Kipipiri, JP) seconded.

(Question proposed)

Hon. Deputy Speaker: Ordinarily, you would want me to put the Question but I will not because we do not seem to have the required numbers. I will put it during the next Sitting. So, let us move to the Next Order.

We are now going to the Zero Hour and so I will call the Mover, Hon. Elsie Muhanda.

STATEMENT

ZERO HOUR

INSECURITY IN KAKAMEGA COUNTY

Hon. (Ms.) Elsie Muhanda (Kakamega CWR, ODM): I thank you, Hon. Deputy Speaker, for allowing the House to discuss the deplorable state of insecurity and the continuous killings in Kakamega County, pursuant to Standing Order No.43. For the last three months of March, April and May, we have had a lot of killings and the hardest hit...

Hon. Deputy Speaker: Hon. Elsie, I think for good order, it is good for you to move by seeking leave and then proceed. You have something there to guide you.

Proceed.

Hon. (Ms.) Elsie Muhanda (Kakamega CWR, ODM): Thank you, Hon. Deputy Speaker, I seek leave.

Hon. Deputy Speaker: I can see you had initially sought leave. Therefore, you can proceed because it is proper.

Hon. (Ms.) Elsie Muhanda (Kakamega CWR, ODM): The hardest hit has been Matungu Sub-county where just last weekend we lost a pregnant mother and her small daughter. The husband and son are seriously injured. Even on Sunday, we had exchange of fire in Matungu. We have heard about many cases in most of the wards in Matungu Sub-county namely: Koyonzo, Kholera, Mayoni and other wards.

Also, areas that have been hit are Buture, Ikolomani and Lurambi constituencies. In Ikolomani, we have lost lives in Shisele Location and Shiseso Sub-location. In Butere, we have

lost lives in Marenyo-shianda and Marama South. In Lurambi Constituency we have also lost lives in Butso Central and Shirere.

It is worth noting that these deaths have been mainly targeting watchmen and lives have been lost. I call upon the Ministry to look into this situation because it is very grave in Kakamega County. We are calling upon more vigilance and the Officer Commanding Police Division (OCPD) to be given vehicles because we have realised they do not have patrol vehicles. We are also calling upon more police personnel because we have heard about many cases where *wananchi* have called for rescue, but there are not enough policemen. We are also calling upon the concerned Ministry to arrange for more patrols in Kakamega County.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well, Hon. Muhanda. The rest of the membership will have three minutes each. I will start with Hon. Murunga, Member for Matungu.

Hon. Justus Makokha (Matungu, ANC): Ahsante sana, Mhe. Naibu Spika kwa kunipatia nafasi hii ili nichangie. Kwa yale yote ambayo yamekuwa yakiendelea, mimi ni Mbunge ambaye ameadhirika kwa hali ya juu. Kwa mwezi mzima kumetokea vifo vya watu 12 kwa jumla wakiwemo watoto wa shule. Mtoto wa kwanza akiwa wa kidato cha pili, wapili ni wa kidato cha tatu na wa mwisho ambalo ni jambo la kusitikisha ni ya kwamba jumapili hii waliuma mtoto wa miaka mitatu.

Ni jambo la huzuni kwa sababu eneo hili la Matungu kuna shida. Shida ya kwanza ni kwamba OCPD anayesimamia *police station* ya Harambee *sub-county* hana gari. Ni kama jeshi akitumwa vitani bila silaha. Panapotokea hali kama hii, askari hawana namna ya kusafiri. Ni jambo ambalo sijui lilitokea kwa nini. Sijui kama Waziri anajua kwa sababu ili askari wafanye kazi yao kwa njia ambayo inastahili, wanafaa kupata gari la kuzungukia. Hawana gari. Gari lililoko limeharibika. Inasemekana kwamba wakati walikuwa wanapeana magari, kituo cha polisi cha Harambee hakikuwa *gazetted*. Kwa hivyo, hakikupata gari walipokuwa wakipeana magari ya *contract* yale serikali ilikuwa inapena kwa kila kituo cha polisi.

Jambo la pili, eneo hili ni kubwa na linahitaji askari wa kutosha. Nilipoenda kukutana na wasimamizi wa *sub-county*, ilionekana kwamba askari ni wachache. Swali ambalo liko katika akili yangu ni sijui kama Waziri mhusika anajua kwamba eneo hili ni kubwa na idadi ya askari ni ndogo. Kwa sasa tunapooonea katika Bunge hili, wananchi wa sehemu husika wako na hasira. Chochote kinaweza kutokea na ningependa Bunge hili tukufu...

Hon. Deputy Speaker: Thank you very much, Member for Matungu. We will proceed to Hon. Shinali Masaka, Member for Ikolomani.

Hon. Benard Shinali (Ikolomani, JP): Thank you, Hon. Deputy Speaker. I take this opportunity to add my voice to what hon. Members have just talked. I come from Ikolomani Constituency which I represent in this House. Barely a month and a half ago, we had six killings, five from constituency and one from Sabatia Constituency. We made an effort to see the CS who allowed Hon. Agoi to see him. He promised to be on the ground on 5th of last month, but he never turned up. If you look at the manner these killings are executed, especially on watchmen, you will see that they are killed in a certain style and same manner throughout. A week after that,

all the police officers in Kilingili Police Station were transferred, but not to any far distance. They were just transferred to Mbale, a walking distance from Kilingili. Two weeks later, there were two killings in Muluanda Market. Muluanda Market is in Khwisero area, just about five to 10 kilometres away. Now, one month later, we have further killings in Matungu, the same county. We call upon the CS to take this matter seriously. We never had any statement from the people in charge of security as to why this is continuing.

I have had a meeting with the Officer Commanding Police Division (OCPD) in my area. I have told them that the thugs in the area have now changed tact. You can have as many vehicles as you can, but maybe they are now using motor cycles. It is now time police officers started using motor cycles so that they can penetrate and follow these thugs to their hideouts. It is sad that we are now counting up to 30 people in about two months killed in one county, Kakamega County, and we have no substantial statement from security. We call upon the security agents to act and with immediate effect, give us direction on the plans they have to make sure insecurity is stopped in Kakamega County and security is restored so that people can go on with their businesses as usual.

As I finish, we request that this House looks into...

Hon. Deputy Speaker: Hon. Members, please plan your time properly. It is only three minutes.

Next is Hon. Washiali Jomo.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. Let me start by thanking Hon. Elsie Muhanda for bringing this Adjournment Motion and quickly take this opportunity to pass my condolences to the families that lost their loved ones and also those who have been injured. I was watching television yesterday and saw a very old man who was cut severely in the face. I just want to wish him and the rest of the victims a quick recovery. Matungu and the other constituencies that have been affected are our neighbours in Mumias East. You wonder what has happened all over again because this is an area that has been very peaceful. This is *Mulembe* area which is actually generally meant to be very peaceful. You wonder what has happened. I do not want to agree with my colleagues who are saying that we need to enhance the number of police officers because even when this area was peaceful, we had fewer police officers than the current ones that we have. Currently, we have very many new stations. Looking at the structure of the police currently, every sub-county has an OCPD. Therefore, the presence of the police should be better than it has been.

If you looked at the way our police officers get hold of the brewers, you wonder. It is usually very fast. They hire motorbikes to get the brewers to the cells who end up never being taken to court. They do it for their own selfish interests.

Because of time, I want to call upon the Cabinet Secretary in charge of Interior and Coordination of National Government. Knowing that the Mumias Sugar Company which used to improve the economy of this area is now down and not operating, I wish that he enhances security in this area because the people who used to earn from Mumias Sugar Company could be

– and I am not saying they are - the people who are causing this mayhem. I request the CS to be sensitive to this and increase security in this area.

Hon. Deputy Speaker: I am struggling not to make it a regional matter but I still see all the top Members who want to speak are from the same place. Let me go outside Kakamega and give a chance to the Member for Suba South.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker. The murders happening in Kakamega are chilling. It is almost bordering on genocide. Where I disagree a little bit with Washiali is that this could be economically engineered. When you look at the houses of some of the families which are targeted, they look so poor that you wonder what anyone who wants economic gain would be going to do in such places. Our security apparatus needs to seriously look into this matter. It is not even a matter of the number of police officers. We need intelligence gathering. If we can manage to get information about *Al Shabaab*, why can we not get information about the killings in Kakamega which are happening just around us? You can see that the people who are perpetrating these heinous acts are possibly people who do not come from far.

We ask the security apparatus in this country to take their work seriously. Apart from adding the number of police officers in those areas - and not just those areas - we need the security system in this country to be alert for the security of Kenyans. The main reason why a Government exists is to protect its people. We see our fellow Kenyans dying almost every day. There was a report which I cannot remember properly. I am sure the Member of Parliament for Kakamega County, Hon. Murunga, may be aware of this. There was a case where people were killed next to a police station. How can that happen? What are our police officers doing? Why can they not do patrols? What of the intelligence system? We are giving huge budgets to the National Intelligence Service (NIS). They are not just supposed to spy on us, our phones, see what we are exchanging here and there and which people we meet. They are supposed to go across the country and get intelligence about those criminals who are grouping to attack Kenyans.

As I wind up, this is a case of irresponsibility on the part of security officers, OCSs and OCPDs. Let them take their work seriously. It is not about transfers. If someone cannot manage simple acts of criminal activities, why do you even transfer that person to another place? This is a matter that if the Government wants to take action, they will do so and put a stop and end to it.

Hon. Deputy Speaker: Let us have somebody with police blood in his veins, Hon. Mutavi Kilonzo.

Hon. Charles Kilonzo (Yatta, Independent): Thank you, Hon. Deputy Speaker. This issue of insecurity is getting out of control. It is not a matter of Kakamega alone. It is even in my constituency. My mother was brutally attacked in December and left for dead in the house. To date, Hon. Deputy Speaker, the culprits have never been arrested. We are wondering what is missing in the National Police Service (NPS). Is it the training which is wanting? Is it that we are not giving them enough funds or they do not have the will to fight crime? Are they missing resources, say, vehicles? Is it the leadership which is a problem, or is it that they do not have

morale? Definitely, something is very wrong in the NPS. Now that we have a new Inspector-General, we hope to see some serious change. For every crime that is committed, we need to see the culprit brought to book.

Under the old Constitution, when we would discuss a Motion like this one, the Minister in charge of internal security would have been in the House. Under the Constitution 2010, we also expect the Chairs of the relevant committees to come to this House. The Leader of the Majority Party has been complaining about the Chairs. It is unfortunate that we are discussing a Motion which is so sensitive but the Chair of the Departmental Committee on Administration and National Security is not here. I also doubt whether the Members of the Committee are here.

What happened in northern Kenya; those who come from there are the most unfortunate. When two doctors were taken away by *Al-Shabaab*, what did the Government do? It appears that the Government has also given up on security. They withdrew the doctors in Lamu, Isiolo, and Garissa and all over. If the Government is not able and sure that it can provide security to doctors, who are you in Kakamega to expect the Government to support you? The Head of State said that the state of the nation is strong; in as far as security is concerned. However, it is very clear that it is not strong. I cannot imagine how the Cabinet sat down and the Cabinet Secretary for Interior and Coordination of National Government, Mr. Matiang'i, decided that the Government cannot offer security and therefore, they withdrew the doctors. This House needs to look at this issue of the NPS and address that matter more seriously.

With those few remarks, I wish to support the Motion.

Hon. Deputy Speaker: Hon. Lomenen.

Hon. James Lomenen (Turkana South, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute. I am really perplexed to hear that Kakamega is becoming insecure. That is an indicator to confirm to those who are in charge of security that Kenya is becoming insecure. We have been hearing of insecurity in Mandera, Turkana, and West Pokot but now it is in Kakamega. Turkana County supplies security personnel, watchmen and personnel for Kenya Army. I am astonished because we are also losing people from Turkana County because they are the ones who guard most of these counties like Kakamega and others. Kakamega is risky. We might not supply these people again.

The people in Kakamega are not armed. Most of these homes are protected by the guards who are not also armed. We are telling CS, Matiang'i, that those who are killing these watchmen are armed. What will we do to these guards who are not armed? Can we pass a law that will arm them? If all you have is just a *rungu* and the person attacking you has a gun and the police station is very far away... These people cannot get out at night because it is a routine. If you are attacked at night, it is not very easy for a police officer in Kenya to rescue you. If our Kenyan citizens are not protected and their lives are in danger, what should we really do? If I am not protected, then I have to find a way of protecting myself. Can these Kenyans, especially those in Kakamega, be protected? People in Turkana County are used to not being protected. We are now at the level of protecting ourselves. We need armoured vehicles. I do not know what you need. You should

explain to us more. Otherwise, I send my condolences to those watchmen because I know most of them come from my place.

(Laughter)

Hon. Deputy Speaker: Very well. Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Deputy Speaker, I wish to add my voice to the issue which was raised by Hon. Elsie. Indeed, Kakamega is in trouble. I am a neighbour to Matungu, which together with Navakholo and Mumias East constituencies share a boundary. What happens to a neighbour, prepare twice for it is bound to happen to you. The issue of insecurity is really wanting. The police in my constituency the other day shot somebody who died. It is now history. Another one was shot by police and when it came to action, we are happy that the Cabinet Secretary ensured that the culprit was arrested and arraigned in a court of law. We want the efforts he put in Navakholo to reflect in Matungu, Ikolomani, Mumias, Butere and everywhere else. The challenge that we have in Kakamega is access to infrastructure. The road network is not well connected. Secondly, we have an issue with the supply of vehicles. In as much as we say that the police need to move, how will they have access?

Thirdly, it is the issue of command. Looking at the distribution of police stations the way it has been done, it is wide apart. That means, coordination between the Administration Police and the regular general officers is a major challenge. Let the Cabinet Secretary in charge of Interior and Coordination of National Government move in with speed and organize the police force and give us the result that is required.

Finally, there is the issue of information. On elimination of boundaries, Kakamega County is disadvantaged in terms of administrative units. We do not have enough sub-chiefs to really coordinate and be together with the people to give feedback to the Government. Let delimitation of units be done and let us have sub-chiefs employed to coordinate the national Government on the ground and give handy information to the officers on the ground.

Hon. Deputy Speaker: Hon. Member for Dagoretti South

Hon. John Kiarie (Dagoretti South, JP): Thank you very much, Hon. Deputy Speaker. I would like to empathise and condole with the people from Kakamega County on this issue of insecurity that is leading to maiming and deaths. Insecurity is not confined to one county in this country. In fact, the cases you are hearing about in Kakamega can be replicated in any other parts of this country. My point, so that I do not venture into areas that have been spoken by other Member of Parliament, is the response to disasters. I would like to say that hospitals will need to start seeing themselves as a first line of response in terms of disaster preparedness. I am speaking to an issue that happened in Dagoretti South Constituency last night where a resident was attacked and presented by a Good Samaritan to Melchizedek Hospital which puts profit before service. This individual was sat on a wheelchair outside the hospital waiting for some money so that he could be admitted to the hospital. The victims of insecurity who are either maimed or injured will seek medical services from the nearest health installation. Whether this installation

is private, a money making one or a public one, we would want to urge hospitals to just be empathetic to the situation and the plight of injured Kenyans and not put profits before the service that they offer. There was a time when our doctors and nurses adhered to their code of service. But there is something to be said about the new generation of medics and especially the ones who go into the business of offering health services other than offering a service without seeing the profits first.

I empathise with the residents of Kakamega County, but I want to say that this is a situation that is replicating itself around the county.

Thank you very much, Hon. Deputy Speaker.

ADJOURNMENT

Hon. Deputy Speaker: Order, Hon. Members. The time being 7.04p.m, this House stands adjourned until Wednesday, 8th May 2019, at 9.30 a.m.

The House rose at 7.04 p.m.