

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 27<sup>th</sup> March 2019

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### DISPLACEMENT OF COMMUNITIES AS A RESULT OF COAL MINING ACTIVITIES

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Thank you, Hon. Speaker. I rise to present a petition, which I read in the last Session, but it was time barred. The Petition regards coal mining activities in Mui, Mwingi East Sub-County of Kitui County.

I, the undersigned, on behalf of residents of Mui, Mwingi East Sub-County in Kitui County, draw the attention of the House to the following:

THAT, the petitioners have lived in Mui, Mwingi East Sub-County of Kitui area since time immemorial, majority of whom are peasant farmers who grow maize, beans, sorghum, millet, green grams among other crops and also keep domestic animals.

THAT, in the year 2008, coal mining was discovered in the area occasioning a decision the Government, through the then Provincial Administration and local leaders to arrive at a decision to relocate residents from the said area to allow for the mining of the coal.

THAT, on the 27<sup>th</sup> day of April 2018 vide Gazette Notice No.389, the Cabinet Secretary for Mining gave a public notice on the application for mining rights without following due process of law in particular without any civic education, public participation and/or involvement of the people.

THAT, the community has never given consent for the mining in accordance with the provisions of Section 37(1) of the Mining Act with regard to the procedure for mining on private or community land;

THAT, similarly, the Governor of the County Government of Kitui announced that mining activities would start in the next six months with effect from April, 2018 and that the local residents would be relocated to Kanyonyoo Area in Kitui County, about 100km from their current residence;

THAT, the residents have buried their loved ones in the area and it will be against the Kamba customs and cultural practices to unearth their loved ones or see their graves being destroyed by heavy machines;

THAT, school going children, the elders and the disabled will be negatively affected due to change of the environment as a result of relocation;

THAT, the land was not properly surveyed with many people possessing titles with errors in names and while others have less size than the actual parcel of land allocated;

THAT, during the demarcation process, large parcels of land were left between the boundaries and/or allocated to strangers who have no legal right over it;

THAT, environmental impact assessment or the environmental management plan were never conducted;

THAT, the community has never been informed about compensation of their land and properties;

THAT, efforts to resolve this matter with relevant stakeholders have been futile; and

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Energy, considers the matters raised in the Petition, pursuant to the provisions of Standing Order 216(5)(a) and makes appropriate recommendations thereof.

And your petitioners will forever pray.

Thank you.

**Hon. Speaker:** Very interesting. Even if I was to allow comments, it would just become debate. It is important that you say that the residents have lived in that area since time immemorial which means time whence the memory of man runneth not to the contrary. That is what time immemorial means. It is time whence a memory of man runneth not to the contrary. I also thought that it is not coal mining which was discovered, it was coal. If you check, you have said that coal mining was discovered in 2008 but it is coal which was discovered.

Since Hon. Mulyungi had presented this Petition in the last Session, it is only fair that the Petition be referred to the relevant committee of the House to act as appropriate. Given the enormity of the issues he has raised in the Petition, should Hon. Mulyungi think that the 60 days period given under Standing Order No.227 are about to expire before the Committee has presented a report, he should maybe seven or 10 days before the expiry of the 60 days, rise properly in his place here in the House and seek an update from the Committee. If need be, the Committee is to seek extension if they will not have finalised the consideration of the Petition. This is because what you have raised in the Petition are weighty matters.

I can see comments. Hon. Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, my constituency neighbours Mwingi. As I pass through that constituency, I see voters in that area who are also my friends. This coal mining is very controversial in Kitui County. I hope this Petition is not based on the local politics of Kitui. Why do I say so? I read in the media that the Governor of Kitui County, Hon. Charity Ngilu, is supporting the prospect of coal mining. Her future competitor, the Member for Mwingi Central and who is the petitioner on behalf of the people of Mwingi, is also a prospective governor.

This is a very serious Petition. I think the House should not be taken for granted. We had Meru politics brought to the House this morning pitying the Chairman of the Committee on National Cohesion and Equal Opportunity against other politicians from the region. So, I am seeing a trend where local politics is now finding its way into Parliament through Questions, Motions and Petitions. So, the Committee you are referring this matter to must listen to Hon. Charity Ngilu and her team and the Member for Mwingi Central. There are those of us who believe it is good for both county and the country if resources such as oil and minerals are found in a county. I do not know who this Petition is referring to as “strangers”. It should mention the

“strangers”. If there is a foreign company, it can be a stranger. If there are local prospectors from other parts of the country, they do not become strangers. As we approach 2022, there are many prospective governors and senators here, including the Secretary of the Kenya National Union of Teachers (KNUT) and his teachers out there. We should not use the privilege given to us in this House, either in committees or plenary, to bring both personal and county matters here.

I beg to support, but ask that Hon. Charity Ngilu and those who want development be given an opportunity to appear before the Committee.

**Hon. Speaker:** Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. Let me thank Hon. Mulyungi for bringing up this matter and at the same time inform the Leader of the Majority Party that Hon. Mulyungi and Hon. Charity Ngilu were never Member of Parliament or governor respectively, when this matter started being debated. The only people who were in this place at that point were and Hon. Rachael Nyamai and I. We even signed the agreement at one point.

What we are saying is that this is a resource which is important to both Kitui County and the nation. Our interest as Kenyans, not even as the people of Kitui, is to see this resource being exploited to benefit Kenyans and the local people. I request that the issues Hon. Mulyungi has raised be addressed urgently so that we can pave way for this important resource to benefit the country. I wish it was put as a Question. That way, we could get clarification from the Cabinet Secretary on where we are; like a status report. Now that it is a Petition, we will allow the process to take place. However, we know that petitions will never be debated here at the end of the day. Neither are we likely to do anything with the report. It will just be tabled. For now, we can accept that.

As a country, we seriously need to think about some of these resources which are important to this country and can make grow our economy. If we go that way, we will be helping. When it comes to these resources, I think they do not belong to our regions. They belong to the nation and are in the interest of Kenyans. The quicker they are exploited, the better for Kenyans.

*(Applause)*

**Hon. Speaker:** Well, Member for Kangema, finally.

**Hon. Clement Kigano** (Kangema, JP): Thank you, Hon. Speaker. I would like to associate myself with the petitioners. They brought some issue to light. One is that the impact assessment has not been done. Two, to date, coal is archaic. It is dirty energy. We cannot be told that we should exploit it under the circumstances because it is economic. Exploitation of this resource goes against the whole of Article 42. That Article speaks about clean environment being a basic right. So, irrespective of the monetary value that ensues from this resource, because it is against the Constitution and the rights of the individuals or the occupants of Kitui and Mwingi, it is bad.

Secondly, no impact assessment was done because they want to exploit it in a hurry. It is because they know the impact assessment will not pass any known test in the world. I am a Member of the Departmental Committee on Energy and I have stated before that every country in the world is running away from coal. Why are we going back to coal?

**Hon. Speaker:** Hon. Members, there is no need for debate. As you know, it is a Petition. You can give your opinions before the Committee. In any event, it is good for everybody to

appreciate that whereas the Constitution in Article 119 allows any Kenyan to petition Parliament and whereas Parliament has also enacted the procedure to be followed, the avenue for petitions has certain limitations, just like Hon. Hon. Makali Mulu indicated.

Standing Order No.227 requires that the committee makes its findings on a petition and reports to the petitioner directly while at the same time tabling a report before the House. The Speaker may then allow comments for a limited period of 20 minutes. It is comments! The House is not required to make any resolution. So, it is important that Members appreciate that, more so those in the Procedure and House Rules Committee. They should take this particular aspect of this procedure so that, maybe, appropriate amendments could be introduced. That is because some of the petitions which are presented here require the House to delve into very serious matters. It is unfortunate that the House is thereafter not even required to resolve anything. It is merely supposed to note and make comments for 20 minutes. I am sure further information will be given by the Members of the Procedure and House Rules Committee who travelled out of the country recently about the place of petitions and how they may be processed from time to time.

The Petition stands committed to the relevant committee.

Hon. Members, before we proceed, allow me to recognise members of the Nyali Constituency National Government Constituencies Development Fund (NG-CDF), who are in the Speaker's Gallery and students from the following institutions who are in the Public Gallery: Emeroka Secondary School, Nyaribari Masaba Constituency, Kisii County and Moremani Secondary School, Nyaribari Masaba Constituency, Kisii County. They are all welcome to observe the proceedings of the National Assembly this afternoon.

Next Order.

## PAPERS LAID

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Speaker, on behalf of the Leader of the Majority Party, I beg to lay the following Papers on the Table of the House.

Reports of the Auditor-General on the Financial Statements in respect to the following institutions for the year ending 30<sup>th</sup> June 2018 and the certificates therein:

- 1) Rural Enterprise Fund;
- 2) Salaries and Remuneration Commission;
- 3) Receiver of Revenue (Development);
- 4) The Receiver of Revenue Pensions Department;
- 5) Revenue Statements;
- 6) State Department for Correctional Services;
- 7) Energy Regulatory Commission;
- 8) National Land Commission; and
- 9) Ministry of Foreign Affairs.

**Hon. Speaker:** Very well, next Order.

## QUESTION BY PRIVATE NOTICE

**Hon. Speaker:** The first Question by Private Notice is by the Member for Nairobi County, Hon. Passaris.

*Question No.142/2019*

## COST OF RUNNING GOVERNMENT-FUNDED ORPHANAGES

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Labour and Social Protection the following Question by Private Notice.

(i) Could the Cabinet Secretary provide a list of all Government-funded orphanages and related institutions and cost of running the said institutions?

(ii) Could the Cabinet Secretary further provide details of cost of food and utilities such as water, electric power and rent incurred by the orphanages and related institutions in the country?

(iii) Considering the challenges faced by the said institutions, could the Cabinet Secretary consider subsidising the cost of housing and utilities such as electric power and water in these facilities?

**Hon. Speaker:** Very well, the Question to be responded to before the Departmental Committee on Labour and Social Welfare. Next Question is Ordinary Question by the Member for Marakwet West Constituency, Hon. Kisang.

## ORDINARY QUESTIONS

*Question No.151/2019*

## LEASE AGREEMENT BETWEEN KISII UNIVERSITY AND SIOKWEI TARITA LIMITED

**Hon. William Kisang** (Marakwet West, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

(i) Is the Cabinet Secretary aware of the existence of a lease agreement between Kisii University and Siokwei Tarita Limited regarding the tenancy of Tarita Centre, which is part of L.R. No.Eldoret Municipality Block 7/162?

(ii) If yes, what are the terms of the lease and what were the circumstances surrounding the termination of the said lease by the Kisii University in October 2016?

(iii) What measures is the Ministry undertaking to resolve this dispute between Kisii University and Siokwei Tarita Limited?

Thank you.

**Hon. Speaker:** Very well, the Question to be responded to before the Departmental Committee on Education and Research.

Next Question by the Member for Sotik Constituency, Hon Koskei.

*Question No.152/2019*

## CRITERIA USED TO WRITE-OFF LOANS OWED BY FARMERS TO AGRICULTURAL FINANCE CORPORATION

**Hon. Dominic Koskei** (Sotik, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Agriculture and Irrigation the following Question:

Could the Cabinet Secretary explain the criteria used to write-off loans owed by farmers to the Agricultural Finance Corporation (AFC) following the presidential directive of 2017?

**Hon. Speaker:** Very well, the Question to be responded to before the Departmental Committee on Agriculture and Livestock.

Next Question by the Member for Kaiti Constituency, Hon. Kimilu.

*Question No.154/2019*

WITHHOLDING OF KCSE CERTIFICATES BY PUBLIC SCHOOLS

**Hon. Joshua Kivinda** (Kaiti, WDM-K): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

(i) Is the Cabinet Secretary aware that public secondary schools have continued to withhold the Kenya Certificate of Secondary Education (KCSE) certificates for candidates with fees arrears in Kaiti Constituency and Makueni County at large contrary to the provisions of the Basic Education Act (No.14 of 2013)?

(ii) What measures is the Ministry taking to ensure that KCSE certificates for candidates who cannot afford to pay the arrears are released?

**Hon. Speaker:** Similarly, the Question to be responded to before the Departmental Committee on Education and Research.

Next Question by the Member for Mwatate Constituency, Hon. Mwadime. Is this a mistake? The staff have indicated Hon. Engineer. Have you just qualified as an Engineer?

**Hon. Andrew Mwadime** (Mwatate, ODM): Hon. Speaker, I am not an engineer. You know I am a mathematician.

**Hon. Speaker:** I read this Question early in the morning and I wondered whether we needed to congratulate you.

**Hon. Andrew Mwadime** (Mwatate, ODM): Hon. Speaker, you do not need to. My certificates are higher than this.

*(Laughter)*

**Hon. Speaker:** Proceed, Hon. Mwadime

*Question No.156/2019*

POLICY ON LANGUAGE OF INSTRUCTION FOR CHILDREN IN  
LOWER PRIMARY SCHOOL

**Hon. Andrew Mwadime** (Mwatate, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

Could the Cabinet Secretary explain the policy on language of instruction for children at pre-primary and lower primary schools *vis-à-vis* the guiding principle regarding provision of basic education as provided for in Section 4 of the Basic Education Act (No.14 of 2013)?

**Hon. Speaker:** Very well, the Question to be responded to before the Departmental Committee on Education and Research.

Next Question by the Member for Kitui Rural Constituency, Hon. Mboni.

*Question No.157/2019*

## STATUS OF CONSTRUCTION OF SEKU - KWA VONZA ROAD

**Hon. David Mboni** (Kitui Rural, CCU): Hon. Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development the following Question:

(i) What is the status of the construction of the South Eastern Kenya University (SEKU)-Kwa Vonza Road in Kitui Rural Constituency?

(ii) When is the construction of the said road expected to be completed?

Thank you.

**Hon. Speaker:** Very well, the Question to be responded to before the Departmental on Transport, Public Works and Housing.

There are no requests for Statements. Hon. Members, I wish to draw your attention to the existence of a Supplementary Order Paper. I hope every Member is in possession of a Supplementary Order Paper, which was not uploaded to your iPads. It was prepared late. Those of you who are using your iPads may not see this particular Paper because it was not uploaded. The one on the iPad is the original Order Paper. There was a necessity to have a Supplementary Order Paper to incorporate a Report of one of the committees with regard to the Irrigation Bill (National Assembly Bill No.46 of 2017).

So, we will proceed on the basis of the Supplementary Order Paper.

**MOTIONS**

## SENATE AMENDMENTS TO THE LAND VALUE INDEX (AMENDMENT) BILL

THAT, the Senate amendments to the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018) be now considered.

*(Hon. Aden Duale on 26.3.2019)*

*(Debate concluded on 26.3.2019)*

**Hon. Speaker:** Hon. Members, debate on this Bill was concluded yesterday. What remained was for the Question to be put, which I hereby do.

*(Question put and agreed to)*

## SENATE AMENDMENTS TO THE PHYSICAL PLANNING BILL

THAT, the Senate amendments to the Physical Planning Bill (National Assembly Bill No.34 of 2017) be now considered.

*(Hon. Aden Duale on 26.3.2019)*

*(Debate concluded on 26.3.2019)*

**Hon. Speaker:** Order Members. The Member for Nyali, I am sure you may be desirous of going to meet the NG-CDF Committee, but if you look at the Order Paper... Unfortunately, I can see you do not carry it.

*(Some Members of Nyali NG-CDF Committee walked out of the Speaker's Gallery while the Speaker was on his feet)*

When you bring visitors here, try to educate them on the rules of the House, so that they do not behave like they are in the village.

*(Question put and agreed to)*

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

**Hon. Speaker:** Yes, Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I think the Serjeant-at-Arms' Office must indicate to the public who come to the Gallery that when the Speaker is on his feet, the way Members freeze, nobody else should move. The entire House freezes. So, I think the problem is not the members of the Nyali NG-CDF Committee. The problem is the protocol officers who bring these good people to the House. So, I am sure you will direct the protocol officers to do some induction. I saw the two ladies leaving when you were on your feet.

**Hon. Speaker:** The Serjeant-at-Arms and the Protocol Department should be accordingly advised. Advise visitors that we do not want to begin applying the rules on them. Otherwise, we may have difficulties having custody of all of them here. They are at liberty to leave, if they want to leave. Members of the Nyali NG-CDF Committee, you are at liberty to leave. If you want to leave, you can leave.

*(Members of the Nyali NG-CDF Committee left the Speaker's Gallery)*

*(Hon. David ole Sankok spoke off record)*

**Hon. Speaker:** Nominee 001, I notice what you want to draw my attention to. I can see by looking at where you want to point at. That is why we are allowing them to leave. We have not made that provision. You want to create debate even where there is none. They will be looked after appropriately.

REPORT ON INSPECTION VISIT TO THE NAMANGA  
ONE STOP BORDER POST IN KAJIADO COUNTY

THAT, this House adopts the Report of the Committee on Regional Integration on Inspection Visit of the Namanga One Stop Border Post, Kajiado County held from 7<sup>th</sup> to 10<sup>th</sup> April 2018, laid on the Table of the House on Tuesday, 13<sup>th</sup> November 2018.

*(Hon. (Ms.) Naisula Lesuuda on 26.3.2019)*

*(Debate concluded on 26.3.2019)*

**Hon. Speaker:** Hon. Members, once again, this debate was concluded and I hereby put the Question.

*(Question put and agreed to)*

Next Order.

## BILL

*First Reading*

THE NATIONAL COHESION AND INTEGRATION  
COMMISSION (AMENDMENT) BILL

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

## MOTION

SENATE AMENDMENTS TO THE IRRIGATION BILL

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, the Senate amendments to the Irrigation Bill (National Assembly Bill No.46 of 2017) be now considered.

I want to urge the House from the outset to reject the Senate amendments to Clause 6 in the proposed New Section 107A(1), which unfortunately the Committee agreed with. The Committee on Agriculture and Livestock, and the Chair is here, have agreed with the amendment. Initially, the Bill as passed by this House provided that...

Sorry, Hon. Speaker, I think I have a different document.

Hon. Speaker, if you look at Clause 2 of the Bill in which the National Assembly and the Senate disagreed, the Committee disagreed with the definition of 'irrigation' to mean any hydraulic engineering process which extracts, stores and supplies water to crops or any other cultivated plants, livestock and all that. The Committee has stated that the amendments of the Departmental Committee on Agriculture and Livestock supersede that because it carries more weight and scope in terms of definition. So, on that the Committee have disagreed with the Senate, the justification being that the Senate amendment to the definition of the term 'irrigation' and 'licence' are without effect. The definition of those two terms is the same as they were in the National Assembly version of the Bill that was transmitted to the Senate. So, there is nothing they have changed. They have just agreed with us. But in terms of grammatical errors, there are some differences.

In Clause 3, I want to confirm that the Committee agreed with the Senate amendments subject to deletion of the word 'for' appearing immediately after the words 'in the Act'. The justification for that is that the amendment does not alter the substance and the meaning of the provision, but it seeks to bring a provision into conformity with the good drafting practices. And

I said yesterday that the Legal Department of the Senate must be very careful in terms of drafting legislation.

Clause 6 is an area in which the Committee disagreed with the Senate. I am sure the Chair will give us reasons because it is a very long section. One of the reasons that the Committee gave for partly agreeing with the Senate is that it has agreed with the Senate in as far as paragraphs (b) and (h) are concerned.

The Committee rejected the amendments in paragraph (a), (b), (i), (h) and (a), (b), (c), (h) and (b) in (1) and (i) in (3). The Committee also agreed with the Senate amendments in paragraph (b) of (1) because the use of the term “promote” connects with sensitisation of the many diverse creations which was the intention of that paragraph *vis-a-vis* the facilitation aspect.

Clause 8 of the Bill will be amended in sub-clause (2) by inserting the words “safe storage” immediately after the words “promoting and marketing”.

I think the National Assembly Committee agreed with the Senate, which I also have no problem with as the originator of the Bill. We have agreed with some of the Senate amendments and disagreed with a few. The only route available now in this matter is that of mediation under Article 113. So, once we finish and go to the Committee of the whole House, then this will be part of the Bills that will create a mediation committee on the Roads Bill, the Physical Planning Bill, the Land Value Index Bill, the Copyright Bill, the Warehouse Receipts Bill and the Irrigation Bill.

With those many remarks, I urge the Members that we do not spend more time on this matter because we are going to the Committee of the whole House where we can again go through the amendments one by one. So, let us take as little time as possible so that we can finish with this matter and from next week, the mediation committee, which will be composed of the chairs, vice-chairs and other Members, can deliberate on the matter with our colleagues from the Senate so that the two Houses can agree. We want to do it through a consensus so that we only come back to the House to report that we have agreed on all the contentious issues and then we can send the Bills to the President for assent. These Bills are very critical to the running of the Government, more so to the Big Four Agenda of President Uhuru Kenyatta.

I beg to move and ask the Chair, Departmental Committee on Agriculture and Livestock to second.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. From the outset, I wish to second the Senate Bill No.46, Irrigation Bill, National Assembly Bill No.46/2017. Like the Leader of the Majority Party has said, we have agreed with some sections and clauses because some of the areas were merely for cleaning the Bill while others have made fundamental changes which I am going to enumerate.

In Clause 2, we agreed that it was a matter of cleaning the Senate amendment to the definition of terms ‘irrigation’ and ‘licence’. So, we agreed with the Senate and Clause 2 did not make any difference.

In Clause 3 of the National Assembly Bill, they had sought to interchange the words ‘to matters relating to the development, management, financing provision of support services’, which the Committee felt did not make a difference. So, we agreed with the Senate. The Senate amendment does not alter the substance of the provision, but only seeks to reinforce the clause as it were.

In Clause 6, we agreed in part with the Senate. There are areas which we felt were just merely sanitising, but there were areas which made fundamental differences that we had rejected

as the National Assembly. In Clause 6(i), the Senate wanted to insert the words “the Cabinet Secretary shall in consultation with the Council of Governors”, but we felt this is not their mandate because irrigation is not a devolved function. So, the inclusion of the CoG so that the Cabinet Secretary consults them, we felt was going to cause unnecessary delay in implementation of irrigation matters.

In sub-clause 2, without prejudice to the generality of the foregoing, provided that the Cabinet Secretary shall in consultation with the CoG... As a Committee, we felt that consulting the CoG on irrigation matters was not necessary and the Cabinet Secretary was going to take responsibility for the operational management and the estimates of the department. We felt that it is not necessary for the CoG to be involved when it comes to issues of irrigation.

As far as Clause 6(i) is concerned, the Committee rejected the Senate amendments to it. The justification is that part of the Fourth Schedule of the Constitution provides that the National Government has a function relating to agriculture whereas irrigation is the mandate of the national Government. Irrigation is not a devolved function and it is included in Part II of the Fourth Schedule of the Constitution.

In Clause 8, the Committee agreed with the Senate amendments the reason being the additional power of the National Irrigation Authority to promote crops, animals and fish products. They added the words “safe storage of crops, animal and fish products grown or produced on national and other irrigation schemes.” This further enriches the Bill. Here they added the words “safe storage”. In the National Assembly Bill, we only had the “Irrigation Authority to promote crops, animals and fish products”. Then they added “to promote safe storage of crops, animal and fish products”. This just enhances the Bill and we had no issue with that.

In Clause 9, the Bill provides that the Bill be amended in 9(a)(i) by deleting the words “State Department of” appearing immediately after the words “the Principal Secretary” in paragraph (b) and substituting therefor the words “responsible for”. Here the justification is that State departments change every so often with Executive Orders. The Committee agreed with the Senate amendments in paragraph (a) and rejected the Senate amendments to paragraph (a)(ii), (iii), (b), (c) and (d). The reason why we disagreed with the Senate amendments is to unduly expand the composition of the Board of the National Authority. This goes against the *Mwongozo* guidelines where they wanted the CoG to nominate four members to the board. So, the Committee felt that, that was far too many. The expanded board is against the *Mwongozo* guidelines and so, we rejected it. The provisions enable the members of the board to elect a vice-chairperson from among themselves and to have gender parity in leadership as well.

These are some of the few areas where we had rejected and others where we saw sanity and good practice in drafting. We agreed with the Senate on those that are going to make fundamental differences and for those that were seeking to rope in the CoG, we rejected them outright.

With those few remarks, I second.

Thank you.

**Hon. Speaker:** Order Members.

*(Question proposed)*

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker. I arise to support the Report by the Departmental Committee on Agriculture and Livestock. Even as I do, I want to

note that this Bill was passed by this House in May last year. From that time, it is now in March that we are getting it from the Senate. It has taken almost a year and I think the trend is worrying. We work very hard in this House, pass Bills to go to the Senate where they start a process of proposing amendments, some of which are not in line with the spirit of the particular Bill.

Of interest is the introduction of consultations with CoG, which will slow down the implementation of the Irrigation Bill. I want to commend the Committee for rejecting this amendment. I also want to support the Committee for rejecting the expansion of the board, which would have resulted to a bloated board. The issue here is not about the expansion of the board, but introduction of people, who might not have direct interest in the implementation of the Irrigation Bill. So, I want to support the Committee on this.

I hope when it goes for mediation, the Senate will find it necessary to go by the Committee of this House. I want to note that I come from a constituency with one of the largest irrigation schemes in this country namely, the Mwea Irrigation Scheme. I want to commend the Committee for having taken time to discuss and talk directly to the farmers in order to understand their challenges and issues on how to move irrigation forward in this country. So, they took their time before they brought the proposed amendments to the Bill.

Therefore, from the outset, I want to reveal to our brothers in the Senate that when this goes for mediation, they should understand the Committee of this House. Again, I want to commend them because I took time last year to be with them. I want to thank the Chairman and his vice who took time to not only hear us, but to also come all the way to Mwea to understand the plight of farmers in as far as irrigation is concerned.

If we introduce too much control by county governments, or the CoG, in irrigation schemes, which is a function of the national Government, we will derail implementation of the various issues concerning irrigation schemes. I, therefore, look forward to a fruitful mediation. The Senate should take note of the efforts by the Committee of this House and agree on their proposals so as to move forward.

I support the Report by the Committee.

**Hon. Speaker:** Hon. Members, I am assuming that everybody who has placed their cards in the machines desires to contribute to this. The first one is the Member for Mwingi Central. Absent, not desiring to be present. Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. I also want to add my voice to this important Motion on the Senate amendments to the Irrigation Bill. I want to agree with the Committee because I have looked through the amendments. First of all, it is good that the Senate did a bit of cleaning.

I think they have done some substantive amendments, which I agree with the Committee that we cannot accept. One of them is a situation where the CoG wants to nominate members to boards and become an active player in the irrigation exercise. I want to agree with the Chairman that if a function is not devolved, there is no need of having nominees by the CoG because that is a function of the national Government.

Another thing is that if they want to be consulted, the Constitution is very clear about public participation. They could make some administrative arrangements. I am imagining we are implementing irrigation projects at the county level in terms of the area of operation. Therefore, this does not mean that they should sit at the high level. We could have administrative arrangement where before the implementation, they are consulted, have a forum for discussion or participate like everybody else during public participation, which is a requirement in the Constitution.

Another important issue is that we need to be a bit careful in terms of amendments. The Senate has proposed that instead of using the word ‘Parliament’, we use the words ‘the National Assembly and the Senate’. I do not understand what the difference is. I thought in the Constitution, the word ‘Parliament’ includes both the National Assembly and the Senate. I do not understand the value addition of replacing Parliament with the National Assembly and the Senate. This is a bit confusing.

Also, looking at the proposed amendments in Clause 34, I see a situation where the Senate wants to introduce a lot of bureaucracy in implementation, where they are saying that approval must be given by the Senate and the National Assembly. The Constitution is very clear that the Senate is supposed to take care of the interests of the counties. So, on a matter which is national in nature, why do they want to approve it, on a serious note? I see this being tied to the requirement of having a member of the CoG. Now that we are doing away with a member from the CoG, then, automatically, the approval of the Senate is not required. So, this must be rejected as the Chairman has proposed.

With those remarks, I support.

**Hon. Speaker:** Member for Igembe South.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Speaker. I rise to support the Report of the Committee. National matters should be handled by the national Government. As we know, irrigation is under the national Government and has not been devolved. So, having the idea of consulting the governors before the national Government makes an initiative to implement its work will delay the full functioning of the national Government.

As the national Government deals with its matters, it is important to involve the body mandated to do the work as stated by the Committee. We should not dwell on supporting the Senate amendments because we should work as intended by the national Government. At the same time, on increasing the number of representatives to the proposed board, it is the duty of county governments to attend public participation when there is a project the national government wants to implement and give their views.

Hon. Speaker, I concur with the amendment by the Committee.

I support.

**Hon. Speaker:** Hon. Wilberforce Oundo, Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. Just as we debated yesterday, the same issues seem to arise again. The Senate seems to be overrating itself in things that do not touch them. As we said yesterday, and we want to repeat it, probably, it is important for the Senate to be taken through the Fourth Schedule of the Constitution that demarcates the roles of both the national Government and county governments.

That said and done, some amendments are acceptable because they bring clarity and they clean up the specific sub-sections of the Bill that we passed here. However, others introduce unnecessary bureaucracy that is going to delay and make decision-making a fairly lengthy process.

On that account, I stand to support the amendment proposed by the Departmental Committee on Agriculture and Livestock. Thank you.

**Hon. Speaker:** Next is Nominee 001. I think it is also important to appreciate, and I agree with Hon. Makali Mulu, that we know for a fact that the Constitution, very clearly, in Article 93, states that there is established a Parliament of Kenya which shall consist of the National Assembly and the Senate. Now to go into other legislation to say this will be considered

by the National Assembly and the Senate is like somebody who has forgotten that the grand norm, the supreme law of the land, has already taken care of that.

Hon. Sankok, proceed.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. Members are correct by saying that the Senate is just trying to look for relevance. Their functions are vested upon county assemblies. County assemblies oversee county governments and the National Assembly oversees the national Government. They have to look for some relevance because they are hanging somewhere there. It is just a waste of public funds to have the Senate overseeing county governments which again, are being overseen by county assemblies.

The Fourth Schedule of our Constitution is very clear on agriculture and irrigation. When this House was considering this Bill, it indicated that the Fourth Schedule of the Constitution provides that the national Government has the function relating to the agricultural policy. Part II of the Forth Schedule assigns county governments the function relating to crop and animal husbandry. If that is what they are assigned, then it just means that irrigation is not a devolved function. I do not know where they got this particular law of them dealing with irrigation.

Article 186(3) of the Constitution provides that a function not assigned by the Constitution or national legislation to a county is to be retained as a function of the national Government. So, automatically, this is a function of the national Government. When they start introducing bureaucracy in terms of passing these laws and proposing that the national Government must consult with the CoGs, they intend to be a bit relevant. The Cabinet Secretary is not mandated to consult with the CoGs because they do not consult with the national Government when they are performing their specific duties that are assigned to them in the Fourth Schedule of our Constitution.

Therefore, I advise our Members who will go to the mediation committee to be sober enough and educate the Senate. If possible, they should ask the Senators to go for induction in terms of the Constitution of Kenya, 2010. We have constitutional experts like Hon. Jimmy Angwenyi. We also have the Speaker, who is a mobile encyclopaedia when it comes to our Constitution. They should learn a lot from the Members of this House who were involved in the crafting of the Constitution. It seems they do not understand the Constitution well enough. So, advice the Senators to go for an induction and if they find that they are hanging and they do not have any function, instead of looking for relevance by delaying very important Bills, they should request for that House to be dissolved. The National Assembly oversees the national Government and county assemblies oversee county governments.

I support the Committee Report. Such amendments from the Senate should not be entertained because even yesterday, we had the same issues and we cannot be wasting our time and taxpayers' money debating issues repeatedly and it seems a certain House does not understand. I refer them to Hon. Amollo Otiende, who is another very intelligent guy when it comes to constitutional matters. They can consult him. Thank you very much, Hon. Speaker.

**Hon. Speaker:** There is intervention by the Member for Navakholo.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I rise on Standing Order No.95 to seek your direction. The speakers who have spoken seem to be moving towards one direction. Going by the speech given by the Leader of the Majority Party, he seems to imply that we are going to have the Committee of the whole House tomorrow. It means that much of the work will be dealt with in the Committee of the whole House. Given that, will I be in order to ask that the Mover be now called upon to reply?

Thank you, Hon. Speaker.

**Hon. Speaker:** It looks like that could be the mood in the House, is it not? Hon. Members, I am sure many of you by now have read the full text of the speech made on 4<sup>th</sup> January 1642 by Speaker Lenthall. Let me get it. The Member for Navakholo, Hon. Emmanuel Wangwe, has risen in his place and claimed that given what is being said by every Member and given the possibility that there will still be another chance of discussion by a smaller committee, the Mover be now called upon to reply. I, therefore, put the Question.

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

The Member for Imenti Central was only alone. Let us have the Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I think the Members who contributed made very valuable contributions. This Bill is going to mediation under Article 113 of the Constitution. Because we are now going to the Committee of the whole House to actualise that, I beg to reply.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order!

## 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.) Jessica Mbalu) took the Chair]*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Order, Members! The Members who are walking into the Chamber, please, do so in a hurry as we want to start business.

Hon. Members, we are in the Committee of the whole House. As you can see on your Order Paper, we have three Bills to look at. We considered starting with the Irrigation Bill, but we are still getting ready for that. We will start with the Senate Amendments to the Land Value Index Laws (Amendment) Bill.

## SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

*Clause 1  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendment to clause 1 be deleted.

The purpose of this deletion is that we would like to maintain the title of the Bill as “Land Value Index Laws (Amendment) Bill” as opposed to calling it the Land Laws (Amendment) Bill.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, is it the mood of the House that I put the Question?

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

*(Senate amendments to Clause 1 deleted)*

*(Senate amendments to Clauses 2, 3 and 4 agreed to)*

*Clause 5*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 5 be amended:

(a) in paragraph (a) by deleting the word “seven” appearing in the proposed new subsection (3A) and substituting therefor the word “fourteen”;

(b) by deleting paragraph (b);

(c) by deleting paragraph (c).

We agreed to this amendment, which introduces new definitions to make the Bill clearer.

*(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)*

*(Senate amendments to Clause 5 as amended agreed to)*

*Clause 6*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 6 be amended in paragraph (a) by:

- (a) deleting sub-paragraph (ii);
- (b) deleting sub-paragraph (iv).

The justification for this is that the Committee notes that the deletion of the word “apparent value of the land” is improper as it alters the import of the clause, which was to provide an increase in the value of the land. This shall be disregarded if there is an increase in the potential value of the land.

The Committee also notes that Section 107A8(a) reduces the duration of what can be termed as uninterrupted occupation from 12 years to six years. This period should be tied to the common law doctrine which refers to 12 years.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Any interest to speak to this? Let us have the Member for Saku. It is a deletion.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Chairlady. I rise to support the Chair on this primarily because somebody in the Senate just looked at this thing trivially. It addresses issues of community land. It is important for those of us who occupy community land to take cognisance of the import of this Bill. The Senate attempts to water it down and make it appear that that land is useless. For that reason, I support the amendment proposed by the Chair.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You support the amendments by the Chair. I see no other interest to speak to this.

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

*(Senate amendments to Clause 6 as amended agreed to)*

*Clause 7  
Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): The Mover, Hon. Nyamai, move your amendment.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 7 be amended by deleting paragraph (b).

The acquiring body, which may refer to any public institution, is distinct from the acquiring authority, which is the National Land Commission (NLC). It is, therefore, necessary to retain the provisions as currently contained in the Land Act for the purpose of clarity.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I see no interest to comment on this. Therefore, I put the Question.

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

*(Senate amendments to Clause 7 as amended agreed to)*

*(Senate amendments to Clauses 12, 13, 14 and 16 agreed to)*

*Clause 17  
Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Rachael Nyamai, you have an amendment to Clause 17.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 17 be deleted.

The justification for this is to ensure that the Cabinet Secretary is given an opportunity when appointing members of the tribunal to handle issues of inclusivity and possibilities of ensuring gender diversity or regional balance.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Chairlady. I have seen that there is a new leader of the minority party on the seat. He is overqualified.

I support the Chair of the Committee because the Senate is bringing in something I do not understand. They propose that there must be somebody nominated by the Judicial Service Commission (JSC), one person nominated by the Cabinet Secretary and one person nominated by the valuers. The Departmental Committee on Lands is saying that the Cabinet Secretary should look into gender, region and other diversity and professional bodies to form the tribunal. The JSC cannot play a role here. That is where people should go. In case somebody is aggrieved by the NLC or the Ministry, they go to court. The institution that runs the court cannot have a membership in the tribunal.

I beg to support the Chair.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): New leader of the minority party, that is not your position. Hon. Musimba, Member for Kibwezi West.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): I thank you, Hon. Temporary Deputy Chairlady. I rise to support the Chair in this amendment. Any tribunal is like a judicial institution, which has to go through the ranks. This will be a clear conflict on the hierarchy within the Judiciary.

So, I support the Chair.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You are lucky today because you are sitting on a very powerful Chair of the Leader of the Minority Party.

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

*(Senate amendments to Clause 17 deleted)*

Hon. Members, we are through with the Committee of the whole House on the Senate amendments on the Land Value Index Laws (Amendment) Bill. I call upon the Mover.

## REPORT

### THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee of the whole House has considered the Senate Amendments to the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018) and approved the same with amendments.

*(Question of proposed)*

*(Question put and agreed to)*

### SENATE AMENDMENTS TO THE PHYSICAL PLANNING BILL

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, we will proceed to the Senate amendments to the Physical Planning Bill, National Assembly Bill No.34 of 2017. We can follow the Order Paper. Initially, we were to rearrange it, but we did not. Hon. Members, we are in the Committee of the whole House to consider the Senate Amendments to the Physical Planning Bill, National Assembly Bill No.34 of 2017.

#### *Clause 3*

#### *Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): There is an amendment by Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendment to Clause 3 be amended –

(a) in paragraph (a) by deleting the words “land use” and substituting therefor the word “physical”;

(b) in paragraph (b), by deleting the words “land use” appearing in the proposed new paragraph (h) and substituting therefor the word “physical”;

The justification for this is the rejection by the Committee to change the title of this Bill from “Physical Planning Bill” to “Land Use Bill”.

*(Question of the amendment proposed)*

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

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

*(Senate amendments to Clause 3 as amended agreed to)*

*(Senate amendments to Clause 4 agreed to)*

## *Part II*

### *Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): There is an amendment by Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendment to Part II of the Bill be deleted.

The amendment is not necessary because the Bill, as passed by the House, relates to matters of physical planning. The Bill does not offend the provisions of Article 66 of the Constitution. So, it can pass as it is.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, do you want to speak to this?

**Hon. Aden Duale** (Garissa Township, JP): No.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): There are no Members who want to contribute to the amendment.

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

*(Senate amendment to Part II deleted)*

## *Clause 5*

### *Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): We have an amendment. Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

- THAT, the Senate amendments to clause 5 be amended—
- (a) by deleting paragraph (a);
  - (b) in paragraph (b), by—
    - (i) deleting sub-paragraph (i);
    - (ii) in sub-paragraph (ii) by deleting the words “land use and substituting therefor the word “physical”;
    - (iii) deleting sub-paragraph (xii);
    - (iv) deleting paragraph (xiii);
  - (c) by deleting paragraph (c);
  - (d) by deleting paragraph (d);

The justification is that the Committee rejects reference to the words “land use.” It has retained the title of the Bill to be “Physical Planning Bill”. I will keep repeating this because the Committee stuck to “Physical Planning Bill” as opposed to “Land Use”.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Senate amendment to Clause 5 as amended agreed to)*

*Clause 6*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 6 be deleted.

The reason is the Committee retained the title of the Bill as “Physical Planning.”

*(Question of the amendment proposed)*

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

*(Senate amendment to Clause 6 deleted)*

*Clause 7**Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member for Kitui South, Hon. Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Senate amendments to Clause 7 be deleted.

The justification is the same as in the earlier clause. The Committee decided to stick to “Physical Planning Bill” as opposed to “Land Use”.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You need to pronounce yourself on that. You cannot just say that it is the same.

*(Question of the amendment proposed)*

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

*(Senate amendment to Clause 7 deleted)*

*Clause 8**Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 8 be deleted.

The justification is that the Committee decided to stick to the title of the Bill, “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendment to Clause 8 deleted)*

*Clause 9**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 9 be amended by—

- (a) deleting paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting the words “land use” appearing in paragraph (c) and substituting therefor the word “physical”;
- (d) deleting paragraph (d);
- (e) deleting paragraph (e);

The purpose of the amendment is that the Committee retained the title of the Bill as “Physical Planning Bill”.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member for Muhoroni.

**Hon. Onyango Oyoo** (Muhoroni, ODM): Thank you, Hon. Temporary Deputy Chairlady. I support the amendment because there is no reason why the name should not be retained as “Physical Planning Bill”. I therefore support.

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

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

*(Senate amendment to Clause 9 as amended agreed to)*

*Clause 10**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 10 be deleted and substituted therefor with the following new amendment—

THAT, Clause 10 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “National Director of Physical” appearing immediately after the words “office of the” and substituting therefor the words “Director General of Physical”;

(b) in sub-clause (2) by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Physical”;

(c) in sub-clause (3) by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Physical”; and

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

Director General of Physical Planning.

The justification for the amendments in parts (a), (b), (c) and (d) is for the same reason. The Committee retained the title of the Bill as the “Physical Planning Bill”. Thank you.

*(Question of the amendment proposed)*

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

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

*(Hon. David ole Sankok consulted loudly)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member 001, you are out of order.

*(Senate amendment to Clause 10 as amended agreed to)*

*Clause 11*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 11 be amended—

(a) in paragraph (a), by deleting the words “Land Use” and substituting therefor the word “Physical”;

(b) in paragraph (e), by deleting the words “Land Use” and substituting therefor the word “Physical”;

(c) by deleting paragraph (c);

(d) by deleting paragraph (d);

The justification for this is that the amendments to paragraph (c) and (d) proposing to change from registered physical planner to registered planner are ambiguous which might give room for abuse due to reference to the term “registered planner”.

The amendment also removes the specific experience required for qualification for appointment to the position of Director of Physical Planning.

*(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)*

*(Senate amendments to clause 11 as amended agreed to)*

#### *Clause 12*

#### *Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Senate amendments to clause 12 be amended by—

(a) in paragraph (a), by deleting the words “Land Use” and substituting therefor the word “Physical”;

(b) by deleting paragraph (b);

(c) by deleting paragraph (c);

(d) by deleting paragraph (d);

(e) by deleting paragraph (e);

(f) in paragraph (f), by deleting the words “land use” and substituting therefor the word “physical”;

(g) in paragraph (g), by deleting the words “Land Use” and substituting therefor the word “Physical”;

The justification for this amendment is that the Committee retained the title of the Bill as “Physical Planning Bill”.

*(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)*

*(Senate amendments to clause 12 as amended agreed to)*

*Clause 13*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 13 be amended by—

- (a) deleting paragraph (b);
- (b) deleting paragraph (c);
- (c) deleting paragraph (d);

The justification for the three of them is that the Committee decided to retain the title of the Bill as “Physical Planning Bill.”

*(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)*

*(Senate amendments to clause 13 as amended agreed to)*

*Clause 14*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 14 be amended—

- (a) by deleting paragraph (a);
- (b) in paragraph (b), by deleting the words “Land Use” and substituting therefor the word “Physical”;
- (c) by deleting paragraph (c);

The justification is that the Committee retained the title of the Bill as “Physical Planning Bill” and hence the amendments are not in order.

*(Question of amendment proposed)*

**Hon. David ole Sankok** (Nominated, JP): I support the amendment because we have retained the term “Physical Planning.”

*(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)*

*(Senate amendments to clause 14 as amended agreed to)*

#### Clause 15

##### Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 15 be deleted.

The justification is that the Committee retained the title of the Bill as “Physical Planning Bill” hence the change of the name of the County Director of Physical Planning to County Director of Land Use Planning is not in order. The amendment is also ambiguous in that it will remove specific experience that is required for qualifications of the County Director of Physical planning.

*(Question of the amendment proposed)*

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

*(Senate amendments to clause 15 deleted)*

#### Clause 16

##### Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 16 be amended by—

(a) deleting paragraph (a);

(b) deleting paragraph (b) and substituting therefor the following new amendment—

“(b) by deleting the word “country” appearing in paragraph (a) and substituting therefor the word “county”.

(c) deleting paragraph (c);

- (d) deleting paragraph (d);
- (e) deleting paragraph (e);
- (f) deleting paragraph (f);
- (g) deleting paragraph (g);
- (h) deleting paragraph (i);

The justification is that the Committee retained the title of the Bill as “Physical Planning Bill” hence the amendments are not in order.

*(Question of amendment proposed)*

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

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

*(Senate amendments to clause 16 as amended agreed to)*

### *PART III*

#### *Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendment to Part III of the Bill be deleted.

*(Question of amendment proposed)*

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

*(Senate amendments to PART III be deleted)*

#### *Clause 17*

#### *Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 17 be deleted.

The justification is that the Committee retained the title of the Bill as “Physical Planning Bill” hence the amendments are not in order.

Further, the proposed amendment in paragraph (a) serves no purpose as it retains provisions as contained in the Bill.

*(Question of the amendment proposed)*

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

*(Senate amendments to clause 17 deleted)*

*Clause 18*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 18 be deleted.

The justification is that the Committee has retained the title of the Bill as “Physical Planning Bill” hence the amendments are not in order.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, we do not want to sit here and it is only the Chair and Hon. Sankok speaking. We need to know that the moment the Senate changed the title of the Bill, then anywhere else in that Bill where there is “physical planning”, they changed it to “land use”. So, all these are consequential amendments. That is why the Chairperson of the Committee is making it fast.

Majority of the 45-paged amendments are consequential changes because of the title of the Bill.

I beg to support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. The Member for Turkana Central.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Thank you, Hon. Temporary Deputy Chairlady. I want to know why the Chairperson is deleting the term “physical planning”. I have not understood.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You did not understand?

**Hon. Lodepe Nakara** (Turkana Central, ODM): Yes, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Nominee 001, Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. Yesterday we were in this House. When as a Member you are absent, it is good to ask Members where they reached so that you know where they are. Yesterday we used our time well to explain the difference between “physical planning” and “land use”. Physical planning encompasses a lot of issues including land use and amenities like roads and railways. I know the words are technical to the Member for Turkana Central.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): No, it is only because he was not present. He is a sharp Member. I do not want to call the Chairperson to justify. I can see the Member nodding signifying that he now understands. As a House, we make laws from an informed point.

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

*(Senate amendments to Clause 18 deleted)*

*Clause 19  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 19 be amended—

(a) in paragraph (a)—

(i) by deleting the words “Land Use” appearing in sub-paragraph (i) and substituting therefor the word “Physical”;

(ii) by deleting the words “Land Use” appearing in sub-paragraph (ii) and substituting therefor the word “Physical”;

(iii) by deleting sub-paragraph (iii);

(b) by deleting paragraph (b);

(c) by deleting paragraph (c);

(d) by deleting paragraph (d);

The Committee made a decision to retain the title of the Bill as “Physical Planning Bill” hence the amendments are not in order. It is good that the Member for Turkana Central will understand why we are doing this.

*(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)*

*(Senate amendments to Clause 19 as amended agreed to)*

*Clause 20*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 20 be amended—

- (a) by deleting paragraph (a);
- (b) in paragraph (b), by deleting the words “Land Use” and substituting therefor the word “Physical”;
- (c) by deleting paragraph (c);
- (d) by deleting paragraph (d);
- (e) by deleting paragraph (e);

The Committee has decided to retain the title of the Bill as “Physical Planning Bill.” This means that the amendments are not in order.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Senate amendments to Clause 20 as amended agreed to)*

*Clause 21*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 21 be amended—

- (a) in paragraph (a), by deleting the words “Land Use” wherever it appears and substituting therefor the word “Physical”;
- (b) in paragraph (b), by deleting the words “Land Use” and substituting therefor the word “Physical”;
- (c) in paragraph (c), by deleting the words “Land Use” and substituting therefor the word “Physical”;
- (d) by deleting paragraph (e);

The Committee has decided to retain the title of the Bill as “Physical Planning Bill”. This means that the amendments are not in order.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Senate amendments to Clause 21 as amended agreed to)*

*Clause 22  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 22 be deleted.

The Committee has decided to retain the title of the Bill as “Physical Planning Bill” hence the amendments are not in order.

Thank you.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 22 deleted)*

*Clause 23  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 23 be deleted.

The Committee has decided to retain the title of the Bill as “Physical Planning Bill” hence the amendments are not in order. Further, the use of the words “Planning authorities” and deletion of reference to the words “National Government” and “County Government” in Sub-Clause 1 creates ambiguity.

Thank you.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 23 deleted)*

*Clause 24*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 24 be amended by deleting paragraph (a).

The Committee has decided to retain the title of the Bill as “Physical Planning Bill” hence the amendments are not in order.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Nominee 001, Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. All this confusion is brought about by the Senate proposing funny amendments. That is why our intelligent Bishop Nakara from Turkana Central was lost. I am now lost. I do not know where we are. We should induct the Senate. They are costing us a lot of time.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Are you supporting?

**Hon. David ole Sankok** (Nominated, JP): I am supporting, Hon. Temporary Deputy Chairlady.

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

*(Senate amendments to Clause 24 as amended agreed to)*

*Clause 25*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 25 be deleted and substituted therefor with the following new amendment—

THAT, the Bill be amended by deleting clause 25 and substituting therefor the following new clause—

Establishment of Inter-County Joint Physical Planning Development Committees.

25. (1) Two or more counties may, by mutual agreement or out of compelling necessity, formulate an inter-county physical development plan.

(2) In the preparation of a inter-county physical

development plan, the counties shall form an inter-county physical planning joint committee.

(3) The inter-county physical planning joint committee shall consist of—

(d) the county executive committee member of the respective counties;

(e) two other relevant county executive committee members from the respective counties nominated by the relevant county governor; and

(f) the Director General of Land Use Planning who shall be an *ex-officio* member of the Committee;

(4) The inter-county joint physical planning joint committee may co-opt such other persons as may be necessary to assist it in performance of its duties.

(5) The members of the inter-county joint physical planning joint committee appointed under subsection (3)(a) and (b) shall, during the first meeting of the Committee, elect from amongst themselves a chairperson and a vice chairperson provided that the chairperson and the vice chairperson shall not be county executive committee members from the same county.

(6) The Director General of Physical Planning shall, in consultation with other members of the Committee, convene the first meeting.

(7) The Director General of Physical Planning shall co-ordinate meetings of the inter-county joint physical planning joint committee and provide it with secretariat services.

The Committee has decided to retain the title of the Bill as “Physical Planning Bill” hence the amendments are not in order. The Committee deletes the term “Land Use Planning” and retains the term “Physical Planning” as used in the Bill. The purpose is to make sure that everything is in order.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Turkana Central, now you understand.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Hon. Temporary Deputy Chairlady, how can formulating an inter-county land use development plan be applicable to two different counties which physically border each other? I do not understand. Like Turkana and West Pokot, how can they use one plan?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Are you supporting or not supporting the amendment, Hon. Nakara?

**Hon. Lodepe Nakara** (Turkana Central, ODM): Let the Chair explain.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Chair, please, in a statement can you justify?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): I will try to explain then the Leader of the Majority Party can explain further. He is asking how two counties can use the same development plan. Yes, that is possible. We know counties are distinct entities but there are activities and developments that involve more than one county. So, we are talking about counties, inter-counties and regional development plans. So, it is very much applicable for Turkana.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, before I put the Question.

**Hon. Aden Duale** (Garissa Township, JP): You know, Hon. Temporary Deputy Chairlady, there used to be a Member of Parliament from Turkana, the late Ekidor, I think. He was not following the proceedings in the House then in the middle of the discussion he heard Turkana and he woke up from his chair and said, "What about Turkana?"

*(Laughter)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, just try to make him understand the justification.

**Hon. Aden Duale** (Garissa Township, JP): The Member for Turkana Central has issues with his neighbours, the Pokot, so he is wondering how he can have the same physical plan with his enemies. But the Chair has explained. This is where projects cross-cut counties, like roads. So, they can have the same physical plan. What about Turkana?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I think the Member for Turkana Central is quite in order. For us to take a vote of yes or no, you must decide from a very informed point. With that let me put the Question.

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

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

*(Senate amendments to Clause 25 as amended agreed to)*

Clause 26

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 26 be deleted.

The reason is that the Committee has retained the title of the Bill as “Physical Planning” hence all those amendments are not in order.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 26 deleted)*

Clause 27

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 27 be deleted.

The justification is that the Committee has maintained the title of the Bill as “Physical Planning Bill” hence all the amendments are not in order.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 27 deleted)*

Clause 28

Senate Amendments

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 28 be amended—

- (a) in paragraph (b), by deleting the words “Land Use” and substituting therefor the word “Physical”;
- (b) by deleting paragraph (d);
- (c) by deleting paragraph (e);
- (d) by deleting paragraph (f);

The purpose of this amendment is that the Senate amendments delete the provisions through which an aggrieved person can appeal against a decision made at the inter-county physical planning joint committee. This would result in a vacuum as far as redress mechanisms are concerned. So, we would like people to have an opportunity to seek redress.

Thank you, Hon. Temporary Deputy Chairlady.

*(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)*

*(Senate amendments to Clause 28 as amended agreed to)*

*Clause 29*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 29 be amended—

- (a) by deleting paragraph (a);
- (b) in paragraph (b), by deleting the words “Land Use” and substituting therefor the word “Physical”;
- (c) by deleting paragraph (c);
- (d) in paragraph (d), by deleting the words “Land Use” wherever it appears and substituting therefor the word “Physical”;
- (e) by deleting paragraph (e);

The justification is that the Committee has retained the title of the Bill as “Physical Planning” and hence the amendments are not in order.

Thank you, Hon. Temporary Deputy Chairlady.

*(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)*

*(Senate amendments to Clause 29 as amended agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Now I can see the Member for Turkana Central is really with us.

*Clause 30*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 30 be deleted.

The justification is the Committee's decision to maintain the title of the Bill as "Physical Planning" hence the amendments are not in order.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 30 deleted)*

*Clause 31*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 31 be deleted.

The justification is that the Committee has retained the title of the Bill as "Physical Planning" and hence the amendments are not in order. This is very sad. As you can see, we are just repeating because somebody decided not to check even from the dictionary the meaning of

the words ‘land use’ and ‘physical planning’ hence making us sit here for so many hours to make sure things are aligned.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I can see the following amendments are the same.

*(Hon. (Dr.) Chris Wamalwa rose in his place)*

Hon. Wamalwa, I must propose the Question. I know you are a seasoned Member of the House. Allow me propose the Question first and then you can raise your point of order.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I think we need to go on record and I want to go on record that the indictment is on the drafters of amendments by the Legal Department in the Senate. There is a world of difference in meaning between physical planning and land use, even in basic English. You cannot change the title of a Bill very narrowly. Land use is part of physical planning. So, all that we are engaged in this afternoon, and which is procedural and we have no choice, is to deal with consequential amendments following the change of the title. But I think we need to go on record that the drafters and the Legal Department in the Senate have failed. You have completely failed. You did not advise the Senators. You did not advise the committee that this is not possible.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, you are very right that we must follow procedure as we move the amendments. The Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. It is very embarrassing. The import of having a bicameral Parliament was for checks and balances for purposes of value addition. It is very embarrassing. We have done our bit. If the Senate had nothing to add, they should have just left the Bill the way it was. It is embarrassing to see the kind of amendments they have forwarded here. It leaves a lot to be desired. We are not here to waste time. We have so much that we are supposed to do. It is wasting our time. You can see the way things are.

It should not be now that we have a provision for mediation everything must be taken for mediation. We need to revisit some of our Standing Orders. When it comes to the referendum we need to re-examine the value that the Senate is adding. It is not adding any value when it comes to matters of legislation. I thank you and I support the Committee.

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

*(Senate amendments to Clause 31 deleted)*

*Clause 32**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 32 be amended by—

- (a) deleting paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting sub-paragraph (ii) of paragraph (c);
- (d) deleting paragraph (d);
- (e) deleting paragraph (e);

The justification is that the Committee retains the title of the Bill as “Physical Planning” and hence these amendments are not in order. The proposed deletion of Sub-clause 4 which provides that the county spatial plans under the County Governments Act shall be deemed to be similar to the County Physical Development Plans for purposes of the Physical Planning Act would result in duplication of similar processes and we would not want to see that duplication by two departments within the county government.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well, same retention of the title

Let us have the Hon. Member for Busia.

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Temporary Deputy Chairlady. I just want to make a comment on what Hon. Wamalwa said on the issue of the Senate. We had a Bill on Irrigation as Departmental Committee on Agriculture and Livestock which went to the Senate. It has come back and we have used two Committee meetings to correct what Senate has done. I am sitting here and listening to what the Lands Committee Members are going through and it is the same story that the Departmental Committee on Agriculture and Livestock has gone through.

So Hon. Leader of the Majority Party we need your help on how to deal with the Senate when they receive our Bills and how they need to handle them. We are wasting a lot of time re-doing Bills.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well Hon. Mwikali, we may not wish to anticipate debate on the other Bill.

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

*(Senate amendments to Clause 32 as amended agreed to)*

*Clause 33**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 33 be deleted.

It is a consequential amendment due to the fact that the Committee retained the title of the Bill as “Physical Planning Bill” and so the amendments are not in order. Thank you

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Again there is retention of the title.

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

*(Senate amendment to Clause 33 deleted)*

*Clause 34  
Senate amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 34 be deleted.

The Committee decided to maintain the title of the Bill as “Physical Planning” so all the amendments in there are not in order.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 34 deleted)*

*Clause 35  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 35 be deleted.

The Committee’s decision to retain the title “Physical Planning Bill” makes the amendments not to be in order.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Senate amendments to Clause 35 deleted)*

*Clause 36*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 36 be amended by—

- (a) deleting paragraph (a);
- (b) deleting sub-paragraph (ii) of paragraph (c);
- (c) deleting paragraph (d);
- (d) deleting paragraph (e);
- (e) deleting paragraph (f);
- (f) deleting paragraph (g);
- (g) deleting paragraph (h);

The retention of the title of the Bill as “Physical Planning” makes all those amendments not to be in order.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 36 as amended agreed to)*

*Clause 37*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 37 be deleted.

The Committee retained the procedure for completion and approval of County Physical Development Plan in the Bill as it is clearer. Further, the Committee rejected the establishment of county planning consultative forum. Therefore, the proposed New Clause 37 would not apply. The Senate proposes that since we have a national planning consultative forum, then counties must also have county consultative forum which is equal to having a cabinet meeting at the county level.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 37 deleted)*

*Clause 38*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 38 be amended—

- (a) in paragraph (a)—
  - (i) by deleting sub-paragraph (ii);
  - (ii) by deleting sub-paragraph (iii);
- (b) by deleting sub-paragraph (ii) of paragraph (b);
- (c) by deleting paragraph (c);
- (d) by deleting paragraph (d);
- (e) by deleting paragraph (e);
- (f) by deleting paragraph (f);
- (g) by deleting paragraph (g);
- (h) by deleting paragraph (h);

The justification is the retention of the title of the Bill as “Physical Planning Bill” hence all the amendments are not in order.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 38 as amended agreed to)*

*Clause 39*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 39 be amended by—

- (a) deleting sub-paragraph (ii) of paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting paragraph (c);

The justification is the same that the Committee has retained the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendment to Clause 39 as amended agreed to)*

*Clause 40*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 40 be deleted.  
The reason is the retention of the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Yatta just use the one at the Dispatch Box. We are on Clause 40. Use the microphone behind you.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you. Hon. Temporary Deputy Chairlady. Although this matter has been brought up severally, I think the Chair and the Hon. Leader of the Majority Party should ensure that this matter does not rest here.

We need to convey our displeasure to the Speaker who will forward the same to the Speaker of the Senate because we are spending a lot of money hiring staff who are supposed to be professional. Surely, if the legal officers in the Senate do not know the meaning of “physical planning” and “land use” which is a master’s course at the university, it is very sad. We have heard our colleague, Hon. Florence saying they are facing the same challenge in the Departmental Committee of Agriculture and Livestock. It should not end here but should be conveyed to the Speaker.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): We are dealing with Senate amendments. We have heard your comments, but are you in support or not?

**Hon. Charles Kilonzo** (Yatta, Independent): I am in support of the amendment.

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

*(Senate amendments to Clause 40 deleted)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Next!

*Clause 41*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 41 be deleted.  
The reason is the retention of the title of the Bill as “Physical Planning Bill”. Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us hear Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Temporary Deputy Chairlady, you are doing an excellent job. I just wanted to explain that physical planning is deciding in advance what to do, where, when, with what, how, in, under and above land. It is a thought process that guides land use and thereby has to be guided by a set of rules, regulations and standards.

Land use involves the management and modification of natural environment or wilderness into built environment such as settlement and semi-natural habitat such as arable fields, pastures and managed woods.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member, I am sure the Committee looked at what you are explaining. Thank you for looking at the full definition of “physical planning.”

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

*(Senate amendments to Clause 41 deleted)*

*Clause 42  
Senate Amendment*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, you can see, Hon. Rasso did his research. Hon. Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 42 be deleted.

The first justification is the retention of the title of the Bill as “Physical Planning Bill” hence all those amendments are not in order. Further, deletion of paragraph (e) which requires county governments to prepare plans that give effect to city or urban development plans will result in disharmony and inconsistency in development plans.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 42 deleted)*

*Clause 43  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 43 be amended by deleting paragraph (ii). The reason is the retention of the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 43 as amended agreed to)*

*Clause 44  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 44 be deleted.  
The reason is the retention of the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 44 deleted)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, the procedure has to go on. I can see you look tired but you must allow the whole process because you have no choice. Hon. Sankok 001! Allow me to advice you from where I am, there is no way you can have a short-cut in law-making process. I know you could be tired, the Chair is repeating the same thing but we must go clause by clause. Let us move on.

*Clause 45  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 45 be deleted.  
The justification is that the Committee retained the title of the Bill as “Physical Planning Bill.”

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 45 deleted)*

*Clause 46*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 46 be amended by deleting paragraph (b).

The justification is the same that the Committee stuck to the title of the Bill as “Physical Planning Bill.”

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 43 as amended agreed to)*

*Clause 47*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 4 be amended by—

- (a) deleting sub-paragraph (ii) of paragraph (b);
- (b) deleting paragraph (d);

The justification is retention of the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 47 as amended agreed to)*

*Clause 48*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 48 be deleted.

The reason is that the Committee maintained the title of the Bill as “Physical Planning Bill.” Also further down, the inclusion of natural resources as a matter in respect of which the

county governments may declare a special planning area goes against the provisions of the Fourth Schedule, Part 1, paragraph 22 of the Constitution which provides that protection of natural resources is a national Government function.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 48 as amended agreed to)*

*Clause 50*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 50 be deleted.

The justification is retention of the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 50 deleted)*

*Clause 51*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 51 be deleted.

The first justification is because the Committee has retained the title of the Bill as “Physical Planning Bill.” Further down at clause 2 of the Bill, it defines “physical authorities” to include both the CS and the County Executive Committee (CEC) members since the Bill deals with physical planning in both levels of government, that is, at the national level and at the county level. It is important to retain the term “planning authorities” in the Bill.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 51 deleted)*

*Clause 52*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 52 be amended by—

- (a) deleting paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting sub-paragraph (i) of paragraph (c);
- (d) deleting paragraph (d);
- (e) deleting paragraph (e);

The justification is that the Bill defines “planning authorities” to include both the CS and the CEC member. Since the Bill deals with physical planning in both levels of government, it is important to retain the term “planning authorities” just like the one above.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 52 as amended agreed to)*

*Clause 53**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 53 be deleted.

The reason is that the Bill defines “planning authorities” to be CS and the CEC member. So, it is important to keep it in the Bill.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 53 deleted)*

*Clause 54**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 54 be deleted.

The reason is the same as above – that the CS and the CEC member are the planning authorities and since this Bill deals with the physical planning, both levels of government must be involved.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Tharaka Nithi, do you have a comment on this?

**Hon. (Ms.) Beatrice Nyaga** (Tharaka-Nithi CWR, JP): Hon. Temporary Deputy Chairlady, I wanted to support the amendment by the Committee. I think there is something wrong with the machine because I have been trying and you are saying there is nobody who has interest to speak.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I can see now you have an interest. You have spoken and you are in support.

**Hon. (Ms.) Beatrice Nyaga** (Tharaka-Nithi CWR, JP): I support the proposed amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Thank you. I now move to put the Question.

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

*(Senate amendments to Clause 54 deleted)*

*Clause 55*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 55 be deleted and substituted therefor the following new amendment—

THAT, clause 55 of the Bill be amended—

(c) in sub-clause (1) by—

(iii) deleting the words “a county government” appearing immediately after the words “for development permission,” and substituting therefor the words “the county executive committee member”; and

(iv) inserting the following new paragraph immediately after paragraph (f)—

(fa) urban development;

(d) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2) Within fourteen days of receiving the copy of the application for development permission from a planning authority, the relevant authorities or agencies shall submit their comments to the respective planning authority within twenty-one days.

Hon. Temporary Deputy Chairlady, the justification for this is that Clause 2 of the Bill defines “planning authorities” to include the CS and the CEC member to make sure that we involve both levels of government.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, I think you are tired but this is the process of making law.

*(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)*

*(Senate amendments to Clause 55 as amended agreed to)*

*Clause 56  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 56 be deleted.

Hon. Temporary Deputy Chairlady, the reason is that the Bill defines “planning authorities” to be the CS and the CEC member. Because the Bill deals with physical planning, both have to be involved. The words “planning authorities” must remain in the Bill. The CS and the CEC member must both be involved.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 56 deleted)*

*Clause 57  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 57 be amended by—

- (a) deleting paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting sub-paragraph (i) of paragraph (c);

Hon. Temporary Deputy Chairlady, the justification is similar to the above – that planning authorities include both the CS and the CEC member at the county level. So, they must both be involved.

*(Question of the amendment proposed)*

*(Question, that the words to be left out*

*be left out, put and agreed to)*

*(Senate amendment to Clause 57 as amended agreed to)*

*Clause 58*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to clause 58 be deleted.

Hon. Temporary Deputy Chairlady, the reason is planning authorities must involve both the CS and the CEC member at the county level in physical planning of both levels of government.

*(Question of the amendment proposed)*

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

*(Senate amendment to Clause 58 deleted)*

*Clause 59*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 59 be deleted.

The reason is the involvement of the CS at the national level as a planning authority and also the CEC member at the county level as a planning authority.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, is it the mood of the House that I put the Question?

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

*(Senate amendments to Clause 59 deleted)*

*Clause 60*  
*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 60 be deleted.

The reason is as above that the CS and the CEC must both be involved as the planning authorities at the two levels of Government.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Bomet. Do you want to comment on this? I can see you are on intervention.

**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): Hon. Temporary Deputy Chairlady, I wanted to comment on the other one but I still support the amendment that has been proposed by the Chair.

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

*(Senate amendments to Clause 60 deleted)*

*Clause 61*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 61 be deleted.

The reason is that the planning authorities must involve both the CS and the CEC member.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member, it is a deletion. We are on Clause 61.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): The reason is that planning authorities must be the CS and the CEC member at the national Government and the county government respectively. They must remain as planning authorities.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 61 deleted)*

*Clause 62*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 62 be deleted.

The reason is that the Bill defines planning authorities as the CS at the national level and CEC member at the county level. It is important to have both of them as planning authorities at the two levels of government.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Before I put the Question, let us have the Member for Turkana Central.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Hon. Temporary Deputy Chairlady, I just want to concur with the Chairperson that we need to protect the counties. As long as the CEC member is there, the interests of the counties are taken care of.

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

*(Senate amendments to Clause 62 deleted)*

*Clause 63  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 63 be deleted.

The justification is that the planning authorities at the national level will be the CS and at the county level it will be the CEC member. We would like to have them as planning authorities at the two levels of government.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 63 deleted)*

*Clause 64  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 64 be deleted.

The reason is that the Committee has retained the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Sankok. We are on Clause 64.

**Hon. David ole Sankok** (Nominated, JP): I know we are on Clause 64.

Hon. Temporary Deputy Chairlady, I support the Chairperson because of the change of name. This HANSARD should be tabled in the Senate. They should read it. I no longer blame the researchers in the Senate. I blame the Senators because it is a House of retirees. Most of them are past intellectual menopause. These things are disturbing us.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member, are you in support or not?

**Hon. David ole Sankok** (Nominated, JP): I am totally in support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): We already debated these things. Let us move fast now that we know where we are. Let us not start engaging in other things. Let us get to the details. Let us have Hon. Chris Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): My point of order, with due respect to Hon. Sankok, Member 001, is that this is a house of decency. Is it in order to use the words “beyond intellectual menopause”? We might differ ideologically but we must have respect for our brothers in the Senate.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You must be on record. You cannot refer to other honourable Members like that. Hon. Sankok, can you withdraw your statement so that we get to the substance of what we are debating?

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Chairlady. It was just a slip of the tongue. Let me withdraw the truth and apologise.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Members, let us concentrate on what is before us. What is out of order, Member for Bomet?

**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): Hon. Temporary Deputy Chairlady, you asked Hon. Sankok to withdraw yet he says he is withdrawing the truth.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): He says he has withdrawn.

**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): But saying that he has withdrawn the truth? That means whatever he has said stands.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): He has withdrawn and apologised. He is on record. Let us not refer to other Members in the other House in derogatory terms. I will rule you out of order. Let us concentrate on the debate before us. We do not want to look like...

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

*(Senate amendments to Clause 64 deleted)*

*Clause 66  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 66 be amended by deleting paragraph (b).

This is because of retention of the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 66 as amended agreed to)*

*Clause 67  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 67 be amended by—

(a) deleting sub-paragraph (i) of paragraph (a);

(b) deleting paragraph (b);

(c) deleting paragraph (c);

The reason is retention of the title of the Bill as “Physical Planning Bill.”

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, you were making a lot of noise but you are not taking a vote on this.

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

*(Senate amendments to Clause 67 as amended agreed to)*

*Clause 68  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 68 be deleted.

The reason for the amendment is the retention of the title of the Bill as “Physical Planning Bill”. Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): The Member for Yatta has left his card here. Hon. Wachira Kabinga, do you want to contribute? He is not even in the House. There is no interest to speak to this amendment.

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

*(Senate amendments to Clause 68 deleted)*

*Clause 69  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 69 be amended—

- (a) in paragraph (a)—
  - (i) by deleting sub-paragraph (i);
  - (ii) by deleting sub-paragraph (iv);
  - (iii) by deleting sub-paragraph (vi);
- (b) by deleting paragraph (b);
- (c) by deleting paragraph (c);
- (d) by deleting paragraph (d);
- (e) by deleting paragraph (e);

The reason for the amendment is the retention of the title of the Bill as the “Physical Planning Bill.” Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 69 as amended agreed to)*

*Clause 70  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 70 be deleted.

The justification is the retention of the title of the Bill as “Physical Planning Bill.” Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 70 deleted)*

*Clause 71**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 71 be deleted.

The purpose of this amendment is the retention of the title of the Bill as “Physical Planning Bill.”

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 71 deleted)*

*Clause 72**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 72 be amended by—

- (a) deleting sub-paragraph (i) of paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting paragraph (e);

The reason for the amendment is the retention of the title of the Bill.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Turkana Central.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Thank you, Hon. Temporary Deputy Chairlady. I am worried about the experience of seven years required for a person to be appointed by the Executive Committee. This will deny youths who have three or four years’ experience opportunity. I wish we can reduce that number. A university graduate who has served for three years cannot get that job.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Member, which amendment are you speaking to?

**Hon. Lodepe Nakara** (Turkana Central, ODM): Clause 72.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): What are you proposing?

**Hon. Lodepe Nakara** (Turkana Central, ODM): I am proposing that we reduce the years of experience of the person who will be appointed by the Executive Committee.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Are you supporting the Senate amendments to Clause 72?

**Hon. Lodepe Nakara** (Turkana Central, ODM): I am not supporting them.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Bomet.

**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): Thank you very much, Hon. Temporary Deputy Chairlady. I want to support the amendment that has been brought forward by the Chair because land issues are very emotive. They need a lot of experience in handling them. I concur with the seven years' experience. I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, this is a House of debate. We take a vote for us to make a decision.

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

*(Senate amendments to Clause 72 as amended agreed to)*

*Clause 73  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 73 be deleted.

The reason for the amendment is the retention of the title of the Bill as "Physical Planning Bill". Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 73 deleted)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Next clause.

*Clause 74  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 74 be deleted.

It is a consequential amendment due to sticking to the title of the Bill as "Physical Planning Bill".

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

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

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 74 deleted)*

*Clause 75  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 75 be deleted.  
It is a consequential amendment due to retention of the title as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 75 deleted)*

*Clause 76  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Senate amendments to Clause 76 be amended by—  
(a) deleting sub-paragraph (i) of paragraph (a);  
(b) deleting paragraph (b);

The reason for the amendment is that the Committee has retained the title of the Bill.  
Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 76 as amended agreed to)*

*Clause 77  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 77 be deleted.  
The reason is to retain the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 77 deleted)*

*Clause 78  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 78 be deleted.  
This is a consequential amendment to retain the title of the Bill.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 78 deleted)*

*Clause 79  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 79 be deleted.  
This is a consequential amendment to retain the title of the Bill.

*(Question of the amendments proposed)*

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

*(Senate amendments to Clause 79 deleted)*

Clause 80

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 80 be deleted.

This is also a consequential amendment to retain the title of the Bill.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 80 deleted)*

Clause 81

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 81 be deleted.

This is reason is to retain the title of the Bill.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 81 deleted)*

Clause 82

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 82 be deleted.

This reason is to retain the title of the Bill.

Thank you.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 82 deleted)*

Clause 83

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 83 be deleted.  
The reason is to retain the title of the Bill by the Committee.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 83 deleted)*

Clause 85

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 85 be deleted.  
The reason is that it is a consequential amendment to stick to the title of the Bill as “Physical Planning Bill”.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 85 deleted)*

Clause 88

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 88 be deleted.  
It is a consequential amendment to retain the title of the Bill.  
Thank you.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 88 deleted)*

*New Clause 4A**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the new clause 4A of the Senate amendments be deleted and substituted therefor with the following new clause 4A—

Principles and norms

of physical planning. 4A. Every person engaged in physical planning and regulation shall adhere to the following principles and norms of physical planning—

(g) physical planning shall promote sustainable land use and liveable communities which integrates human needs in any locality.

(h) development activities shall be planned in a manner that integrates economic, social and environmental needs of present and future generations;

(i) physical planning shall be comprehensive, sustainable and integrated at all levels of government, taking into consideration the interests of all parties concerned;

(j) physical planning shall take into consideration long-term optimum utilisation of land and conservation of scarce land resource including preservation of land with important functions;

(k) physical planning shall be inclusive and must take into consideration culture and heritage of people concerned; and

(l) physical planning should take into account new approaches such as transit oriented development, mixed land-uses, planning for public transport and non- motorised transport among others to achieve sustainable development and more efficient use of natural resources

The justification for the new clause is to provide for the principles and norms of physical planning which shall guide both levels of government, the national Government and county governments. The Committee's amendments therefore serve to delete the term "Land Use Planning" from the new Clause 4A and substitute therefor with the term, "Physical Planning."

We support the new clause by making that change.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon Aden Duale** (Garissa Township, JP): The Senate made sense on this one. They have taken us through a rough road. I support this one on the bit we are changing "Land Use" back to "Physical Planning". On this one, they have given the guidelines, anybody conducting physical planning regulations shall have to adhere to the given principles and norms of physical planning. The guidelines or the checklist are very important in guiding us as a country in physical planning.

I beg to support and thank the Senate that despite their misgivings, once in a while they make very good decisions.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Member.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Chairman for giving me this chance. I support the new clause that provides for the principles and norms of physical planning. It is very important to have proper physical planning in a given situation in terms of economic, social and environmental needs, for the present and future and they should be adhered to and appreciated by everybody.

The other thing that is important is that physical planning is supposed to look into a comprehensive sustainable programme at all levels of Government to take into consideration the interests of all parties. Because of the good norms and principles in the new clause, I support the amendment. I congratulate the Chair for the new clause. Thank you very much. It is high time when we see such beautiful ideas coming on board we support them.

I support. Thank you.

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

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

*(Senate amendments to New Clause 4A as amended agreed to)*

*New Clause 12A  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the new Clause 12A of the Senate amendments be deleted.

The reason for the deletion is that that the Committee was of the view that establishment of county consultative forums in each county is not necessary as it amounts to duplication of a county cabinet.

Further the Committee agrees with the Senate on the proposal to increase the representation of the Council of Governors in the National Physical Planning Consultative Forum as this would ensure that interest of county governments is adequately taken care of at the national level.

*(Question of the amended proposed)*

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

*(Senate amendments to New Clause 12A deleted)*

*New Clause 12B  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the new Clause 12A of the Senate amendments be deleted.

This is a consequential amendment following the Committee's deletion of the new Clause 12A which provides for the establishment of county land use planning consultative forum.

**Hon. Aden Duale** (Garissa Township, JP): We need to go to the HANSARD. The Chairlady of the Committee said 12A and you are saying 12B.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Chair, for purposes of record, it is important. Did you say 12A or 12B?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Leader of the Majority Party, for that correction. I would like to take this again.

THAT, the new Clause 12B of the Senate amendments be deleted.

The justification is the same – it is a consequential amendment following the Committee's deletion of New Clause 12A which provides for the establishment of county land use planning consultative forum.

*(Question of the amended proposed)*

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

*(Senate amendments to New Clause 12B deleted)*

*New Clause 12C  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the new Clause 12C of the Senate amendments be deleted.

Reason for deletion is that it is a consequential amendment following the Committee's deletion of New Clause 12A which provided for county land use planning consultative forum.

*(Question of the amendment proposed)*

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): I agree with the Chair of the Departmental Committee on Lands that it is like having another executive sitting beyond the executive chaired by the governor. So, it is unnecessary. I agree with this amendment.

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

*(Senate amendments to New Clause 12C deleted)*

*New Clause 60A  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the new Clause 60A of the Senate amendments be deleted.

The amendment is redundant as its provisions are already adequately covered in Section 39 of the Land Registration Act. This one deals with the issue of the Registrar as it introduces new responsibilities to the Registrar. So, it is already covered in Land Registration Act No. 3 of 2012.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, again this is another area where the Senate of the Republic of Kenya and its legal department have slept on the job. They are bringing an amendment where already that law is provided for in other land laws. As we go ahead, you will see the Chair of the Departmental Committee on Lands telling us that we delete this because it is already provided in the Land Registration Act or it is provided for in another law within the land legislative system. We are asking: Is there due diligence? I do not think the legal department of the Senate knows what it is doing. You cannot create another section of a law which has already been provided for. Parliament will create duplication if this passes. That is why you see the President returning that law under the powers given to him by Article 115. What the Senate passed is unconstitutional. It is already provided for. I beg to support the Chair and I am sure the Senate will learn a lot from what is happening this evening in the National Assembly.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, I am being notified here that we have New Clause 49A although we are speaking to 60A. There was an earlier impression that there was no 49A. The Committee has no amendment on it and we need to speak to it.

We were on 60A but the Committee had not made a final decision on 60A. In that case, I will guide that we go to 49A dispense with it and then go back to 60A. The good thing is that the Committee had not made a decision on 60A. So, let us go to New Clause 49A so that the process is tidy.

*New Clause 49A  
Senate Amendment*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, I propose that the proposed New Clause 49A by the Senate be now approved. Hon. Chairlady, are there amendments on that one? I am told there are no amendments on that one.

*(Senate amendments to New Clause 49A agreed to)*

*New Clause 60A  
Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the new clause 60A of the Senate amendments be deleted.

The reason for deletion is that this matter is adequately covered in Section 39 of the Land Registration Act (No. 3 of 2012).

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): It is a deletion, but the Member insists that she needs to speak to it. If you can be brief then we make progress.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Chairman for giving me this chance again. I want to support the Chair in the deletion of this new Clause 60A. Parliament has been given powers and so it has the capacity. It is well-resourced with both a research department and a legal department. It is unfortunate that a House of Parliament overlooked its own mandate by not doing proper research and taking into account all the legal provisions required. We have all these resources at our fingertips and we are supposed to use them properly. We are asking the committee of the Senate, in the future, whenever they are given some work to do for this nation, they should take their work seriously. They should engage properly with the research and legal departments. I support the deletion.

Thank you.

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

*(Senate amendments to New Clause 60A deleted)*

*(Senate amendments to First Schedule agreed to)*

*Second Schedule*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to the Second Schedule be amended by—

- (a) deleting paragraph (a);
- (b) deleting sub-paragraph (i) of paragraph (b);
- (c) deleting paragraph (c);

Inclusion of human rights and poverty eradication and gender in a situational analysis of a physical development plan is ambiguous since human rights issues have no correlation with physical planning. I would like to say that we were shocked by this amendment and how the Senate decided to bring it into the physical planning matters because there is no correlation between the two.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, was that an amendment or a deletion.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): It is a deletion.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Just confirm that.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): It is by deleting paragraphs (a), (b) and (c).

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Are you sure it is a deletion? From the Order Paper, it looks like an amendment rather than a deletion. It is not a complete deletion. There are some elements of amendments as well.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Yes. It is not a complete deletion. It is a deletion of paragraphs (a), (b)(i) and (c). However, the Committee agrees that issues of climate change may have an impact on physical planning. So, there are deletions and amendments.

*(Question of the amendment proposed)*

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

*(Senate amendments to the Second Schedule as amended agreed to)*

### *Third Schedule*

#### *Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to the Third Schedule be amended by—

- (a) deleting paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting the proposed new paragraph (c);
- (d) deleting paragraph (e);

There are some deletions and amendments. The justification is inclusion of human rights and poverty eradication and gender in a situational analysis of physical planning of development plans is ambiguous, just as above. However, the Committee agrees that issues of climate change can have an impact on physical planning. So, we took that.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I support the Chair. This amendment was to sneak in the law civil society groups and Non-Governmental Organisations (NGO) to go to court on matters of land. What are human rights? I think somebody in the Senate owns an NGO or a civil society organisation. This is a mischievous amendment and I agree with the Chair. We should not legislate to give people the powers to go to court after they get money from the Western powers.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sophia.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you very much, Hon. Temporary Deputy Chairman. I want to agree with the amendment on deleting all those paragraphs. But I want to disagree, for the first time in history, with my brother the Leader of the Majority Party on his talk about civil society. Being a person from civil society, I want to say and agree with the Chair that physical planning issues...

**Hon. David ole Sankok** (Nominated, JP): On a point of order.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Nominated Member 001?

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Chairman, she was my boss at the National Government Affirmative Action Fund but I also differ with her for the first time. She must declare her interest. I have known her for a long time. She owns a very important NGO in the whole of northern Kenya and she is a national activist. She cannot bring activism inside this House.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Chairman. I appreciate and I want to declare my interest. I am a founder of a very strong NGO that is repeatedly respected in the world and has got awards all over. But I want to agree with the Chair 100 per cent. When matters of physical planning come on board, you cannot bring petty issues of human rights, gender and poverty reduction. Honestly, if you are thinking in your right senses, you cannot bring something like that to physical planning. Where does physical planning fall in issues of human rights, gender and poverty reduction? I agree completely with climate change.

Thank you very much, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We must make progress on this one. What is your point of order, Hon. Wamalwa? I hope it is not on Hon. Sophie's contribution.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): It is a precedent that has been set. When the Member declared that she has interest on the issue of NGO, I did not see a big deal unless she justifies in the context of physical planning. But from the way she explained being a founder of an NGO, it has no business as far as conflict of interest is concerned unless in the context of the Bill at hand.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): No, Hon. Sophie, we are not revisiting that. That is why even the Chair did not pronounce himself on it.

*(Question, that the words to be left out*

*be left out, put and agreed to)*

*(Senate amendments to the Third Schedule as amended agreed to)*

*Fourth Schedule*

*Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to the Fourth Schedule be amended by—

- (a) deleting paragraph (a);
- (e) deleting paragraph (b);
- (f) deleting paragraph (c);
- (g) deleting paragraph (e);
- (h) deleting paragraph (f);
- (i) deleting paragraph (g);
- (j) deleting paragraph (h);
- (k) deleting paragraph (i);
- (l) deleting paragraph (j);
- (m) deleting paragraph (l);
- (n) deleting paragraph (m);
- (o) deleting paragraph (n);

We have some deletions and other areas where we sought some amendments. The amendment is necessary to delete paragraph 14 as it conflicts with Section 144 of the Land Act (No. 6 of 2012) which provides that the National Land Commission shall be responsible for grants of wayleave. So, we do not know why the Senate did not look at the existing laws. Also, the Committee retained physical planning as opposed to land use. So, all the amendments relating to these are not in order.

In Clause 2, we would like the recognition of the CS and the CEC member at the national and county governments, respectively, to be part of physical planning. That is why we would like to retain the term ‘planning authorities’ in the Bill.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Shaban.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Mhe. Naibu Spika wa Muda ningeomba tu kutaja ya kwamba tusije tukawa kama pwagu na pwaguzi, ambapo ndugu akifanya hili wewe unafanya lingine ili kuonyesha kuwa sisi si watu wa moja.

Bunge la Kenya kazi yake ni kutengeneza sheria. Hivyo basi, huu upwagu na upwaguzi ni lazima uwachwe ili tuweze kusongeza mambo mbele. Masuala ya ardhi haswa hapa nchini ni maswala yenye kuchukuliwa na kuleta hisia mbalimabli, na hisia hizo zimewafanya watu wengi Wakenya kuumizana kwa sababu ya masuala haya. Kwa hivyo, kwenye mipangilio ya ardhi zetu, hatutaki utani.

Asante sana.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well, Hon. Members.

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

*(Senate amendments to the Fourth Schedule as amended agreed to)*

*(Fourth Schedule agreed to)*

Clause 2

Senate Amendment

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to clause 2 be amended by—

- (a) deleting the definition of the term “planning”;
- (b) deleting the definition of the term “land use planning”;
- (c) deleting the definition of the term “local land use development plan”;
- (d) deleting the definition of the term “physical planning”;
- (e) deleting the definition of the term “Inter-County Land Use Development Plan”;
- (f) deleting the definition of the term “spatial planning”;
- (g) deleting the definition of the term “registrar”;

The justification is retention of the title of the Bill by the Committee as “Physical Planning Bill”.

Thank you.

I would like to propose that the other amendments be retained as they are in the Bill as they provide more clarity.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 2 as amended agreed to)*

*Title**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Senate amendment to the Title be deleted.

The reason for the deletion is that the Committee has stuck to the title of the Bill “Physical Planning Bill” as opposed to “Land Use Bill”.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, it is a division.

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

*(Senate amendments to the Title deleted)*

*Clause 1**Senate Amendment*

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT the Senate amendment to Clause 1 be deleted.

The justification is that the Committee has retained the title of the Bill.

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

*(Senate amendments to Clause 1 deleted)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are clearly done with that. We shall ask the Mover to reply

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Senate Amendments to the Physical Planning Bill (National Assembly Bill No.34 of 2017) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with the Senate Amendments to the Physical Planning Bill (National Assembly Bill No.34 of 2017). We shall now get to the next piece of legislation, which is the Senate Amendments to the Irrigation Bill (National Assembly Bill No.46 of 2017)

SENATE AMENDMENTS TO THE IRRIGATION BILL

*(Senate amendments to Clause 3 agreed to)*

*Clause 6*

*Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to clause 6 be amended—

(a) by deleting paragraph (a);

(b) in paragraph (b), by—

(i) deleting sub-paragraph (i);

(ii) deleting sub-paragraph (iii)

(c) by deleting paragraph (c).

The justification of the amendment is that under the Forth Schedule of the Constitution, irrigation is a residual function and a preserve of the national Government, Article 186 stipulates this. Equally, Article 93 of the Constitution provides that the Parliament of Kenya consists of the Senate and the National Assembly. The Senate amendment is therefore frivolous. Also, the Cabinet Secretary under the national Government retains the power to issue irrigation licences and not the CoG.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, that amendment has partly a deletion. So, we will consider this as an amendment.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 6 as amended agreed to)*

*(Senate amendments to Clause 8 agreed to)*

*Clause 9*

*Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to clause 9 be amended—

(a) in paragraph (a), by—

- (i) deleting sub-paragraph (ii),
- (ii) deleting sub-paragraph (iii);
- (b) by deleting paragraph (b);
- (c) by deleting paragraph (c);
- (d) by deleting paragraph (d).

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, this is part deletion so for record it is an amendment.

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman. I think what the Chair should do, which is tidier, is to say as per the Order Paper. Members have the Order Paper so he does not need to read what is written in the Order Paper.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, Members have the Order Paper. Hon. Members, you need to note that there is a Supplementary Order Paper with the amendments. So, what you can do is give the import of the amendment so that we make progress.

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I propose the Senate amendment to Clause 9 be deleted. The justification is that it unduly expands the composition of the Board of the National Irrigation Authority from two to four members.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 9 as amended agreed to)*

*Clause 14*

*Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 14 be deleted.

The justification of the amendment is that under the Fourth Schedule of the Constitution, irrigation is a residual function of the national Government in accordance with Article 186 of the Constitution which provides that functions not assigned by the Constitution to the national Government or counties be retained as a function of the national Government. This is where they said that the CS must consult with the CoG.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sophia, you want to speak to this.

**Hon. Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Chairman. The Fourth Schedule of our Constitution is very clear on the functions of both levels of Government. It is very unfortunate that the Senate overlooked the functions undertaken by both levels of Government. Irrigation is under the national Government. Therefore, we want to ask the legal department of the Senate to relook at how they conducted their work.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kabinga, you want to speak to this.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I want to support the Chair on this. I think there is an attempt by the Senate to give some powers or roles to the CoG. This is because some of these functions are purely for the national Government and this will bring complications and unnecessary bureaucracies. We want the CS to have more powers to make decisions that will move our irrigation schemes forward.

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

*(Senate amendments to Clause 14 deleted)*

*Clause 16*

*Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Clause 16 be deleted.

This is because the safeguards on the environment are already provided for under the Environmental Management and Co-ordination Act. Therefore, they do not need to introduce this again, because it is duplication.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 16 deleted)*

*Clause 17*

*Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to Cause 17 be deleted.

Again, under the Fourth Schedule functions of the national Government are very clear. The CoG does not need to involve itself. This only merely seeks to make the work of the CS to delay.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 17 deleted)*

*Clause 20  
Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:  
THAT, the Senate amendments to clause 20 be deleted.

This is owing to the fact that the Senate amendment removes the aspect of cost-sharing in the agreement but does not propose alternatives. Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I think this is another case of the Senate not understanding the running of the schemes. This particular clause was intended to reflect the current situation where farmers contribute some money that is added to whatever the Government is giving to maintain the schemes. When they remove the cost-sharing aspect, they are now running away from the current situation and bringing a case where farmers would even go for loans, which is not the intended purpose of this particular clause. I support the Chairman.

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

*(Senate amendments to Clause 20 deleted)*

*Clause 25  
Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:  
THAT, the Senate amendments to Clause 25 be deleted.

The effect of the Senate amendment is that it connotes that dispute will arise within the schemes with regard to water allocation and delivery. However, disputes may arise between one scheme and another. Therefore, a broader provision as it is in the provision that covers disputes contemplated in the Senate amendment is necessary. Thank you.

*(Question of the amendment proposed)*

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

*(Senate amendments to Clause 25 deleted)*

*Clause 34  
Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:  
THAT, the Senate amendments to Clause 34 be deleted.

The justification is that the Senate amendment will have the unintended consequence of compelling the CS to seek approval from the National Assembly and the Senate before publication of regulations yet the Statutory Instruments Act contemplates that a CS is required to ensure that a copy of the statutory instruments shall be transmitted to the responsible Clerk of the relevant House of Parliament within seven sitting days after publication of a statutory instrument. Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, this is a very sad moment. The Statutory Instruments Act allows the CS to forward regulations to the National Assembly and not the Senate. Those are the powers given to the CS and it is not the other way round. The Senate wants the CS to consult the National Assembly and the Senate. In my view, the Senate wants to get powers. They do not have the Committee on Delegated Legislation. They want to get powers through the back door but we are very much alive to the provisions of the Statutory Instruments Act. If they want powers, they should become Members of the National Assembly. The instruments-making powers in the counties lie with the committee on delegated legislation in the county assembly. The only powers they have are that, if they see a number of counties with different instruments, then they can say: "Why can you not harmonise?"

The Senate does not have the powers to make and approve statutory instruments. It is the county assemblies of the various counties. This is another area where the legal department of the Senate has failed. You must advise the Senators that this cannot happen. Otherwise, in the next election, let them contest as Members of Parliament if they want to have powers in terms of legislation.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We will give the last one to Hon. Wamalwa and then we make progress on this one.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. They need to know that procedurally, once the regulations have been gazetted, they are actually enforced immediately pending approval or disapproval of the National Assembly. In this case, as the Leader of the Majority Party has mentioned, the Committee on Delegated Legislation is only in the National Assembly and as per the Fourth Schedule, all those matters are approved in the National Assembly. If it is anything to do with the counties, the Committee on Delegated Legislation is at the county assembly. So, here they are totally irrelevant. It shows

they are idling. They are not busy and they want to give themselves powers through the back door. We condemn that.

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

*(Senate amendments to Clause 34 deleted)*

### *Schedule*

#### *Senate Amendment*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Senate amendments to the schedule to the Bill be deleted and substituted therefor with the following new amendment—

THAT, the Schedule to the Bill be amended in paragraph 3 by deleting subparagraph (5) and substituting the following new subparagraph —

(5) The chairperson shall preside over all meetings of the Board in which he or she is present, but in his or her absence, the vice chairperson shall preside and in the absence of the vice chairperson, the members present shall elect one of their members who shall, with respect to that meeting and the business transacted, have all the powers of the chairperson.

The justification is that the Committee rejected the Senate amendment to Clause 9(d). Therefore, there is need to harmonise it with the Schedule.

*(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)*

*(Senate amendments to Schedule as amended agreed to)*

*(Senate amendments to Clause 2 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we have come to the closure of that.

Let us have the Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Senate Amendments to the Irrigation Bill (National Assembly Bill No.46 of 2017) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORTS

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, Hon. Members. Let us progress. Chairperson, we shall start with the Irrigation Bill.

### THE IRRIGATION BILL

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Irrigation Bill (National Assembly Bill No.46 of 2017) and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Member 001 is doing very well. He will learn.

Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request the Hon. Member for Mwea to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, because of quorum, I shall pend putting the Question on that.

*(Putting of the Question deferred)*

Let us go to the next one which is the Physical Planning Bill. Let us have the Chairperson.

### THE PHYSICAL PLANNING BILL

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Madam Temporary Deputy Speaker. I am now the Chair.

Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Physical Planning Bill (National Assembly No.34 of 2017) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ole Sankok, did you say Madam Speaker? It cannot be Madam Speaker. You will be completely out of order to refer to me as Madam Speaker.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, the gracious lady was in front of me. She is the one confusing me with her smile.

Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Physical Planning Bill (National Assembly No.34 of 2017) and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Chris Wamalwa to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Chris Wamalwa** (Kimini, FORD – K): Thank you, Hon. Temporary Deputy Speaker. I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I shall again pend putting the Question on that particular one.

*(Putting of the Question deferred)*

Let us go to the next one which is the Land Value Index Laws (Amendment) Bill.

#### THE LAND VALUES INDEX LAWS (AMENDMENT) BILL

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018) and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Sophia Abdi to second the Motion for agreement with the Report of the Committee of the whole House if she is ready.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Sophia. She looks ready.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I will pend putting the Question on that Motion.

*(Putting of the Question deferred)*

We have dispensed with those three Bills to that extent.

Let us move to the next Order.

### MOTIONS

#### REPORT ON THE EXAMINATION OF THE FINANCIAL STATEMENTS OF THE IEBC

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I had an engagement earlier with the Chair of the Public Accounts Committee. He asked me to convey to the House Business Committee that we step down this Order and reschedule it to another date, maybe next Tuesday, when the House Business Committee meets. You remember they said that this Report has lost the “heart” and “kidneys”. Maybe he is looking for “kidneys” and an artificial “heart”. We will still look at that. He has now asked for it to be deferred.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The Leader of the Majority Party has appealed. Hon. Jessica, did you want to say something?

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM – K): Thank you, Hon. Temporary Deputy Speaker. I support the Leader of the Majority Party. I am the Vice-Chairperson of the Public Accounts Committee. The Committee is fully represented in the House. Out of consultations with the Chair and the Leader of the Majority Party, we proposed to be given more time. This is a very important Committee and a very important Report. As the Leader of the Majority Party said, we request that it be considered during another sitting so that we can examine the Report as per the Speaker’s ruling.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I am already convinced. What do you want to say?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): Thank you, Hon. Temporary Deputy Speaker. That Report is the property of the House. The Report was tabled and Notice of Motion was given. If it has lost the “heart” and “kidneys”, we cannot rejuvenate it. The best thing is to kill the Report. We should not give them time to look for other excuses. This is the property of the House. We should pronounce ourselves.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wamalwa is out of order. First, we are not discussing the Report at all. It is in the Order Paper and the Speaker is being requested to consider that it be stepped down. I order that it be stepped down until a subsequent time. The Vice-Chair is reminding us she is here.

*(Motion deferred)*

Let us move to the next Order.

REPORTS ON BUDGETARY PROPOSALS FOR THE EAST AFRICAN COMMUNITY  
FOR FY 2017/2018 AND 2018/2019

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is really out of order, Hon. Wamalwa?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): Hon. Temporary Deputy Speaker, we do not have quorum. We are tired.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wamalwa, you stood for just half a minute and said something that I did not hear.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): Hon. Temporary Deputy Speaker, the House does not have the quorum to continue conducting business. We only have five minutes remaining. We have been here the whole afternoon. We do not have quorum.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Members. When a Member raises the issue of quorum and I ascertain that we do not have quorum, there is no way I can navigate that point of order. So, I order the bell to be rung.

*(Quorum Bell was rung)*

Order. Why did Hon. Wamalwa leave? He cannot break the same rules he has talked about. Tell that Member to come back. He should also know the rules. When the Quorum Bell is being rung, you cannot leave.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We are done with the 10 minutes. I order that the Quorum Bell be stopped. Hon. Members, we are unable to raise the requisite quorum.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time is 6.50 p.m. but, there being no quorum, the House stands adjourned until Thursday, 28<sup>th</sup> March 2019, at 2.30 p.m.

The House rose at 6.50 p.m.