

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd May, 2019

The House met at 2.30 p.m.

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

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:

Mr. Mohamed Ahmed Kolosh.

Hon. Speaker: Very well. Proceed to the next Order.

PETITION

IMPENDING EVICTIONS FROM MAZRUI TRUST LAND

Hon. Michael Kingi (Magarini, ODM): Thank you, Hon. Speaker. I rise to present Petition No.28 of 2019 concerning impending evictions from Mazrui Trust land.

I, the undersigned, on behalf of We Hatua Yetu Community Based Organisation representing the Killifish North community residents, draw the attention of the House to the following:

THAT, land is an important economic resource that supports the livelihoods of many families;

THAT, the advent of Omani Arabs to the Coast of East Africa dethroned African rulership and subjugated many coastal communities to foreign dominion;

THAT, the Mazrui family was among the two Omani Arab dynasties that annexed land and ruled over the Coast of East Africa, particularly Kenya;

THAT, the Mazrui ruled the Port City of Mombasa until they were dislodged from power in 1828 by Sultan Seyyid Said and dispersed to Killifish;

THAT, in Kilifi, they annexed five blocks of land measuring approximately 77,000 acres comprising of Block No.1, Certificate of Title No.409; Block No.2, Certificate of Title No.408; Block No.3, Certificate of Title No.406; Block No.4, Certificate of Title No.407 and Block No.5, Certificate of Title No.414;

THAT, the said occupation deprived the indigenous communities, especially in Takaungu, Kiriba Wangwani, Kabarani Mjibu, Mtondia and Mida in Kilifi North Constituency of land for settlement and agriculture;

THAT, the Mazrui Trust Land Act established Mazrui Land Trust Board as legal and registered trustees and administrators of the Mazrui lands;

THAT, in 1989, the State repealed the Mazrui Land Trust Act and deemed all lands vested in the Mazrui Lands Board of Trustees as trust land;

THAT, the State further provided that the rights and interests of persons on the said land would be ascertained in accordance with the Land Adjudication Act (Cap 284, Laws of Kenya);

THAT, the Government, through the Kilifi District Land Adjudication and Settlement Office, declared Mazrui Lands at Takaungu (Block No.1) an adjudication section as per Section 5 of the Land Adjudication Act;

THAT, aggrieved by both the repeal of the Mazrui Land Trust Act and the declaration that Mazrui lands be subjected to the Land Adjudication Act, the Mazrui moved to court to challenge the law;

THAT, in 2012, the court ruling in Civil Case No.185 of 1991 declared the repeal of the Mazrui Land Trust Act unconstitutional and, hence, reverting the land to the Mazrui Land Trust Board;

THAT, the court's verdict has brought uncertainties for fear of evictions and displacement to more than 100,000 families and residents who have lived on the said land for over seven years;

THAT, if unresolved, the looming evictions would cause untold suffering to residents, who have no alternative land to relocate to;

THAT, efforts to resolve the matter with the relevant bodies 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 statutory body;

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands:

(i) investigates and inquires into all matters relating to the Mazrui Trust Land with a view to ensuring that the Ministry of Lands and the National Land Commission institutes measures to ensure that the said land reverts back to the community from whom it was annexed; and,

(ii) Makes any other order and/or direction that it deems fit under the circumstance.

And your Petitioners will ever pray.

Hon. Speaker: The Petition is referred to the Departmental Committee on Lands for action.

Next Order!

PAPERS LAID

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

Report of the Board of the National Government-Constituencies Development Fund (NG-CDF) on Project Proposal Approvals, Disbursement Status and Restrictions imposed on Constituency Accounts for the Third Quarter of the 2018/19 Financial Year for the period from 1st January to 31st March, 2019;

Annual Reports and Financial Statements in respect of the following institutions for the year ended 30th June, 2017, and the certificates therein:

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- (a) University of Nairobi; and,
- (b) Kenya Dairy Board.

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

- (a) State Department for Mining;
- (b) Kenya National Shipping Line Limited;
- (c) Veterinary Services Development Fund; and,
- (d) Kenya Ferry Services Limited.

Hon. Speaker: Next is the Chairman of the Departmental Committee on Environment and Natural Resources.

Hon. Kareke Mbiuki (Maara, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment and Natural Resources on the Petition regarding the Demolition Notice Issued by NEMA and Water Resource Authority to Home Owners of Seefar Apartments.

Hon. Speaker: Next Order!

QUESTIONS BY PRIVATE NOTICE

Hon. Speaker: The first Question is by the Member for Rongo, Hon. Paul Abuor.

Question No.018/2019

LOSS OF EYESIGHT BY PC RONALD MAKORI WHILE ON DUTY

Hon. Paul Abuor (Rongo, ODM): Thank you, Hon. Speaker. I beg to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question by Private Notice.

- (i) Is the Cabinet Secretary aware that on 4th July, 2014, one PC Ronald Makori (Force No.70204 and Identification Card No.13081573), stationed at Kamagambo Police Station in Rongo Township lost eyesight as result of injuries sustained while on duty?
- (ii) Is the Cabinet Secretary further aware that PC Makori's salary has since been stopped despite the injuries?
- (iii) Could the Cabinet Secretary explain what progress has been made to retire the officer on medical grounds and facilitate him to start and adapt to his new life as a person with disability (PWD)?

Hon. Speaker: Very well. The Question will be responded to before the Departmental Committee on Administration and National Security.

Next Question is by the Member for Samburu East, Jackson Lekumontare.

*Question No.019/2019*REGISTRATION OF HUDUMA NAMBA BY
RESIDENTS OF SAMBURU EAST CONSTITUENCY

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Speaker. I beg to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question by Private Notice.

- (i) Is the Cabinet Secretary aware that many residents of Samburu East Constituency of Samburu County may not register for the National Integrated Information Management System (NIIMS), popularly known as Huduma Namba for lack of vital documents such as identification cards and birth certificates?
- (ii) What measures is the Ministry putting in place to ensure that the citizens of Samburu East Constituency will get the required documents before the end of the registration exercise?

Hon. Speaker: The Question will be responded to before the Departmental Committee on Administration and National Security. The next Question is by the Member for Nyando.

I would like to inform the Member that pursuant to Standing Order No.42 (b) (4), there will be a Supplementary Question to your Question by the Member for Kisumu County, Hon. Rozaah Buyu. Let us have Hon. Jared Okelo.

*Question No.020/2019*EXTENSION OF DEADLINE FOR ACQUISITION
OF LEGAL DOCUMENTS BY *BODA BODA* RIDERS

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Speaker. I stand guided by your invocation of Standing Order No.42 (b).

I beg to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question by Private Notice.

- (i) Is the Cabinet Secretary aware that motorcycle riders, commonly referred to as *boda boda* riders, are required to acquire driving licences, insurance covers and other relevant permits by 1st May, 2019?
- (ii) Is the Cabinet Secretary further aware that various government institutions and agencies, amongst them the NG-CDF, National Government-Affirmative Action Fund (NG-AAF) and the Youth Fund, are currently engaged in facilitating the riders in the acquisition of the documents as well as offering them training?
- (iii) Could the Ministry consider extending the deadline to enable the riders acquire the documents so as to cushion them from economic desperation and misery which is likely to affect them after the deadline?

Hon. Speaker: Let us have Hon. Buyu Akinyi.

CHALLENGES OF ACQUIRING INSURANCE
COVER BY BODA BODA RIDERS

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Hon. Speaker, pursuant to Standing Order No.42B (4), I beg to ask a supplementary Question arising from Question No.20/2019 by Private Notice:

- (a) Considering the challenges faced by motorcycle riders in acquisition of insurance covers, what steps is the Ministry taking to address the social and economic implication of non-compliance arising from non-acquisition of insurance covers by the motorcycle riders?
- (b) What is the number of licenses issued by the National Transport and Safety Authority (NTSA) to motorcycles popularly known as *boda boda* since grant of an extension for acquiring licences in November, 2018 to date? Does NTSA have the capacity to licence the said riders given their high number in the country?

Thank you, Hon. Speaker.

Hon. Speaker: I had seen these two Questions and I want to draw the attention of Hon. Jared Okello to the fact that his Questions are directed to the Cabinet Secretary for Interior and Coordination of National Government. The one which seems to enrich yours will be responded to as a private Question given the fact that the House is scheduled to proceed on recess next week. It should be responded to in the course of next week, earliest.

Hon. Buy, also take notice that your Question is referred to the Departmental Committee on Administration and National Security and since the Chairman is here, it is fair that Questions by Private Notice should be responded to ordinarily within three days. Make sure that the Cabinet Secretary's attention is drawn to all of them so that they are responded to at the earliest time if possible on Tuesday, next week.

The next Question is by the Member for Bomet Central, Hon. Tonui.

ORDINARY QUESTIONS

Question No.172/2019

CONSTRUCTION OF A TUNNEL CONNECTING PARLIAMENT BUILDINGS

Hon. Ronald Tonui (Biomet Central, JP) asked the Parliamentary Service Commission:

- (a) why a tunnel was constructed instead of an overhead flyover bridge in connecting Parliament Buildings;
- (b) what the cost of the project is and who the contractors are;
- (c) whether the construction of the tunnel project is part of the main office block contract or it is a variation; and,
- (d) What security, safety and health measures were taken into consideration while conceptualising, designing and constructing the tunnel project.

Thank you.

Hon. Speaker: The Question requires a written reply. You will get the reply from the Parliamentary Service Commission.

Hon. Tonui, this is a good Question, but why do you need a written reply? I thought it would have been good if it is responded to by the Chairman of the Commission's Committee on Security and Developments since they deal with this issue. It is a very good Question because it concerns the entire Parliament, but since you have chosen this mode, it will be granted.

The next Question is by the Member for Nambale, who has sought deferment. His request has been granted.

Question No. 176/2019

CONSTRUCTION OF MUSIKOMA-BUYOFU-MUNGATSI
ROAD (D258) TO BITUMEN STANDARDS,

(Question deferred)

The next Question is by the Member for South Imenti, Hon. Kathuri Murungi.

Question No. 181/2019

STATUS OF IMPLEMENTATION OF RECOMMENDATIONS
BY TEA AND COFFEE TASK FORCES

Hon. Kathuri Murungi (South Imenti, Independent) asked the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation:

- (a) whether he is aware that the task forces formed on Tea and Coffee concluded their mandates and prepared their reports three (3) years ago; and,
- (b) what the implementation status of the findings and recommendations of the two task forces is.

Thank you, Hon. Speaker.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Agriculture and Livestock.

Hon. Members, next is Question No. 189/2019 by the Member for Nakuru Town East, Hon. David Gikaria. He chairs the Departmental Committee on Energy, which is still doing public participation for the Nuclear Energy Bill. Therefore, he has requested for the deferment of this Question, and the request has been acceded to.

Question No. 189/2019

CONSTRUCTION OF STALLED NAKURU-KIAMBOGO ROAD

(Question deferred)

Hon. Speaker: Hon. Members, there is Question No.191/2019 by the Member for Butula, Hon. Joseph Oyula Maero. The Hon. Member has approached me and requested for its deferment so that he can go and recast the Question to reflect his desire. His request has also been granted.

Question No.198/2019

COMPENSATION FOR LAND ACQUIRED FOR THE CONSTRUCTION
OF EJINJA- BUMALA ROAD IN BUTULA CONSTITUENCY

(Question deferred)

That marks the end of that session.

Hon. Ali Rasso (Saku, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Rasso, what is your point of order?

Hon. Ali Rasso (Saku, JP): Thank you very much Hon. Speaker. The purpose of raising Questions is to address matters of urgent concern to our constituents. However, it now appears that it takes weeks for them to be listed in the Order Paper. These are matters of serious concern to us. The matter needs to be reviewed or looked into.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Rasso, even under the old system, ordinary Questions could only be listed sufficient enough to ensure that Members questioning allow for the total period. Asking of supplementary questions does not go beyond 3.30 p.m. It is in taking into consideration that fact that we cannot, for instance, fill the Order Paper with Questions. They must take their time, in terms of how they were filed.

There are about nine Questions in today's Order Paper. This is a very high number. Ordinarily, we like putting six or seven in the Order Paper because they must also take their time in processing answers and submission of responses to Cabinet Secretaries. They can only be submitted after they have been asked. So, once they have been asked, the committees get seized of them. However, your concern has been noted.

(Hon. Junet Nuh spoke off record)

Is that a point of order?

Hon. Junet Nuh (Suna East, ODM): Before we go to the next Order, Hon. Speaker, I want to draw your attention to the Kenya Roads Bill that we passed. The Bill was taken to the Senate and then brought back here. The Senate amendments were rejected and a Mediation Team was formed. I want the Leader of the Majority Party to give the House a progress report of the mediation because the Bill is very important. I am also a Member of the Mediation Committee.

The Bill is going to reform the road sector in the country. It is also giving counties a lot of money – about 28 per cent. The information I have is that the bone of contention now is representation in the Constituency Development Roads Board by the Senate. That is the only

thing we are fighting on. So that this Assembly is not blamed, the Leader of the Majority Party must tell Members the position of that Bill.

Hon. Speaker: Why do you want the Leader of the Majority Party to respond? Is it because the Bill is in his name and he is part of the mediation team? He can shed some light.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, Hon. Junet is very mischievous in the sense that he is a member of the Mediation Team. In our last meeting today, he absconded. So, he should have just walked to my table and asked me what happened.

As per Article 113 of the Constitution, definitely, we will bring a report to this House for it to agree. Hon. Junet, we do not want to discuss mediation matters. Hon. T.J. Kajwang' and the Chair are here. We will consult you on what we will decide. We have given our views. Nothing is lost. I am sure we will bring the report by next week before we go on recess.

Hon. Speaker: Just to encourage Hon. Junet to take part in the next sitting of the Mediation Committee--- Obviously, we will not entertain debate about what is happening in the Mediation Committee until the Committee has tabled its report. Those are the rules. There should be no debate. Let us go to the next limb of this Order, which is Statements. I will start with the Member for Soy.

REQUESTS FOR STATEMENTS

WITHDRAWAL OF KENYA PRISONS VOLLEYBALL TEAM FROM THE 2019 AFRICA CLUB CHAMPIONSHIP

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Speaker. I wish to request for a Statement from the Chair, Departmental Committee on Sports, Culture and Tourism on the recent dramatic withdrawal of the Kenya Prisons Volleyball Team from the 2019 Africa Club Championship in Cairo, Egypt. It is worth noting that Kenya had three teams participating in the Championship, namely Kenya Commercial Bank (KCB), Kenya Pipeline and Kenya Prisons. Those teams have, in the recent past, done our country proud in the various competitions they have taken part in. There had been numerous complaints from the teams regarding the deplorable state of the hotels and the food in Cairo, and also from the general public that the Government and the Ministry of Sports in particular had failed to prepare the teams properly knowing they were representing our country.

The eventual recall of the Kenya Prisons Team was uncharacteristic, uncalled for, and very shameful and an embarrassment to our country and, therefore, calls for answers.

It is on this background that I seek a Statement from the Chairperson of the Departmental Committee on Sports, Culture and Tourism on the following:

1. What circumstances led to the withdrawal of the team from the championship?
2. Were the teams funded by the Government and if so, to what extent?
3. Can the Chairperson explain the claims that the teams were not properly cleared to participate in the championship yet the other two Kenyan teams – KCB and Kenya Pipeline – participated at the event?

Thank you.

Hon. Speaker: Very well. Hon. Munyaka, I believe you have been listening to the Statement being sought from you. When can you provide the Statement?

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Within two weeks, Hon. Speaker.

Hon. Speaker: Hon. Members, remember Budget Estimates were tabled, and all committees must have time to scrutinise them. It is for that reason that the House is scheduled to proceed on recess after Thursday, 9th next week, so that the committees can have time to scrutinise the Estimates. Your two weeks will be falling around 16th or thereabout.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): We can make it one month so that we have enough time. That is after the budget process.

Hon. Speaker: We should know that in two weeks, the House will not be here. In fairness, we need to transmit this request to the Cabinet Secretary responsible and she will, perhaps, have some meeting with the Chairman. The position taken by the Chairman is fair enough.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you.

Hon. Speaker: We will take that, Hon. Munyaka. The next request for Statement is by the Member for Nyatike, Hon. Tom Odege. He is also called “Odege Mboya”.

TAKEOVER OF NATIONAL BANK OF KENYA BY KENYA COMMERCIAL BANK

Hon. Tom Odege (Nyatike, ODM): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the imminent takeover of the National Bank of Kenya Limited (NBK) by Kenya Commercial Bank (KCB).

The notice issued by KCB Group PLC regarding its intervention to acquire all the ordinary shareholdings of the NBK is suspect and of concern because the shareholding of NBK is majorly the National Treasury and the National Social Security Fund (NSSF). This makes the NBK a government-controlled bank. It is against this background that the Government ought to intervene so as to safeguard its interests, the pensioners and employees' welfare and ensure that the transaction is done in an open and competitive manner; and that public participation is conducted to involve all stakeholders.

Hon. Speaker, realizing that KCB Group PLC is a huge conglomerate with an asset base of over Kshs500 billion, the intended takeover of NBK with an asset base of Kshs100 billion is doubtful as to whether it is a wise decision in terms of long-term profitability or a strategic creation of a monopoly in the financial sector in the long run. This is especially now that the NBK is facing financial and management challenges.

It is against this background that I seek a Statement from the Departmental Committee on Finance and National Planning. The Committee should inquire into and report on:

- (i) whether the acquisition is a merger or a takeover;
- (ii) whether NBK is properly and professionally valued to safeguard pensioners, employees and taxpayers' interests;
- (iii) whether the process of selecting KCB Group PLC was done competitively and in a transparent manner;
- (iv) whether the Government is creating a monopoly in the banking sector;

- (v) outline the process used by the management of both banks to arrive at this deal; and whether this is the best option to revive and/or privatise the NBK; and,
- (vi) whether the management of both banks applied the law when engaging in the transaction.

I hope that the Chairman will cause an inquiry into the matter and report within 30 days.
Thank you.

Hon. Speaker: Hon. Members, it is not the Chairman to cause an inquiry. You also said some notice was given. Have we become activists? Nothing can happen. How many banks are in this country, Hon. Odege?

Hon. Tom Odege (Nyatike, ODM): They are many. We have interests in NBK because workers' money is kept there, Hon. Speaker.

Hon. Speaker: I am aware it was Labour Day yesterday, but I think we are taking the joke of yesterday too far. When we have about 42 banks and then you say that the Government is trying to create a monopoly... Anyway, the Chairman of the Departmental Committee on Finance and National Planning will give a response. I doubt that he will cause an inquiry because he does not have such power. The best he can do is to go, find out what those notices are and bring a response explaining that, maybe, some people have met and agreed on whatever. I appreciate that Hon. Tom Odege is a unionist for civil servants. So, you have every reason to be concerned, should anything go wrong. Of course, you have raised a very pertinent issue about public participation. I think those are the things which will be useful so that whatever it is that is proposed, if at all what you call notices is anything to go by... I do not know whether the notices have been issued to the general public or the unions. Maybe, the Chairman of the Departmental Committee on Finance and National Planning will tell us how long this is likely to take his Committee.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, the matter which has been raised is very serious. It is also in public interest. Given the fact that we are about to go on recess - and without anticipating the business of the House, we know we will be engaged so much on the Estimates - I am requesting that we are given some flexible time of at least 60 days so that we can report substantively.

Hon. Speaker: I think you are right in a way. The essence of the forthcoming recess is to enable all members of departmental committees to go into the details of the Estimates which have been tabled before the House so that, within three weeks, when the House reconvenes, every committee will have made some findings and, perhaps, appeared before the Budget and Appropriations Committee (BAC) to make their findings known. So, I appreciate that the committees are going to be, within those three weeks, quite engaged and busy. We expect that every committee will be fully seized of the proposals in the Estimates when they are finally debated here. But Hon. Odege, the Chairman will bring a response.

Let us now hear Hon. Aden Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I really want your guidance because I did not prepare. This is a matter which, already, the shareholders of NBK have decided. So, the matter is now with the Competition Authority and other regulatory arms. I do not know how Parliament will deal with this. It is not this matter only.

There was the acquisition of Chase Bank by a Mauritius bank. The unions have, through the NSSF, a representative in the Board of the NBK in the name of our friend, Francis Atwoli. I am on record saying that Francis Atwoli sits on the Board of the NBK representing the NSSF.

Hon. Speaker: Hon. Members, there is no debate. I know Hon. Oyoo. Maybe through other connections... He feels agitated when you mention certain names.

Hon. Aden Duale (Garissa Township, JP): Let me rephrase it. Oyoo cannot inform me. I know on behalf of Atwoli who told another community “*ni washenzi*” yesterday. Let me paraphrase it.

An Hon. Member (*Off-record*).

Hon. Aden Duale (Garissa Township, JP): No! No! You cannot shout on the Floor of the House. You can be flower girls of Atwoli but not in the Chamber!

(Loud consultations)

I have withdrawn. Let me paraphrase it and say there are members of the NSSF in the Board of NBK.

Hon. Speaker: Hon. Members, I just need to pick you. Who is it that is shouting in their places so that I can apply Standing Orders properly? If you want to make an intervention, you know the Intervention button.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I will withdraw the remark and paraphrase it. I am sure the NSSF and the workers of Kenya are represented on the Board of NBK by some people - other members. The Board of NBK has sanctioned the move. I am an account holder with NBK, and I got an SMS that the transaction or the takeover is going through. I do not know whether Hon. Odege has no confidence in his representative on the Board.

Hon. Speaker, maybe, you will give guidance later that Parliament does not have power over a function between two private entities, and workers banks which want to merge. In fact, what Parliament can do is call the Competition Authority or the regulatory institutions to come and brief them on how the process was done. We cannot use the Floor of the House to stop it. That is my feeling.

Hon. Members: Hon. Speaker...

Hon. Speaker: There is no debate. The Member sought a Statement which will be given by the Chairman of the Departmental Committee on Finance and National Planning. So, there is no debate about what is happening. It will be reported. It will be contained in a report. That is why he sought the Statement. Even those who are very passionate about those institutions must relax.

We will move to the next Order. The Leader of the Majority Party, issue the Statement under Standing Order 44.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 7TH TO 9TH MAY, 2019

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC) on the business that will be transacted beginning Tuesday, 7th May, 2019.

The HBC met on Tuesday, this week at the rise of the House to prioritise business for consideration. The House is scheduled to consider the following Bills at Second Reading:

- (i) The Office of the County Attorney (Senate Bill No.3 of 2018);
- (ii) The National Cohesion and Integration (Amendment) Bill (National Assembly Bill No.12 of 2018);
- (iii) The Statute Miscellaneous (Amendment) Bill (National Assembly Bill No.21 of 2019);
- (iv) The Nuclear Regulatory Bill (National Assembly Bill No.27 of 2018); and,
- (v) The Law of Contract (Amendment) Bill (National Assembly Bill No.1 of 2019).

We will also consider, in the Committee of the whole House:

- (i) The Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018).
- (ii) The Statute Miscellaneous (Amendment) (No.2) Bill (National Assembly Bill No.13 of 2018), should we not conclude it today.

Through you, Hon. Speaker, I commend our committees for the great work they are doing. It is important to note that we have four sitting days before the long recess. As such, we hope to finish these Bills in all their stages before we embark on the budget-making process.

On that note, may I request the Departmental Committee on Justice and Legal Affairs which was mandated to compile this Report, and that of the four other Departmental Committees on the consideration of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019), through its Chair, to expedite its consideration and table the Report.

The other departmental committees concerned, for HANSARD purposes are the Departmental Committee on Administration and National Security - three statutes; the Departmental Committee on Finance and Planning - three statutes; the Departmental Committee on Sports, Culture and Tourism - one statute; the Departmental Committee on Transport, Public Works and Housing - one statute; and the Departmental Committee on Environment and Natural Resources - one statute.

Hon. Speaker, what is prioritized for debate is an important Report of the Public Accounts Committee (PAC) on the examination of the Financial Statements of the national Government for the 2015/2016 Financial Year, and the Report of the Public Investments Committee (PIC) on the inquiry into the procurement and implementation of the Excisable Goods Management System and the Integrated Production Accounting System by the Kenya Revenue Authority (KRA).

The Mediation Committee on the Warehouse Receipts System Bill (Senate Bill No.10 of 2017) has been concluded and it is in consideration. In this regard, we will table the Report next week. We hope to conclude on the other Bills awaiting mediation and table Reports before we proceed for the long recess on Thursday next week.

In accordance with the provisions of Standing Order No. 42A (5)(6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the departmental committees next week:

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1. The Cabinet Secretary for Labour and Social Protection will appear before the Departmental Committee on Labour and Social welfare on Tuesday, 7th May, 2019 to answer Question No.120 of 2019 from Hon. Abdul Raheem Dawood, MP.; Question No.127 of 2019 from Hon. Janet Nangabo Wanyama, MP.; Question No.130 of 2019 from Hon. Dennitah Ghati, MP.; Question No.142 of 2019 from Hon. John Munene Wambugu, MP.; Question No.074 of 2019 from Hon. Esther Passaris, MP.; and Question No.162 of 2019 from Hon. Patrick Mariru, MP.
2. The Cabinet Secretary for Public Service Youth and Gender Affairs will appear before the Departmental Committee on Labour and Social Welfare on Tuesday, May 27th, to answer Question No.121 of 2019 from Hon. Vincent Musyoka Musau, MP.; and Question No.135 of 2019 from Hon. Joshua Kandie, MP. Those ministries are overseen by the Departmental Committee on Labour and Social Welfare.
3. The Cabinet Secretary for Environment and Forestry will appear before the Departmental Committee on Environment on Thursday 9th May, 2019 to answer Question No.041 of 2019 from Hon. Jessica Mbalu, MP.; Question No.165 of 2019 from Hon. Kubai Iringo, MP.; and Question No.048 of 2019 from Hon. John Oroo Oyioka, MP.
4. The Cabinet Secretary for Water and Sanitation will appear before the Departmental Committee on Environment and Natural Resources on 7th May, 2019 to answer Question No.101 of 2019 from Hon. Babu Owino, MP.; Question No.106 of 2019 from Hon. Andrew Mwadime, MP.; and Question No.127 of 2019 from Hon. Joseph Oyula. This Committee will sit on Tuesday and Thursday for those two questions, and we expect Members to be there.

The HBC will reconvene on Tuesday, 7th May, 2019 at the rise of the House to consider business for the coming week. Also, all Private Members Bills are now undergoing public participation. Individual members with Bills must follow the tracker system in Parliament to know when their Bills will be before various committees that are conducting public participation.

Thank you.

Hon. Speaker: Very well. Next Order!

MOTION

NOTING OF REPORTS OF THE KENYA DELEGATION TO SESSIONS OF ACP-EU JOINT PARLIAMENTARY ASSEMBLY

THAT, this House notes the Reports of the Kenya Delegation to the sessions of the African Caribbean and Pacific Parliamentary Assembly and the African Caribbean, Pacific and European Union (ACP-EU) Joint Parliamentary Assembly laid on the Table of the House on Wednesday, 27th February, 2019 as follows:

(i) Report of the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium, from 13th to 20th June, 2018;

(ii) Report of the 51st Session of the ACP Parliamentary Assembly and the

intercessional meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium, from 9th to 11th October, 2018; and,

(iii) Report of the 52nd Session of the ACP Parliamentary Assembly and the 36th Session of the ACP-EU Joint Parliamentary Assembly held in Cotonou Benin from 25th November to 5th December, 2018.

(Hon. Ali Rasso on 23.4.2019)

(Debate concluded on 2.5.2019)

Hon. Speaker: Order Members! Those who are making their way into the Chamber slowly, please try to hasten. Hon. Members, as I have always said in the past, among the key things that give responsibility and functions to Parliament is legislation. If any Member has looked at the Order Paper, he or she must have seen that Order No.18 is on the Committee of the whole House. However, when I look at the number of Members who are present, I wonder how many Members come here to legislate. After today and over the weekend, everybody will be shouting in the villages how they have been making laws. The constituents should look around and see how their representatives make laws. You cannot go to make laws in the Members' Lobby Room. That is not where laws are made. Surely, it cannot be in the Lobby Room.

On Tuesday this week, the Committee of the whole House on this Bill was adjourned to accommodate certain concerns which were raised and more particularly the issues raised by the Chairperson of the Departmental Committee on Sports, Arts and Culture about the various proposed amendments by his Committee. I thought every Member will be present today and the House would be full to hear what the Chairperson of the Committee will be saying and various other chairpersons who have proposed amendments to the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 21 of 2019).

My expectation was that everybody, having rested over Labour Day or having laboured sufficiently, should now be here to legislate. Forget about those other labours that you may have engaged in.

(Laughter)

Hon. Members, please take your seats. The debate on this Motion was concluded and what remained was for the Question to be put, which I hereby do.

(Question put and agreed to)

Next Order!

BILLS

First Readings

The Sectional Properties Bill (National Assembly Bill No. 23 of 2019).

The National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019).

The Public Service (Values and Principles) (Amendment) Bill.

The Public Finance Management (Amendment) Bill.

The Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 24 of 2019).

The Public Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2019).

The Independent Electoral and Boundaries Commission (Amendment) (No. 2) Bill (National Assembly Bill No. 30 of 2019).

The Kenya Food and Drugs Authority Bill (National Assembly Bill No. 31 of 2019).

The Crops (Amendment) Bill (National Assembly Bill No. 32 of 2019).

(Orders for First Readings read - Read the First Time and Ordered to be referred to the relevant Departmental Committees)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Resumption of consideration interrupted in Committee on 30.4.2019)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Members! We are resuming the Committee of the whole House on the Statute Law (Miscellaneous Amendments) (No.2) (National Assembly Bill No. 13 of 2018), and we are starting with provisions relating to the Betting, Lotteries and Gaming Act (Cap. 131) Laws of Kenya. We are starting with Section 3(2A).

(Loud consultations)

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

Hon. Member: Order governor!

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have governors in the Chamber? Order, Hon. Members! So, just a correction, we are starting with Section 3(10). Let us have the Mover. It is on page 599 of the Order Paper.

(Hon. (Dr.) Chris Wamalwa interjected)

Hon. Wamalwa, surely! You come out as a digital person. There is only one Order Paper. Hon. Members, you really need to follow. Let us move away from analogue to digital. Hon. Millie, you need to consult with the Information and Communication Technology people to get your username so that we all move together. So, let us have the Mover.

THE BETTING, LOTTERIES AND GAMING ACT, (CAP. 131)

Section 3(10)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you, Hon. Temporary Deputy Chairlady. At the outset, I would like to appreciate the Leader of the Majority Party and Hon. Members for indulging me on Tuesday because these amendments came through a Supplementary Order Paper, which I was not aware of and I was caught off guard. We could not be able to proceed. But, today, I am ready and we can now proceed.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(d) by deleting the proposed amendments to Section 3(10);

We proposed the deletion of this particular section because the amendment was going to be in conflict with Section 4(1)(a) of the Betting, Lotteries and Gaming Act which provides that the board has the power to issue licences and permits under the Act. It does not indicate another authority to do so.

The second reason for our rejection is this: The amendment creates a governance problem. The board is the employer and allowing the Public Service Commission to appoint the Director-General with the authority of the Cabinet Secretary will create interference.

The third reason was issuing of the permits and licences by either of the two persons will create uncertainties in the execution of their functions. Those are the justifications we gave for deleting that particular amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, it is Section 3(10). Let us have Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I support this. We discussed this last week and I agree with Hon. Munyaka that the report was tabled almost eight months ago. He confirmed he had forgotten about it. We also had to go and revise our minds so that we could also remember it. We support what he has said because on that deletion, the justification is particularly for purposes of consistency. I support.

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

(Section 3(10) as amended agreed to)

Section 5(3)

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The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, just a suggestion, I see that you have a long list of proposals for deletion. Could we guillotine all of them depending on your direction? If you think they are light enough to do all of them together, I think it will be easier.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I agree with you. The Committee deliberated so much and at length on the proposed amendments. We found most of the amendments were piecemeal in nature and were not going to cure the existing Act. We even reported in our report, which we tabled, that the Committee needs to overhaul the entire existing Betting, Lotteries and Gaming Act. We ought to do a complete overhaul because it required almost 200 amendments to be cleaned up considering it is a 1966 Act. So, I can register some progress.

The Committee has come up with a proposed Bill which went through the Budget and Appropriations Committee (BAC) on Tuesday, and has addressed all the issues in that Act. We will be able to bring harmony and cure the discrepancies and whatever was lacking in the existing Act. I, therefore, would propose that we guillotine all the remaining clauses and the ones proposed for deletion.

I move that we delete all the proposed amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, if you are agreeing with the guillotine of the various sections, we shall go ahead to call them out. Hon. T. J. what is out of order?

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairlady. Although it would be time-saving to go the direction the Chair of the Committee of the whole House has proposed, I am worried. After reading the Report of the Committee, I realize that they do not seem to be coming forth, other than the fact that they are talking about a legislation which is still not before the House. They do not seem to be discussing the issue which you see in several clauses on the punitive aspect or the offences that are provided there.

Each of them is different in nature. There is a school of thought which would agree with the Hon. Leader of the Majority Party as the sponsor of the Bill that, to create a punitive regime on the offences will dissuade people who are in the gaming business. There are others who seem to suggest that such will discourage business in those sectors. So, he needs to tell us the philosophy that is informing why he is proposing these deletions. Is it just because there is some legislation which is coming, and which has not become our property? It has not come before us. Is the Leader of the Majority Party correct in prescribing some of those offences? So, the guillotine may not necessarily help the situation.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. T.J, the proposal to guillotine the sections does not stop the Chair from explaining the rationale behind the deletions. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I agree with Hon. T.J. Kajwang'. The moment we go the guillotine way... It is the first time I am seeing the Committee of the whole House wanting to go the guillotine way. If you look at Section 5(4), (6) (1) and Section 8(3), they are all talking about penalties. We have got serious issues with betting and lottery companies in Kenya. So, we might agree with the Chair. But the only reason he is giving us is that there is a futuristic comprehensive Bill. However, we need to save the people of Kenya. That is the intention of Government. I think it is good we select the ones dealing with penalties. It is

good for the industry. We need to agree with whichever amendment is okay and support him. Where we feel deletion is done, we should also consider that for agreement. Procedurally, let us go one after the other.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Millie?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you. I was not going to raise the point of order because I was principally agreeing with the Mover. However, there is an issue that the Leader of the Majority Party has raised in passing and, perhaps, which you need to address yourself to. I know that we always go guillotine when we do budget, but I stand guided. I do not know whether it is a proper procedure to guillotine when you are doing a substantive law like this one. Maybe, it is something you can guide us.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That is why I asked for the Chair's guidance. The guillotine could be done if the proposals for deletion are similar and repetitive. That is what I wanted the Chair to guide us; whether it was okay for us to go that route and whether Hon. Members would be comfortable. So, I will give you Chair one minute and then we can proceed section by section.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you, Temporary Deputy Chairlady. I want to thank Hon. Kajwang, the Leader of the Majority Party and Hon. Millie Odhiambo for their concerns. May I state that I am prepared to go clause after clause up to the last one, even though you have suggested that we need to save time. For most of the clauses, the reasoning will be repetitive and similar.

However, if guided, we can go step by step. With regard to the penalties and offences, in the existing Act, we have 48 of them. Yet these amendments brought only eight offences which are similar in nature. Moving from a penalty of Kshs3,000 to Kshs3,000,000 for an offence and from two months to five years and then leaving the other 40 of them with two months and Kshs2000 such that...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, sorry for cutting you short. Let us take case by case. Let us debate each section. That way, it will get clearer for everybody. The Clerk had already called out Section 5(3). So, go ahead and move.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(d) by deleting the proposed amendment to section 5(3);

The reason for this is to delete obsolete terms like “local authority” because this has not been done in the entire Act. It is only proposed to be deleted in Section 5(3) while the word “local authority” appears in many other sections which have not been amended. I am deleting this provision so that it can be addressed wholesomely in a substantive Bill which will come. I will also give you examples of where the word “local authority” has been referred to in the Act.

(Question of the amendment proposed)

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

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I wish to urge the Chair of the Committee that, as he moves according to your guidance that we go section by section, he should get his mind off the mentality that he had. That is because we are looking at the amendment substantively. All he needs to do is to convince us or not to convince us. Alternatively, if his amendment does not make sense like this one, then he drops it so that we move quickly.

Where you have a case where the Bill is mentioning “local authority” and we know we do not have local authorities but county governments, it makes sense for it to be changed to county governments as we wait for his substantive Bill. But, until then, we cannot amend other sections which are not before the House. The Committee should have taken the opportunity to amend all of them. But, now, what we have before us are the substantive sections. So, I want to urge him to drop his own amendment because it does not make sense. That way, we will move faster.

Hon. T. J. Kajwang’ (Ruaraka, ODM): Put the Question.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. T.J., we cannot put the Question before the Mover moves his amendment. Let us have the Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairlady. I totally agree with Hon. Millie. If there are sections in this Bill we felt they were relevant, it is incumbent upon the Committee to do the ones which have been left out and bring amendments. But, he cannot say that because some other areas have been left out, he will bring another Bill. I think we need to deal with them one by one. If it is felt that local authority does not exist in law because we have county governments, what is the problem with that? We reject your amendment. So, it is for you to withdraw it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us give the Chair a chance to finish.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, just to make progress, I beg to withdraw that amendment because the word “local authority”...

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order Members!

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Let me complete my statement.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Please give the Chair a chance because he is the one who is moving the amendment.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I agree with Hon. Millie, but Members will agree with me that this Act required more than 200 amendments. They cannot be done through the Statute Law (Miscellaneous Amendments) Bill. So, we need a substantive Bill to deal with all the issues. But since the local authorities no longer exist but we have county governments, I agree to withdraw the amendment to this particular

section. It will only solve the problem in that particular clause. It will not solve the similar issues in the Act.

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

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

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairlady. You see, we should not intimidate the Chair. I think he is getting fearful for nothing. Why is he withdrawing what is on the Floor? We are the National Assembly and we know what to do. Let him move what the Committee has allowed him to bring here.

He should be allowed to move the amendment and we will deal with the issues as they come. This is because we have read the amendments and we know what is good or bad. But I have a problem with him withdrawing because he is the Chair and he is representing the Committee. So, for him to withdraw without instructions from his Committee Members, I find this unpalatable.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Members! Let me just give some direction. When we call out a section, let us give the Chair a chance to prosecute his amendment or otherwise and then you can express your views on it. Whether it passes or not will depend on what the Members feel. Let us stop shouting at the Chair when he is moving his amendments because it will become easier for all of us. Chair, I think you are done with moving. I do not know whether you still want to withdraw?

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, since it is a substantive issue in law that we do not have local authorities existing currently and what is there are county governments, I agree to withdraw this amendment because there is a substantive Bill coming for First Reading which will address all milliard problems. So, we will have an opportunity to correct the others which will be still remaining in the law.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I have clearly heard the Chair saying he has withdrawn. So, the Bill remains as it is with regard to Section 5(3). He has dropped the amendment.

(Proposed amendment by Hon. (Dr.) Victor Munyaka dropped)

(Section 5(3) agreed to)

Section 5(4)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Mover. Order Hon. Millie! You are talking about issues I am not versed with. Let us stick to what is on the Order Paper.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): On Section 5(4), this is where I will really require Hon. Members to agree with me.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, we have a lot to do. So, just be straight and to the point. Convince Members and then let them ventilate.

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Hon. (Dr.) Victor Munyaka (Machakos Town, JP): That is because this selective amendment to a few penalty clauses creates...

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, what is it?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am sorry Chair. I am sorry I am speaking a lot, but I know as you know because this section has to do with procedure, sometimes it is a bit tricky. So, even for me as a seasoned lawyer, sometimes, I might get it wrong and so, I stand guided when I do.

The main Statute Law (Miscellaneous Amendments) Bill has been moved by Hon. Duale. So, if there was no amendment, the Question that should have been put is to the amendment by Hon. Duale. But if there is a proposed amendment by another Member or a Committee, we should deal with it and, if it fails, then we go back to the one by Hon. Duale.

Otherwise, it is not considered dealt with. This is my concern. That, actually, we can move fast and miss out the amendments because when we go to the records, we will find out that we dropped the Chair's amendment, but we did not deal. Unless what we are going to do at the end is to look at all that part together.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Millie. You are right. But the procedure we are taking is that we will put a global Question on the entire Bill. Leader of Minority Party.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, at the rate we are going, if we are not careful, we will be here forever. I was thinking that the Chair should not preempt the reaction of the House by just procedurally moving the amendments. He should say: "I beg to move that we delete..." a certain clause. Then after that he quickly tells us why. Whether the reaction is negative or positive, he has done his bit. But the way I see the Chair, he is already preempting that the House may be hostile to the amendment. He is trying to plead with us even before he moves the amendments. So, can he just get back his frame of mind, move properly and procedurally and take the shortest time possible? Thank you.

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, you know we need to move. So, what help do you want to give me, Hon. T.J.

Hon. T.J. Kajwang' (Ruaraka, ODM): I am just begging to help you. Not help! I know I cannot help you because you are the Chair. But when you see the Member for Suba North in spectacles – and this is first time I am seeing her in spectacles - you know that she is ranking and has read this a lot. There is a point that the Member for Suba North is making. Once we have expressed ourselves as we have on that amendment in which the Chair dropped, if we do not make it part of the Bill right away and then we go into others in which some we reject and some we will accept, it will be very messy for you, Hon. Temporary Deputy Chairlady, when you now want to make it part of the Bill. So, perhaps, because these are sections and they are different, you probably finish with this one which has been dropped by expressing yourself on Hon. Duale's amendment and make it part of the Bill and then we finish with it, and we go to next one. These are miscellaneous amendments and they are in different sections. That way, we are going to be neater and the record will be cleaner.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. T.J., we have already called out Section 5(4) and you are taking us back to Section 5(3). We will deal with it. We will go on with Section 5(4) first and then we will deal with it. Chair, kindly be precise and to the point. Just speak out what the amendment is and let Members decide on it.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(e) by deleting the proposed amendment to section 5(4);

The reason is that the selective amendments to the few penalty clauses will create disharmony in the Act. It will create discrepancies in the implementation of the Act. The existing penal provisions are quite many with serious offences and with very mild sentences. For example, fraud, while gaming under Section 61 of the Act, attracts a Kshs5,000 fine, or imprisonment for a term not exceeding six months. Section 63(3) of the existing Act provides that obstructing an inspector under that section attracts a fine of only Kshs5,000 or imprisonment for a term not exceeding six months. The provisions on penalty sections in the existing legislation need to be revised to consolidate all the 48 offences under common regulatory framework to ensure that all elements of the industry are properly regulated to curb unfair competition among the various platforms.

Generally, Madam Chair, if we could allow that amendment, we would leave many other clauses with penalties on other similar offences with varying amounts of fines and sentences such that there will be disharmony in the law and there will be no justice in the entire process.

(Question of the amendment proposed)

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

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Speaker, I stand to support the Chair's amendment. What is coming out is that in the amendment of this Act, there are many penalties. A few penalties have been picked out and changed grievously, leaving many other penalties which are quite small. I think there will be disharmony in that Act. I support the amendment.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, we are not guiding the House. This is a Bill from the drafters of the State Law Office and it went through the Legal Directorate of Parliament. In a statute law, there are certain sections which are very important. What are we dealing with? We are dealing with an offence on gaming and betting where, previously, it was a fine of Kshs5,000 and a term of six months. If there is a fraud that takes place in the course of gaming, it is only saying we increase that to Kshs1 million and three years respectively. We know what is happening in our country. In fact, I think the Legal Directorate and the Lead Counsel who oversees this Committee did advise. This is the Statute Law (Miscellaneous Amendments) Bill. It is not comprehensive. What we are doing will not have an effect on another law. The industry wants to fight. There are gamblers and people who do betting out there who do not want to... It is the same thing with the old Housing Act where, if

you abscond the money of the Housing Fund, you are only fined Kshs10,000. In today's Kenya and in this kind of industry, how can we have Kshs5,000? Even if you cause a fraud... This is about the fraud in the industry. So, I oppose it and agree with what is in the Bill.

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

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, the Chair would have persuaded us if he told us that these offences that are being subjected to a fine of Kshs1 million do not warrant that kind of penalty. You see, there could be a reason why the Government has picked these particular offences. The offences could be numerous, but some are light offences and some could be serious offences that require heavy penalties. So, in my view, gambling has been a big challenge and to me, just having a fine of Kshs5,000 does not make sense. If the Chair feels that others also need to be subjected to a fine of Kshs1 million, he can bring an amendment later. But we cannot stop an amendment of increasing the fine for an industry that we have been complaining about. So, I oppose the amendment of the Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Homa Bay County.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, what we are dealing with is an applicant who knowingly makes a false statement or declaration in an application for or renewal or variation of a licence or permit. So, you are dealing with somebody applying for a permit for betting who gives false information. Surely, the fine cannot be Kshs5,000 for giving false information. So, I think in enhancing that fine, there is no problem. If you license for betting, give the correct information and the true position and you will not have to deal with the fine. However, if you give false information, charging you Kshs5,000 is a mockery. Kshs1 million should be the fine. So, I regret but I oppose the Chair on that.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Members! Order! Hon. Members, allow me to go back to the issue raised by Hon. Millie and by Hon. Kajwang' on dispensing with the question on Section 5(3). I will go on to put the Question on Section 5(3).

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

(Section 5(3) as amended agreed to)

Let us also dispense with Section 5(4).

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

(Section 5(4) as amended agreed to)

Section 6(1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, even if I have to withdraw my amendment, I need to make a statement.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Make your point, Chair.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): This is a Committee proposal, but not mine.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(f) by deleting the proposed amendment to Section 6(1).

The proposal was to have the gaming security of Kshs40 million for licensed operators. There exist eight different gaming activities which will attract different gaming securities. They are lotteries, casinos, online gaming and sport betting. This proposed amendment is only stating Kshs40 million for all of them. We objected to this proposal because it does not specify which type of gaming activity will apply the Kshs40 million.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, we are not here to defend this industry. The penalty on this was Kshs40,000. Because of what betting is doing to the people of Kenya, the Government said that we substitute it with an expression of Kshs20 million. We are here to defend the people of Kenya. The Committee is not giving us a good reason why we should retain Kshs40,000 as a penalty and not Kshs20 million. The people in the betting industry make billions of shillings every day. The Sportpesa makes billions. So, I totally oppose this proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let me give the Chair the opportunity to make a clarification.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): This clause does not talk about penalty, but security for business operation. It is what you deposit in the Government, so that you can operate a particular gaming activity. I said that we have eight different gaming activities. We have lotteries, casinos, online sports betting, online lotteries and bingo. All of them are different. We said that we cannot lump all of them together and give them the same security because they are diverse in nature. So, it is not a penalty, but a normal security that you deposit with the Government to start that particular business. I need to tell the Leader of the Majority Party that we have different gaming activities which will attract different securities.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, the Chair has made a clarification against the point raised by the Leader of the Majority. He is not talking about penalties, but security for business operation. Hon. Rozaah Buyu.

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Thank you, Hon. Temporary Deputy Chairlady. I stand to oppose that amendment because it does not matter what sort of betting it is. Betting is a luxury. You cannot tell me to deposit Kshs40,000 as security for betting. I oppose that. I support the Government in saying that we should increase that to Kshs20 million.

Thank you, Hon. Temporary Deputy Chairlady.

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

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I have listened to the Chairman of the Committee and he is saying that it will not be fair to charge everybody the same security of Kshs20 million. I wish his amendment was also proposing categorised way of charging different types of betting. I also oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair of the Departmental Committee on Agriculture and Livestock, Hon. Haji.

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairlady. I also rise to oppose this amendment. Considering the fact that a lot of Kenyans are even committing suicide as a result of this gaming and betting, we should not reduce the penalty from what the Chairman has proposed. I oppose vehemently any attempt to reduce the penalty on betting because it is a social menace. A lot of people are suffering as a result of people taking advantage of them, including committing suicide.

Thank you. I oppose the proposed amendment.

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

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Mhe. Mwenyekiti wa Muda, biashara ya kamari inafaida watu wengi sana. Pia, ina hasara kwa Wakenya wengi sana mpaka watoto wetu. Majumba mengi yameadhirika kwa sababu ya biashara ya kamari. Hii Kshs20 milioni ni sawa.

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

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, let us have reason in this House. I agree with the Leader of the Majority Party and other Members who seem to say that we need to watch this gaming properly because of the social menace. However, there is something that the Chair is saying which you are not listening to. When you look at the proposed legislation, he is talking about licences. He is saying that licences are not generic. There could be a lady in Ruaraka who wants to open a small Sportpesa shop. Unless we say that this is an illegal business and then remove it from the law books... If we say it is a lawful business that somebody can participate in, we cannot come here and guillotine the whole business. We should see some of the graduations in which somebody can pay Kshs20 million and others Kshs5,000. Otherwise, we are just saying that this is an illegal business and we should remove it from the books in the first place. I call for sobriety in this amendment. By passing the proposed Kshs20 million, we will say that gaming and lotteries are illegal, and we will never participate in them.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party. Order Members. Let us listen to each other.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, let me make it very clear. I agree with Hon. T.J. that we become sober. There is no poor Kenyan who will go and open a betting shop. We know that. Let us be very honest. Opening a betting shop is not like opening a tomato shop. The Government, in this amendment, is saying that for you to get that licence, you must deposit Kshs20 million. That is why this House increased the taxation

level to 35 per cent. Even the President said that if they have to pay tax, they have to do it through their nose. Going forward, we must ban betting, lotteries and gaming the way it was banned in Uganda, Tanzania and Rwanda. It is not like keeping chicken. Hon. T.J., this is about the security for our people not to get involved in betting. We must bring a Bill to ban online gaming and betting. Our children are not going to school. They are committing suicide because they want to bet to win. Betting does not affect the Muslim community. However, it is killing Kenyans. So, let us increase the penalty. The Government had a good reason when it said that the security should be Kshs20 million. These guys make over Kshs700 million daily.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, I will give the opportunity to the last contributor, Hon. Kioni, and then we put the Question.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairlady. I hear Hon. T.J. very loudly. Out there, even in Ndaragwa Constituency, if you play around with the gaming industry, you will kill a society. If we can push it to even Kshs40 million, the better it will be. We do not need gaming at all in our constituencies. But since we cannot kill it that easily, let us use the penalty to keep them out.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have the last one by the Leader of the Minority Party then Members will decide.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, I just want to tell my friend, T.J. Kajwang', because he always comes up with very progressive things, that one way through which Parliament can discourage a bad habit is by either overtaxing it or putting in place high penalties. In fact, putting in place high penalties is the perfect way of discouraging bad behaviour. So, if the kiosks are being opened in villages and we say that it is bad, we should set this high amount for the kiosks to close shop and go home. Betting is something that we should make sure we finish. We can finish it by legalising it and putting in place high fees.

Thank you, Hon. Temporary Deputy Chairlady.

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

(Section 6(1) agreed to)

Section 8(3)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have the Mover. Members, kindly listen to the Chair.

(Loud consultations)

Hon. (Dr.) Victor Munyaka (Machakos Town): Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(g) by deleting the proposed amendment to Section 8(3);

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The reasoning is the same that it is not good to have piecemeal penalties on some clauses only while leaving many others unaffected. It is similar to the other one Members have already voted against.

I beg to withdraw it because it will suffer the same fate.

(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): That takes us back to the original form of the Bill.

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. T.J. Kajwang', what is your point of order?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I am sticking to the rules. You need to make a ruling on withdrawal of amendments because it is very dangerous. Even if the Chair feels that we are going to react in some manner, let him prosecute his amendment. We know what to do. Otherwise, he is presuming what we are going to do. That is presuming what the plenary will do. There is a problem of precedent.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon.T.J., you cannot force words into the Mover's mouth.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, there is a precedent which we have in the House that when you are a Chair, you are unable, without a written consent of your Members, to withdraw an amendment because the Bill has gone through public participation. A chair of a committee is here on behalf of his committee. If we allow chairs of committees to withdraw amendments here, it is going to be very dangerous and we Members of committees, have no way of making sure that our suggestions in the committee reach the House. So, the Chair should not feel intimidated. We know what to do. We may side with him in some instances and differ with him in others. To allow a chair to withdraw amendments is not good in terms of procedure.

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

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, I want to help Hon. Kajwang' by reminding him that this House is of traditions and precedents.

(Loud consultations)

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

Hon. John Mbadi (Suba South, ODM): This is not the first time a chair of a committee has withdrawn amendments which had been processed through a committee. If the Committee will feel that the Chairman has acted in a manner that does not inspire their confidence, they will deal with him. The owner of the amendments is the chair of a committee. We do not know other Members here. If the Chair has said he is withdrawing an amendment, it will save time. We should move on.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Oduol, do you want to address the same issue?

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Hon. Temporary Deputy Chairlady, I would like to address the issue as a Member of the Committee to indicate why the Chair is taking that direction. The fundamental issue the Committee faced was having harmony within the Act. The Committee spent a lot of time discussing what we are talking about in the House and the great damage that is caused by betting, gaming and other such acts. However, the Committee, given its mandate which it was operating with, was of the view that we would want to ensure that we sustain and retain harmony within the Act and see how to move to the next level, which could remove the illegality.

I support the Chair and let Hon. T.J. Kajwang' know that the Chair is not intimidating anybody. He is looking at the premise that informs all our amendments and seeing that if the same premise of getting harmony is seen not to hold, it would really not be worth talking about this amendment.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Millie and I have been here for a long time. Hon. Temporary Deputy Chairlady, let us not set a precedent. Tomorrow, Hon. Millie or a Member will bring an amendment to an existing law, then a chair of a committee or the Leader of the Majority Party representing the Government will say that it can be done more comprehensively. We are dealing with a matter as it is on the Order Paper. You cannot talk about doing a comprehensive law.

A chair or even I can withdraw a Bill from the Order Paper. So, the Chair is in order and whether his Committee will challenge him later, that is a different issue. But as per procedure, he has the powers to withdraw an amendment.

I am not intimidating him, but I want him to know that betting is a very hot issue. It can even cost one his seat. He has to be very careful. It is live on television. Anybody who supports betting and lottery...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, I think you are now intimidating the Chair expressly. Let us give the Chair an opportunity to speak authoritatively.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): I have withdrawn already.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, what is out of order? Please, let us be brief.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. T.J. is raising a very fundamental issue that we should not respond to now. Maybe, we need a substantive ruling on it because it will keep recurring, which is the issue of whether a committee chair can withdraw an amendment. In this instance, if he withdraws all his amendments, it is beneficial to me. But is that procedural? I request that instead of us dealing with it now, let there be a substantive ruling on whether a chair of a committee can withdraw amendments on behalf of a committee. This one is not contentious, but what about when we will be dealing with contentious issues?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Please, let us dispense with it at that. The reason, as Hon. Millie has said, is that it is a critical issue of concern. The Chair definitely, as a Mover, has authority. But withdrawing of amendments on his feet is something we have to deal with as a House so that we are crystal clear on it. On the issue we are dealing with on this particular Act, he is moving with the mood of the House as per what the Members have expressed themselves on the issue of betting and lottery. If that is not the case, Members also have a chance to speak in the alternative. Please, let us proceed. Hon. Munyaka, just to be clear, you have withdrawn your amendment on Section 8(3), is that right?

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Yes, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We will go on to put the Question on that because it takes us back to the original provisions of the Bill.

(Section 8(3) agreed to)

Section 10(2)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, Section 10(2) was also proposing a penalty change, but we proposed a deletion of that. The reasoning is still the same. So, I still go forward and withdraw it because of the mood of the House and being a responsible Chairman.

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

Hon. (Dr.) James Mikal (Seem, ODM): Hon. Temporary Deputy Chairlady, I have noticed what is going on and I agree that the Chair is moving with the mood of the House. I agree that because it is betting, we are in the right direction. I, however, still think that the Chair should explain. There is an issue where the House may think differently. So, it is important that if he is going to withdraw, then he can explain.

The Temporary Deputy Chairlady (Hon. (Ms.) Saipan Toya): Hon. Chair, just take a minute and explain the proposed amendment or deletion *vis-à-vis* something else.

Hon. (Dr.) Victor Mintaka (Machaon Town, JP): Hon. Chair, I want to give an example.

The Temporary Deputy Chairlady (Hon. (Ms.) Saipan Toya): Not necessarily an example. Just stick to Section 10(2). Tell us what it is about.

Hon. (Dr.) Victor Mintaka (Machaon Town, JP): Section 10(2) was to delete the expression “ten thousand and one year” and substitute therefor with the expression “ten million and five years”. That was the suggestion in the proposal for the amendment. It still came to this idea of leaving the existing Act in disharmony.

The Temporary Deputy Chairlady (Hon. (Ms.) Saipan Toya): The amendment is against what?

Hon. (Dr.) Victor Mintaka (Machaon Town, JP): The original Act states:

“(2) A licensee who contravenes subsection (1), or who knowingly or recklessly keeps any book, record or account required to be kept under this section which is false in any material particular, or who makes or causes to be made in any such book an entry which is false in a material particular, shall be guilty of an offence and liable to a fine not

exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.”

This one is substituting that with Kshs10 million and five years respectively. To answer Dr. Mikal, when we are looking at the proposed penalties and leaving 40 sections unamended, I want to give you the Act No.49, which is touching on betting by children and which was not even proposed for amendment.

Section 1(a) provides that a person who on licensed gaming premises plays a game with or permits a playing of a game by a young person or... - there are many other stories there - shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or both. This one has been left intact in the Act.

That is why we are saying amending those eight sections and leaving 40 sections with similar offences will leave a lot of disharmony even for the judges who are going to make determination on a fair trial. You will not amend all the 48 offences in a Statute Law (Miscellaneous Amendments) Bill. That is the reasoning behind deleting everything.

(Proposed amendment by Hon. (Dr.) Victor Mintaka withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Saipan Toya): The Chair has withdrawn.

(Section 10(2) agreed to)

Section 11(4)

Hon. (Dr.) Victor Mintaka (Machaon Town, JP): I beg to withdraw the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): In line with the request by Dr. Nyikal, just briefly say what it was.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): It was still on penalties which are so much enhanced yet we have left many other offences with penalties in original terms of Kshs1,000 to Kshs3,000. The offences are almost similar.

(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)

(Section 11(4) agreed to)

Section 29A(1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap.131—

(j) by deleting the proposed amendment to section 29A(1).

This was dealing with taxes. The Committee proposed a deletion of this proposed amendment. The reduction of the betting tax from the rate of 35 per cent of the gaming to 15 per cent will result in loss in Government revenue. So, we opposed the reduction of the taxes from 35 per cent to 15 per cent.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Clause 29A in the Bill states that there shall be a tax to be known as betting tax chargeable at the rate of 35 per cent of the gaming revenue. The Government is trying to delete the expression “thirty five” and substituting it with “fifteen”. I support the Chair. It cannot be 15 per cent.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, on this, I support the Chair. This demonstrates one thing, namely, what the Chairman said. If you are listening, Hon. Temporary Deputy Chairlady, this is now a clear testimony that the Chairman, with a lot of respect to the Leader of the Majority Party, was right. There is confusion here. The same Government or person who was bringing us the Bill wants to reduce taxation. I have never seen any Government reduce taxation from 35 per cent to 15 per cent. It can only mean that even the people who are considering the penal regime did not put their heads into this issue. Whereas I support the Chairman of the Committee in bringing the reduction of taxation, it shows the House that a lot of thought did not go into the philosophy of how these penal systems were put in place and how these taxations were arrived at.

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

Hon. Aden Duale (Garissa Township, JP): My point of order is that we have already done it in the Finance Bill; the 35 per cent which the President returned with a memorandum. This Bill was published before the Finance Bill. That should be the reasoning. We cannot factor in this now. It will contradict an existing taxation legislation. It is because of the delay because it is supposed to go to the Senate. As we stand here today, the rate is at 35 per cent. So, we cannot reduce it using a miscellaneous process to 15 per cent.

In fact, this amendment has been overtaken by events.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That is an important point of information. So, let us not go back. I know you had an amendment, Hon. Wanga. I will give you a chance. Hon. Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): We support this, Hon. Temporary Deputy Chairlady. But there is a major issue as we stated earlier. It is about miscellaneous amendments. What is happening here? We are taking time in miscellaneous amendments. These are giving us examples that we should have very minor changes when dealing with miscellaneous amendments. We support you on this one, Hon. Chairman. It is also important to know. That is why I was saying that the Chairman should explain every point, even if he is withdrawing it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will give this chance to Hon. Wanga to speak to this one. I do not know whether you want to prosecute your proposed amendment. Are you speaking to the Chairman's amendment?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I am blowing the microphone like in the village.

My amendment is similar to the one that has been moved by the Chairman. Therefore, mine automatically drops if his is carried. So, I support his and say that 35 per cent is good.

I also wanted to make a comment, for the record, on the issue Hon. T.J. had raised earlier and which you already spoke to. I just want to express my own frustration. Even in the last Parliament, when committees deliberated amendments and then they came to the Floor, chairs would be intimidated into withdrawing them. That is a matter that needs to be addressed, actually in the Standing Orders. It concerns amendments coming from committees and how you treat them *vis-a-vis* your own amendments that you bring to the Floor of this House.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Okay. Hon. Wanga, just for the record, you need to withdraw your amendment. We will let you do it at the right time. That is well said. I think we have heard enough deliberations on this.

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

(Section 29A(1) as amended agreed to)

(Proposed amendment by Hon. (Ms.) Gladys Wanga withdrawn)

Section 36(1)(a) and (b) and 36(2)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Okay. I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(k) deleting the proposed amendment to Section 36(1)(a) and (b) and 36(2).

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): No, the Chairman is not out of order. He is moving an amendment. Give him a chance.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): The reasoning behind the amendment is that Section 36 of the Act had a higher threshold, 25 per cent of the proceeds of public lotteries going to charitable purposes. That was devoted from the proceeds of lottery to ensure that charitable purposes are achieved. Reducing the percentage to 5 per cent of the proceeds defeats the purpose of the provisions. So, the initial Act was talking about the threshold of 25 per cent, but this is proposing reduction to 5 per cent which should go to charitable issues. So, we were of the idea that we need more percentage so that we are able to support more charity out of lottery.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So you are moving?

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): I move.

(Question of the amendment proposed)

Hon. T.J., you know we are talking about a point of order when you are supposed to be debating what has been moved by the Chair. I do not know what is out of order.

Hon. T. J. Kajwang' (Ruaraka, ODM): I am pleading. Do not get tired of me. That is why I take all my time to come here so that we can help each other on legislation.

Yes, you have proposed the Question, but my point of order was going to precede that proposal. I was going to ask that we should have first dispensed with the amendment by Hon. Wanga. Why? Hon. Wanga is trying to delete the entire section and the Chairman is only concerned with part (a) of it. If Hon. Wanga's amendments were to be carried, there would be no need to prosecute what the Chair is proposing. So, in terms of procedure, it would have been better if we dispensed with Hon. Wanga's amendment. I know the Chair has a precedent, but when a Member has an amendment which when dealt with renders the Chair's nugatory, then probably we would have started with the one from Hon. Wanga.

I beg to suggest.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. T.J., when you look at your Order Paper, what Hon. Wanga is proposing is deletion of Section 36(1) and Section 36(2). The Chair is proposing deletion of Section 36(1). So, the Chair's will have precedence because he is only dealing with Section 36(1).

You see, the Chair's is Section 36(1). Parts (a) and (b) are still in Section 36(1) whereas Hon. Wanga is dealing with Section 36(1) and (2).

(Loud consultations)

It is the same thing that Hon. Wanga and the Chairman are doing. So, it is neither here nor there, Hon. T. J. So, let us have the Chair's amendment prosecuted first. Then, depending on the outcome, Hon. Wanga's can come in.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, it is not the same and I stand to be corrected. In the Bill, it is 36(1)(a)(b), which deletes the existing one in the Act where it appears as "twenty-five" in paragraph (b) and substituting it therefor with the word "five". Hon. Wanga wants to delete everything. So, the Chairperson is only disagreeing with me in as far as reducing it from 25 to five is concerned. He wants it to be at 25, the way it is in the Act. We need to ask what Hon. Wanga wants to do. The Chairperson is saying that we do not remove "twenty-five" and substitute it with "five". Hon. Wanga wants to delete the whole thing. She is saying that we do not want charity. Have you ever seen betting companies doing charity?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, it is the same thing. The only thing that the Chairperson has done is to expound his proposal by spelling out (a) and (b) of subsection 36(1) whereas Wanga's is a blanket of (1) and (2). If you read the Chairperson's, amendment, it talks about 36(1)(a) and (b) and 36(2). It is the same thing. So, let us move on with the Chairperson's amendments.

Order! Hon. Members. The Chairperson has already moved his amendment, unless you want to contribute. Hon. Millie Odhiambo, you have quickly changed from desiring to raise a point of order to desiring to contribute.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I wanted to do both. I want to contribute. Let me contribute then within my contribution, I will say what is out of order.

First, it is, indeed, good that people who bet give to charity. In any event, they are messing a lot. I noticed when I was going through this Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019 that the person who moved the proposed amendments to the Betting, Lotteries and Gaming Act (Cap.131), was mischievous. He was trying to encourage Members to feel that they are doing some societal good by enhancing sentences, but where it hurts, where it has to do with money, they were lowering the sentences. So, because of that, I support the Chairperson's proposal. Having said that, maybe the concern, if you look at Hon. Wanga's and the Chairperson's amendments - that is something you can look at from a technical perspective - the Chairperson is talking about 36(1)(a) and (b), but Hon. Wanga is talking about 36, which has a proviso. So, what the Chairperson needs to advise is whether the proviso forms part of (b). If it does not form part of (b), then it would be better for us to move with Hon. Wanga's proposal, which is more comprehensive.

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

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Chairlady. Unless we have a different Order Paper, for me, I can see here on my iPad that the Chairperson is proposing to delete Section 36(1)(a) and (b) and 36(2), which means that he is proposing to delete Section 36(1) and (2) the same way Hon. Wanga wants to do.

Another thing that I want to highlight, if I may get your attention, Hon. Temporary Deputy Chairlady, is that even if we made a mistake, when the House pronounced itself on this matter, it meant that the House decided on the direction it will take. Therefore, we cannot say that although we have decided this way, it would be neater if we decided otherwise. If that is the case, it has been overtaken by events. To me, these amendments are the same unless I am referring to the wrong Order paper on my iPad.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, the difference is the same, if I have to say it that way. Let us move on.

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

(Section 36(1)(a) and (b) as amended agreed to)

Hon. Members, we are moving on. There is nothing to indulge me on because we are moving to the next section. Hon. Wanga's amendment has died naturally.

(Proposed amendment by Hon. (Ms.) Gladys Wanga withdrawn)

Section 36(2)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap.131—

(k) by Deleting the proposed amendment to Section 36(2).

The reason is the same with what I gave for deletion of proposed amendment to Section 36(1)(a) and (b).

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

(Question of the amendment proposed)

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

(Section 36(2) as amended agreed to)

Section 44A (1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap.131—

(l) by deleting the proposed amendment to Section 44A(1).

This is similar to Section 29A(1), which was proposing the reduction of taxes from 35 per cent to 15 per cent. The Committee concluded that this will cause a loss of Government money. So, we proposed a deletion of the proposal.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme Constituency, you are on intervention. What is it?

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, on this one, we support the Chairperson. We are seeing some order in the disorder.

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

(Section 44A(1) as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Again, Hon. Wanga's proposal dies a natural death.

(Proposed amendment by Hon. (Ms.) Gladys Wanga withdrawn)

Section 53(1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap.131—

(m) by deleting the proposed amendment to section 53(1).

It is similar to the other offences and penalties which I had dropped.

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

(Section 53(1) as amended agreed to)

Section 54(2)(b)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(n) by deleting the proposed amendment to Section 54(2)(b).

We are talking about the amount to bet. The amendment is talking about Kshs1, which may not be practical at this particular age and time. I, therefore, beg to move so that we can enhance it in future.

Hon. Aden Duale (Garissa Township, JP): *(Off record)*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, the Chair is sure of what he is saying. We can only ask him to be clearer.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): The Act talked of the minimum amount somebody can play with in a gaming machine. He was talking of a maximum of one shilling, which may not be practical at this time and age. We are, therefore, proposing to withdraw that amendment because the Act is outdated.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That makes more sense. That is the clarification we were seeking. The Leader of the Majority Party

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, we are increasing the amount that one can put into the machine from Kshs1 to Kshs50,000. That in itself will protect our children. To get Kshs50,000 is not easy. So, we are saying that for you to bet, we must start with Kshs50,000.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): There is clarity now. Member for Homa Bay County.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I support that amendment because we are here in the spirit of discouraging only that it may be a double edged sword. People could be selling their land and others taking the entire school fees to bet. That is the only contradiction. I just want to express my concern, otherwise, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, for the record, there has been a bit of back and forth on this amendment. I just want to know whether you moved it or not.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): I withdrew to concur with the enhancements.

(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)

(Section 54(2)(b) agreed to)

Section 55(1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, the proposed amendment to Section 55(1) is touching on penalties of a particular offence. We have followed the mood of the House and we now withdraw it.

(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)

(Section 55(1) agreed to)

Section 55A(1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act Cap. 131—

(p) by deleting the proposed amendment to Section 55A(1).

This amendment also talks about the deduction of tax from 35 per cent to 15 per cent. He has proposed deletion of that proposal. This will allow the tax to remain at 35 per cent instead of the proposal to reduce it to 15 per cent.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is clarified.

(Question of the amendment proposed)

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

(Section 55A(1) as amended agreed to)

(Proposed amendment by Hon. (Ms.) Gladys Wanga dropped)

Section 59B(1)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Betting and Lotteries and Gaming Act, Cap.131—

(q) by deleting the proposed amendment to Section 59B(1).

This amendment is on deduction of the price competition tax from 35 per cent to 15 per cent. We have proposed deletion of that proposed amendment.

I beg to move.

(Question of the amendment proposed)

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

(Section 59B(1) as amended agreed to)

Section 59(2)

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, I withdraw this amendment because it is touching on offences and penalties. I agree with the House that we need greater penalties for these particular offences.

I withdraw.

(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)

(Section 59(2) agreed to)

Section 61

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Chairlady, this is the last amendment to the Act. It is also proposing deletion of the proposed amendment to Section 61. Since it is touching on penalties and offences, I beg to withdraw it.

(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)

(Section 61 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Members. We now put the global Question.

*(Provisions relating to the Betting, Lotteries and Gaming Act,
Cap.131 as amended agreed to)*

Hon. Members, we are done with the Betting, Lotteries and Gaming Act and now we are moving on to the Dairy Industry Act Cap. 336 of the Laws of Kenya.

THE DAIRY INDUSTRY ACT, (CAP. 336)

The Dairy Industry Act, (Cap. 336) Section 3

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended-

(1) in the proposed amendment to the Dairy Industry Act, (Cap 336) by-

(a) deleting the proposed amendment to section 3.

The amendment contains minor amendments to the Dairy Industry Act, Cap. 336 proposed in 2013. Since then, new issues have emerged such as development of comprehensive set of regulations which touch on some of the amendments.

Therefore, deleting the Schedule to the Bill will allow for the ongoing consultations within the industry to be finalised. Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We will come to you, Hon. Millie, once we dispense with the Chair's amendment. The Chair moved his amendment and yours is pegged on that one depending on the outcome.

Yes, Hon. T.J.

Hon. T. J. Kajwang' (Ruaraka, ODM): On a point of order. Hon. Temporary Deputy Chairlady. Where is this Chair? I heard the Chair talking about some regulatory frameworks which have arisen and yet the section we are dealing with is a substantive one. We are on definition. He was not very clear to give us the correct picture with which we are able to debate this. Can he expand so that we can know what we are talking about? We are on definitions.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this section is dealing with definitions on how to include goat and camel milk whether in liquid, solid or any other form immediately after the words "cow" appearing before the definition of milk. It is just ensuring that camel and goat milk are defined in law, which has no harm. So, why are you deleting it? Regulations are different and they will deal with the marketing aspect of the milk, but this is just about the definition. I agree with Hon. T.J. and I support it.

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

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairlady. This proposal was made in 2013. Since then, new issues have come up pertaining to the dairy industry. So, the Ministry felt that they delete the amendment as it appears on the Schedule and come up with a more comprehensive one allowing for the ongoing consultations to be finalised.

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

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you need to guide this House. Chairs cannot come and tell us about the ongoing discussions and regulations. The matter before is how to define camel and goat milk. What has that to do with regulations coming to this House? It is the same story of Hon. (Dr.) Munyaka that he is bringing a comprehensive Act. Parliament does what is on the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, it is actually amounting to pre-empting things which are not before the House.

Hon. Aden Duale (Garissa Township, JP): I am a camel farmer and want to sell my milk, but this is not defined in law.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Leader of the Majority Party. Chair, confine yourself to what is before the House and be clear. Let us have Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): What is wrong in just introducing goat and camel milk into the definition of milk in the Bill?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, can you make yourself clear?

Hon. Ali Adan (Mandera South, JP): Chair, there is nothing wrong in introducing that.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, what is un-procedural?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I request that we go section by section because I think in his amendment, he is trying to delete all the definitions. I support the goat and camel milk, but I have a challenge with the definition of “producer” not “fish milk”. There is no fish milk. So, if we go step by step, that would make sense to me so that I can support goat and camel milk. I can also learn how camel milk tastes. If we go that way, I have a chance to oppose him, move my amendment and try and convince the House.

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Chair. Again, for clarification, I am not opposing anything. This is the Government proposal and what the Leader of the Majority Party purports to represent. This is the letter of request to the Leader of the Majority Party that they want these provisions to be deleted so that they can come up with a more comprehensive Act considering the ongoing consultations in the dairy industry.

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

Hon. John Mbadi (Suba South, ODM): First of all, I think the Chair needs to withdraw the remarks he made that the Leader of the Majority Party is purporting. We need to have respect in this House and decorum. We are not purporting to be holding these positions. They are officially held. Hon. Duale is officially the Leader of the Majority Party. I do not know why the Chairman is doubting that and saying “purporting”.

As he withdraws, I also want him to just accept the concern of this House that we cannot defer legislation for future. Who knows who will be here in future? When legislation is brought it should be understood that it is supposed to correct something. You cannot continue to have

some people suffering for whatever it is because in future you still want to engage. As a point of order, I want the Chair to withdraw.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, the Hon. Leader of the Majority Party and the Hon. Leader of the Minority Party are *de jure* leaders of the House. So if in any case you say they are purporting...

Hon. Ali Adan (Mandera South, JP): Thank you. I withdraw and apologise, but this is only because the Leader of the Majority Party sometimes confuses this House, which is his orientation. So, I did not mean to malign him. However, we can step down this amendment following the mood of the House and I will communicate that to the authorities.

(Proposed amendment by Hon. Ali Adan withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Chair has dispensed his amendment and withdrawn it. That makes us move on to Hon. Millie's amendment. There is nothing out of order because we have just finished with the Chair. So, let us have Hon. Millie and then we can debate.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. You will have to give us new terminology because earlier, as we moved, we would say as per the Order Paper. Now, it is no longer Order Paper, but digital Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is still an Order Paper, Hon. Millie.

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Dairy Industry Act, (Cap 336) —

(a) in the proposed amendments to Section 3—

(i) by deleting the proposed amendment to the definition of “producer”;

(ii) by inserting the following new definition in proper alphabetical sequence—

“importer“ means a person who buys and brings any dairy produce into the country for commercial purposes.

I wish to move my amendments to Section 3, the definition and interpretation section of the Dairy Industry Act. If you notice what is being introduced, currently, the provision says a producer means a person who produces, processes, manufactures, prepares or treats dairy produce. But the amendment seeks to introduce the word “import”, meaning a producer will be a person who imports. How can an importer be a producer?

I am sure the Dairy Industry Act has provisions that cautions our farmers who produce. When you give those benefits to an importer as a producer, we are disadvantaging the very poor farmer with one or two dairy cows against a person with millions of shillings to import and we will be killing our industry.

So, I oppose the introduction of the word “import” and further, I will move a new section and definition for importer. So, afterwards, if we want to give benefits, we can give them specific ones, but not allege that an importer is a producer.

Thank you, Hon. Temporary Deputy Chairlady, I beg to move.

(Question of the amendment proposed)

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

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Chairman. Forgive me because I do not understand. The proposed amendment seeks to delete the definition of the word “producer”. So, what is the proposed amendment which is being deleted? I thought Hon. Millie has said under the definition of producer, she is uncomfortable with the word “importer”. This is not coming out clearly. In my view, she should have said that she seeks to delete the word “importer” under the definition of “producer” and come up... If she is deleting, she needs to clarify.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, if you look at the e-paper, it shows my proposed amendment. It states:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Dairy Industry Act, (Cap 336) —

(a) in the proposed amendments to Section 3—

(i) by deleting the proposed amendment to the definition of “producer”.

So, we are deleting the proposed amendment to producer and inserting the following new definition in proper alphabetical sequence.

If we delete what is proposed, it means we go back to what is in the parent Act. Then, I am suggesting that we then give a new definition to importer to mean a person who buys and brings any dairy produce into the country for commercial purposes.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, I think you are not giving a new definition to importer, but just defining it because it was not defined before. Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I think Hon. Millie is confusing this Committee. In the first instance, I think she is prosecuting the issue of deleting importer from the definition of a producer, which is one item. Having removed it, then she goes ahead to define an importer who she has removed and this does not make sense. So, if she removes importer, then she should not define because the importer is not incorporated in the Bill. I think she needs to know where to stop. Either she agrees with the importer and define who this is, or if she deletes importer from producer, then the matter ends there. She should not define what she has already removed.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, I want to suggest that we deal with your first amendment of deleting the importer. Then you do some soul searching on whether there is any utility in doing a definition for importer again. Can we deal with the deletion of importer? Hon. T.J.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, my understanding is that the Member for Suba North is very right as always because she is my Member of Parliament. I have understood her to say that first of all, she is dealing with the amendment brought by the Leader of the Majority Party before she deals with hers. She has

something else called importer, but there is something the Leader of the Majority Party calls imports, those are two different things.

I have the Bill here and I am taking you to the parent Act where you will find the Leader of the Majority Party saying we put the word “imports” after the word “manufacturer”. It will mean that the definition will include a person who imports as a producer. The Member for Suba North is furious and she says that if you do that, it will hurt our local producers. You will make them compete with the people who are importing dairy products by calling them producers.

So, she is objecting to the Leader of the Majority Party and saying, please, remove the word “imports” in your definition so that our local producers do not have to compete with importers, then after we are through with that, we will get to importers, which is a different thing.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): This amendment is in two parts. So, let us dispense with part one, which is substantive. So, let me put the Question because she moved. I proposed the Question and she was just clarifying.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Now let us go to part (ii) on the importer. Let us have Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, let me drop that. I think I have cured the mischief in the earlier part. I formally withdraw the proposed definition of “importer”. If you see the note I had given the Directorate of Legislative Services, I had indicated that at a later date, they need to give more flesh to the benefits we want to give to our importers. However, because there is none already that we are giving, it will be sitting without any feet. So, I withdraw.

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

(Section 3 as amended agreed to)

Section 19(e)

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, my proposal was to delete that and since the House believes we should not, I withdraw it as well.

(Proposed amendment by Hon. Ali Adan withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): That takes us to Hon. Millie.

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Dairy Industry Act, (Cap 336)—

(b) by deleting the proposed amendment to Section 19 and substituting therefor the following—

s. 19(e) Delete the word “Minister” and substitute therefor the word “Cabinet Secretary”

Hon. Temporary Deputy Chairlady, if you notice, this is a very minor amendment. It is just replacing the word “minister” with “Cabinet Secretary”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, you misplaced your amendment. You need to situate it, otherwise, it might die. Do not push her to withdraw. Let her deal with her amendment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, now I think you understand when some of us complain and say that when you bring many miscellaneous amendment Bills, it is very chaotic and difficult. What we are looking at is the e-paper that has now come before the House, but if I look at my own amendments and the parent Act, it is a wrong provision under 19(e). I stand guided. I do not know if we can make reference to the substantive section in the parent Act.

If you look at what I have indicated as the provision under the parent Act, it says: “the minister may, in the advice of the board make...” It is at the top, but it is talking about minister. So, what the Members are saying and, perhaps, that is something you can rule on, is that... I know in the past, once a section of the Bill was brought by miscellaneous, you open it for amendments widely not just the section that you refer to. Therefore, I was referring to the substantive or parent section that says: “the minister may...”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, it is not in the Bill that is before the House.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, if you listen to me carefully, you can make your ruling on that. It is not in the Bill, but in the past, unless our procedure has changed, the procedure has been that so long as you bring an amendment, let us say to sub-section (e) of a Bill, then you open it up to amendments. I can actually bring amendments on that section if I see a problem. That is what I have done. I have not limited myself to what the Leader of the Majority Party brought. I have opened it because I have seen that under Section 19(e) of the parent Act, we have “minister” instead of “Cabinet Secretary”. So, I stand guided that if I cannot open it, then I drop it, but if we can open it as has been the practice in the House, then I am in order to move it.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Millie will drop it because what she has said is true. The moment there is an opening in the statute law in that section, any person can bring an amendment to that section. The moment I touch Section 19(e), then that section can be amended by anybody. It is very common particularly with the statute law. If there is nothing on the Dairy Industry Act, you cannot introduce anything on it. However, now, there is an opening on Section 19(e), we need to look at her amendment first. She is right.

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I want Hon. Millie Odhiambo to listen to this: What she is proposing to do is to delete the amendment to Section 19(e) in the Bill. In that section, the amendment is talking about the manner of collection of the Dairy Regulatory Levy referred to in Section 23(a). You are proposing to delete the word “Minister” and substitute it with the words “Cabinet Secretary”. The two sections are totally unrelated. So, what she is proposing to do should ideally be coming under new clauses to the Bill because she is not deleting what is proposed in the Bill. She is actually introducing something that is not in the Bill. We should not confuse issues by carrying this bit because we think “Minister” and “Cabinet Secretary” is okay. We ended up deleting a provision that is already provided for in the Bill. Let us first of all clarify that what she is amending is not Section 19(e). She is trying to introduce something within Section 19, but not Section 19(e) as contained here. With that clarification, let us make progress because we are basically going round and round.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us hear the Leader of the Minority Party and then we will go to Hon. Millie.

Hon. John Mbadi (Suba South, ODM): The amendment does not do what Hon. Millie wanted to do. What Hon. Millie wanted to do was to delete the word “Minister” and replace it, but the way it is framed, it is “by deleting the proposed amendment to Section 19” meaning you are going to delete the whole of Section 19. That is the wording of the amendment. That wording was wrong. It should have been put in a better way like “deleting the word ‘Minister’ in Section 19 and substitute it with ‘Cabinet Secretary’”. However, if you say you delete the proposed amendment, you are actually proposing the deletion of the entire proposed amendment and replacing it with “Cabinet Secretary”.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, if you notice, I actually have two gadgets. I have my own proposed amendments and I have the ones that have come in the e-paper from the Legal Directorate. My proposed amendment does exactly what the Members are saying, only that I gave very many amendments. It is probably very challenging for the persons who are dealing with them. This is neither here nor there because Hon. Mbadi is really pushing so hard for a premiership position and for Cabinet Secretaries to be in the House, it will not cause me anything if the amendments come.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie and Hon. Mbadi are pre-empting such huge changes to the governance structure and you do not know where they are founded in.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, with those brief comments, I withdraw that amendment.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We have dispensed with that because Hon. Millie has withdrawn her proposed amendment.

(Hon. (Dr.) James Nyikal spoke off-record)

Member for Seme, do you want to force her to go on with it?

Hon. (Dr.) James Nyikal (Seme, ODM): No. Hon. Temporary Deputy Chairlady, every time there is a principal issue, it is better for the Chair to give guidance. The issue that has been raised here is that, if there is an amendment to a section, does it open it for other amendments that are not on the Order Paper? We have seen that happen before. There is need to give guidance in future so that Members know that just because part of the section has been amended, you cannot now go and amend the proposed amendment in another section. We are going forward unguided on that.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme, that is quite in order. The position is very clear. According to the Bill, what we have opened for amendment is Section 19(e). That does not stop any Member from bringing a new amendment on Section 19(e) or any other part of the parent Act. However, you cannot do it on your feet. There is a procedure for doing it.

We will go on to put the Question.

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

(Section 19(e) as amended agreed to)

New Section 19(w)

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

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I have no amendment to New Section 19(w) but on Section 19(v). As I withdraw the proposed amendment to Section 19(v), I am still at a loss for not being able to convince Hon. T.J. and some other Members when I said that there is active and ongoing discussion between the Ministry and the stakeholders. Among others, we are dealing with regulations that touch on these amendments. I am still wondering why we are in a hurry to consider all these amendments while we can wait a little longer so that we can have comprehensive amendments to this section.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, we agreed that we do not anticipate things that are not on the Floor of the House. What did you do? Did you move the amendment?

Hon. Ali Adan (Mandera South, JP): I withdrew the amendment. I was wondering aloud why Hon. T.J did not understand that these amendments touch on the regulations.

I withdraw the amendment.

Thank you.

(Proposed amendment by Hon. Ali Adan withdrawn)

(Hon. T. J. Kajwang' spoke off-record)

Hon. T. J. Kajwang' (Ruaraka, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You have not been named, Hon. T. J.

Hon. T.J. Kajwang' (Ruaraka, ODM): My name was mentioned and I want to put it in good light, Hon. Temporary Deputy Chairlady. The problem we have with this Committee and the previous one is that we have read their Reports and they are completely different from what you are telling us on the Floor of the House. They have substantive issues which they are presenting to us. Then they come before us and tell us that there are regulations or statute laws that they will come up with in future. That is not even bad. What is worse is that they do not disclose the issues. For example, if you are talking about the definition of a cow and camel, you do not come forth and say that we are thinking of defining a cow to mean a goat. They do not disclose these regulations. They leave us in limbo that there is something which will come one day that will either shock or surprise us. So, we have a raw deal because their Reports are very different from what they brought here and then when they come here, they purport to withdraw the proposed amendments. There is a problem.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, it is in your interest of clarity and convincing Members to confine themselves to what is before the House, so that you do not bring confusion.

Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I am looking for the amendment that is being deleted, but it does not exist. The Chairman has said that he is deleting the proposed amendment to Section 19(v), but it is not in the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I was getting to that Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): What are we deleting? He has withdrawn an amendment to a section which does not exist.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): There is no amendment to Section 19(v) whatsoever. What we have is New Section 19(w) and then we will move on to Section 19(x). What Hon. Wanga is saying is true. We will go on to put the Question.

(New Section 19(w) agreed to)

New Section 19(x)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): There is no amendment. It is a new Clause.

(New Section 19(x) agreed to)

Section 20

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

Hon. Ali Adan (Mandera South, JP): I withdraw the amendment.

Thank you.

(Proposed amendment by Hon. Ali Adan withdrawn)

(Section 20 agreed to)

New Section 23A(1)

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

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

THAT, the Schedule to the Bill be amended in the proposed amendments to the Dairy Industry Act, (Cap. 336) by deleting the words “one per centum” appearing in the proposed new Section 23A (1) and substituting therefor the words “zero decimal two per centum (0.2%)”.

This is to cushion farmers from exploitation by Kenya Dairy Board (KDB). Obviously, the burden is going to be pushed back to them by the processors. Therefore, I am opposed to the amendment proposed in the Bill and instead I propose mine.

(Question of the amendment proposed)

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

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I support the Mover in bringing down what would have been 1 per centum to 0.2 per centum. But, how I wished it would have gone down further because in part (ii) of the new amendment, the dairy farmers will still be subjected to county government levies which as per the Constitution will arise. So, what will happen is that the 0.2 per centum will combine with another percentage by the county governments and that will still burden the local producers or dairy farmers. I wish we could have even come lower which we can still do by a further amendment so that we get lower percentage so that even if the county governments were to put a cess out of the Constitution, the farmer would still find it possible to do his business.

I support the amendment.

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

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

(New Section 23A(1) as amended agreed to)

Section 31

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

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Chairlady, I withdraw the amendment.

Thank you.

Hon. Member: Why?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, clarify to the Members what you are withdrawing and why.

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

THAT, the Schedule to the Bill be amended-

(1) in the proposed amendment to the Dairy Industry Act, (Cap 336) by-

(e) deleting the proposed amendment to Section 31

Thank you.

(Question of the amendment proposed)

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

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I support the deletion. If you recall, Hon. Millie Odhiambo had earlier brought in the issue of removing imports. So, it is important that we remove imports immediately after producing so that we are in harmony with what we did earlier. From that point, I support that we actually delete reference to import which we have already deleted earlier.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Homa Bay, you looked frantic as one who wanted to address something.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Kimunya has addressed it. I was frantic because there was a move to withdraw that amendment which is important in concluding what Hon. Millie had introduced earlier.

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

(Section 31 as amended agreed to)

Section 33

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

THAT, the Schedule to the Bill be amended-

(1) in the proposed amendment to the Dairy Industry Act, (Cap 336) by-

(e) deleting the proposed amendment to Section 33

(Question of the amendment proposed)

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

(Section 33 as amended agreed to)

(Provisions relating to the Dairy Industry Act (Cap.336) as amended agreed to)

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

The National Hospital Insurance Fund Act 1998 (No.9 of 1998)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we are continuing with the amendments on the provisions relating to the National Hospital Insurance Fund Act 1998 No.9 of 1998.

(Section 1 agreed to)

(Section 2 agreed to)

(Section 3(1) agreed to)

Section 3(2)(a)

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(a) in the proposed amendment to Section 3(2)(a), by deleting the proposed new sub-paragraph (ii);

This section, for the benefit of the Members, was an introduction of the requirement of the employer to match the contribution of the employee. This may be abrupt and may cause unforeseen economic burden on the part of the employer. It is therefore necessary to remove employer's contribution as forming part of the funds of the NHIF. I propose that the proposal be deleted.

(Question of the amendment proposed)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I am sitting next to a veteran doctor and he is telling me that the Committee's amendments are safe, but just so that my father who uses his NHIF card a lot is comfortable, could the Chair explain? In the Statute Law (Miscellaneous Amendments), the Leader of the Majority Party had intended to substitute the paragraph on employer's contributions matching the employee's contributions. If the Committee, therefore, deletes this proposed (ii), would this not mean that the employer will not be contributing to match the employee's contribution? I am worried about that because my father and mother depend on NHIF although they are not working. They are using my card. I

need to know that my employer should match the employee's contribution. Can that be explained properly?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair can give that clarification.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I just want to inform the Member that this is NHIF. The contribution for NHIF is by the employee, not the employer. The proposal was that whatever the employee is contributing, the employer should match it which is not the current situation. That is an extra burden to the employers. That means this money must come from somewhere.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear from Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, what the Chair is saying makes sense. First of all, this is abrupt. Secondly, many employers are already providing medical covers for their employees including here in Parliament. Even employers I have worked for before are providing medical covers. As an employer, you provide a medical cover, and then you contribute to NHIF and contribute 1.5 per cent to housing levy. We must be fair as a House and promote investment so that we are not sending away investors when they think about the cost.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Last one, Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): This is going to be a major change in policy and it means that all employers will be contributing what their employees contribute. To begin with, it is a huge burden on employers. There was a lot of public participation and stakeholder participation and this was highly contested. The argument employers were giving was that they are already providing healthcare services in other forms.

Another thing is that this was definitely just going to double the income of NHIF in one go. The Committee felt that, probably, it is something we may need in the future but now, it may not be quite containable.

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

(Section 3(2) as amended agreed to)

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, Section 3(2) (a) was amended by the Chair and the rest were not amended. We now need to approve those. In 2(a) there was only one amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The proposed amendment was in 3(2) (a).

Hon. Amos Kimunya (Kipipiri, JP): The rest of 2(a) has not been incorporated into the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is true that Section 3(2) (a) was a deletion.

(Section 4(1) agreed to)

Section 4(1) (e)

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(b) in the proposed amendment to section 4(1) by -

i) deleting the proposed new paragraph (e) and substituting therefor the following new paragraph–

“(e) the Director General for Health or his or her representative;

This is to align the Act with the recently enacted Health Act No.21 of 2017 which establishes the Office of the Director General for Health who shall be the technical advisor to the Government on all matters relating to health within the health sector. Since the original paragraph (e) of the Act provided for the Director of Medical Services as a member of NHIF Board, it will be prudent to substitute him with the Director General for Health as opposed to substituting with a person from the public sector.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Kisumu, Buyu Akinyi, do you want to comment on this?

Hon. (Ms) Ms. Rozaah Buyu (Kisumu CWR, ODM): No, Hon. Temporary Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, do you want to comment on this?

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairlady, I support the amendment by the Committee because it seeks to give the Cabinet Secretary power to appoint any person within the public sector. It needs to be very specific that the Director General of Health should be the representative. In the old Act, it is the Director of Medical Services. If we allow the Cabinet Secretary to appoint any other person from any other Ministry or any government institution, that will not be right, it has to be someone within the health sector and that person is the Director General of Health.

I support the amendment.

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

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

(Section 4(1) (e) as amended agreed to)

Section 4(1)(f)

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Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(b) in the proposed amendment to section 4(1), by—
(ii) deleting the proposed new paragraph (f);

Hon. Temporary Deputy Chairlady, I would like to seek your guidance whether I can move the amendment by deleting the proposed new paragraph and deleting the proposed amendment to paragraphs (g), (h), (I) and (J).

The Committee decided to go back to how the original Act looked like. We found it prudent to retain in the board the stakeholders from Central Organisation of Trade Unions (COTU), Kenya National Union of Teachers (KNUT), Kenya Union of Post Primary Education Teachers (KUPPET), Kenya Medical Association and faith-based organisations as good for representation, diversity and oversight. Moreover, we would be having a board whose majority of members is appointed by the Cabinet Secretary as it was proposed in the amendment. This would have weakened the independence of the oversight mandate of the board.

Therefore, Hon. Temporary Deputy Chairlady, I beg to move.

(Question of the amendment proposed)

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): It is now the right time for the flower girls to show up, as Hon. Duale called us. I was very busy defending his camels and camel milk so he should withdraw. I want to support the position of the Committee because workers contribute to this Fund. Employers are the ones who are charged with the responsibility of deducting monies for remittance to this Fund. Therefore, trying to eliminate them all just by one single amendment does not make sense. I support the Committee fully. This is the most prudent thing to do.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, I know you have priority in speaking, but I will give Hon. Sossion this opportunity to speak.

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is a point of order by the Leader of the Majority Party. What is out of order?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I support my good friend on curriculum review, but can he first declare his interest on the matter he wants to speak on.

Hon. Wilson Sossion (Nominated, ODM): Hon. Temporary Deputy Chairlady, I have no interest on this matter. Therefore, the Leader of the Majority Party should not worry at all. I rise to support the amendments by the Chair.

As has been said, NHIF is an old institution that has been in place for many years and has done a fantastic job because of the balance of representation of the stakeholders and government. I personally think that continuing in the same structure will give us a promise of rolling out effective universal health care in future. You cannot push all the stakeholders who contribute from their revenue. For knowledge purposes, NHIF does not receive any funding from Government. It is a contributor's stakeholder and, therefore, this is a good amendment and we support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I will give two more Members an opportunity. Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady, I rise to support. I can see Hon. Duale was challenging Hon. Sossion, maybe, because he is a unionist. I have said it before, that whenever we tell people about interests, if we were to declare our interest boldly, then I would also declare my interest from a governance perspective. This is because I think his interest from a unionist perspective is not personal.

Having said that, the reason why I am supporting this amendment is that there is an emerging trend from a governance perspective and I have seen it in a lot of the Bills that are here. The Cabinet Secretaries are taking a lot of authority upon themselves and they do not want any other bodies that they are answerable to. They want to be the appointing authority and they do not want independent bodies bringing persons to the boards that are under their ministries. That is a very dangerous trend. The way we have moved, from a human rights perspective to ensure that there is effective governance by a wider sector of representation in the society, is the way we should go. Therefore, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one on this, Hon. Rozaah Buyu.

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Thank you, Hon. Temporary Deputy Chair. I would wish to categorically support the Chair of the Committee on the amendment and say that under no circumstances...

(Hon. Aden Duale consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Rozaah Buyu is protected. The Leader of the Majority Party, please allow Hon. Rozaah Buyu to make her contribution.

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Hon. Temporary Deputy Chairlady, I know the issues that he has but we will sort it out after this. But I would like to categorically state that under no circumstances should you have people and in this case workers and employers contribute to NHIF and then refuse to give them an opportunity to be effectively represented. So, I support the amendment by the Mover.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I oppose this amendment with the following reasons:

First and foremost, I want to say that I have never called Hon. Members flower girls. However, the moment I mentioned Hon. Atwoli, some very beautiful Members of this House started yelling at me. So, I said I am in competition with those Members

(Hon. (Ms.) Odhiambo-Mabona stood in her place)

Hon. Aden Duale (Garissa Township, JP): Is Hon. Millie Odhiambo standing or sitting?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie, the Leader of the Majority Party seems to know you very well. He knows your height. The Leader of the Majority Party, she is in order.

Hon. Aden Duale (Garissa Township, JP): No, she is not. Do not be biased. Kindly ask her to stand.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, kindly observe the rules of the House.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I was mentioned 10 times yesterday. I do not own this Bill. It is Governments' Bill. It passed through the Cabinet, Attorney General's State Law Office and then it came to my office. So, if you think these amendments belong to Hon. Duale, they belong to the presidency, the President and the Cabinet.

So, instead of mentioning my name, please mention the President's name. There is a notion out there that I am fighting workers. I also have workers who take care of my farm and camels. Why we introduced this amendment is because there are people who have made the NHIF and National Social Security Fund as if it is their home. They have been there for over 20 years.

Hon. Sossion, Kenya has a constitutional order and cannot be like Sudan. Every five years people are given time to elect their leaders. You cannot have somebody sit in a place for that long.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No, I must give direction. Hon. Leader of the Majority Party, you can address Hon. Sossion on a very different front. Let us be relevant here.

We are on Section 4(1). You are on the Floor

Hon. Aden Duale (Garissa Township, JP): Do not gag me. I am the Mover of this Bill. I have listened to the people who said they are supporting and I am entitled to my opinion. I am using Hon. Sossion as my friend and the only trade unionist. I want him to take the message to others. I am not *Shenzi*.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Hon. Leader of the Majority Party, you are now out of order.

Hon. Aden Duale (Garissa Township, JP): I told Mr. Atwoli to undergo a lifestyle audit on behalf of the workers of Kenya. I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): When you say you oppose you are in business. Order Hon. Members, including the Hon. Leader of the Majority Party, for us to be on Section 4(1)(f), let us not play politics.

Hon. Leader of the Majority Party, you are out of order. Hon. Leader of the Majority Party can you withdraw that word from Parliament.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): *(Inaudible)*

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

Hon. Aden Duale (Garissa Township, JP): She had said the *Shenzi* have it. I withdraw and say no.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I want to put the Question once more for clarity of the House. The Hon. Leader of the Majority Party, please let us respect the opinion of other Members.

I want to pronounce myself on the results of the voting of the House.

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

(Section 4(I) (f) as amended agreed to)

Sections 4(1) (g), 4(1) (h), 4(1) (i), 4(1) (j)

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(b) in the proposed amendment to section 4(1), by-

- (ii) deleting the proposed new paragraph (f);
- (iii) deleting the proposed amendment to paragraph (g);
- (iv) deleting the proposed amendment to paragraph (h);
- (v) deleting the proposed amendment to paragraph (i);
- (vi) deleting the proposed amendment to paragraph (j);

Hon. Temporary Deputy Chairlady, I mentioned that the proposed (g) was to remove COTU, (h) was to remove KNUT and KUPPET and (j) was to remove one person nominated by faith-based healthcare organisation.

I move.

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

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): I oppose for simple reason that as we go along...

Hon. Temporary Deputy Chairlady, can you ask Hon. Wanga to sit. She is intimidating me. She knows she is among the good looking MPs and I am in competition with Atwoli, but that is on a light touch.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Wanga, please sit down.

Hon. Aden Duale (Garissa Township, JP): I oppose because NHIF under the new transformation agenda of universal health care cannot be left to careless, reckless and bad mouthed people who have no interest of the workers to sit on those boards for us to deliver. Chair, protect me.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a point of order.

Hon. Aden Duale (Garissa Township, JP): Okay. Let me listen to the point of order, I will have my time.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, there is an intervention. Hon. Millie Odhiambo what is out of order?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you. Is Hon. Duale in order to be misleading this House? We are not legislating a person because he seems very pre-occupied with Mr. Atwoli. He has declared before the House that he saw Atwoli with many women. We are not legislating beauty or such issues; we are legislating serious issues and he should not mislead the House that we are legislating about a person but a law. NHIF is not a person.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We hear you. Order, Hon. Members. I want to give direction to this House. This is a House of records and not a *Baraza*. Let us be relevant. You know our Standing Orders including the Hon. Leader of the Majority Party. I will rule a Member out of order. Let me have the Hon. Leader of the Majority Party but can you be relevant?

Hon. Aden Duale (Garissa Township, JP): I will but Hon. Millie who is a ranking Member even though, unlike me who was elected she was initially nominated to Parliament, I know how I have helped them in Independent Electoral and Boundaries Commission (IEBC) when they were being short-changed with Hon. Sophia.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, please be relevant and have respect for nominated Members.

Hon. Aden Duale (Garissa Township, JP): So, what am I coming to? This is a House where you enjoy freedom of thought and conscience.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Today you are overboard.

Hon. Aden Duale (Garissa Township, JP): I said because we want to develop universal healthcare we cannot allow a situation where if certain people are not around there is no quorum for that board to sit. We can use Article 115 and refer back this matter. It is serious.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Noted. Order Members. This is a House of voting and procedures. It is the Members to take a vote or make a decision. With that debate I want to put the Question.

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

(Sections 4(1) (g), 4(1) (h), 4(1) (i), 4(1) (j) as amended agreed to)

(New section 4(1) (k) agreed to)

Section 5(1)

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

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

(c) in the proposed amendment to section 5(1), by inserting the words "as provided under section 22(3) of this Act" immediately after the word "benefits" in the proposed new paragraph (fa);

It is important to expressly state in clear terms that the benefits provided for under the new paragraph are those contemplated under Section 22(3) of the Act so as to avoid ambiguity. I beg to move.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order Members! The Mover has just moved the amendment, which I now propose.

(Question of the amendment proposed)

Now you can debate. Hon. Kajwang' we are in Section 5(1).

Hon. T.J. Kajwang' (Ruaraka, ODM): Thank you, Hon. Temporary Deputy Chairlady. Would the Chair care to tell us what Section 22(3) talks about?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chege in a statement can you please explain so that Members can get the import.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): The person who should explain this is the Mover. I am not the Mover of the Bill, I am only adding in this Act to avoid ambiguity.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege we are moving an amendment to Section 5(1) and you are the Mover.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, The only amendment from my side is the benefits according to this Act. So, I have not amended anything. But, because Members want to know what Section 22(3) says, it is about payment of benefits and it reads as follows:

“(3) Without prejudice to the provision of sub-section (1), the benefits payable from the Fund shall be limited to expenses incurred in respect of drugs, laboratory tests and diagnostic services, surgical, dental or mental procedures or equipment; physiotherapy care and doctors' fees, food and boarding costs, subject to such limits, regulations and conditions as the board may, in consultation with the Minister prescribe”.

So, the only thing I am adding is the benefits as per this Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It seems the Leader of the Majority Party wants to comment on this.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady that is not the position. One, I want to make it very clear that the amendment belongs to the Chair of the

Departmental Committee on Health. So, it is not for me to explain and this must come out very clearly. Two, we are dealing with Section 5(1) (fa), am I right? If I read it, it states:

“(fa) to administer employees’ benefits on behalf of the national Government, county government and employers in respect of their employees”.

The Chair is adding ‘as per this Act’ which is a very serious statement so, she needs to explain this.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, let me pronounce myself Hon. Nyikal, I can see you. The proposed amendment we have here is from the Chair and that is why Hon. Sabina Chege is moving. Hon. Kajwang’ has asked for the import of this proposed amendment and with that let me give Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Chairlady. Let me start by saying that this amendment is not getting the right consideration it deserves because I know we will pass it, but many people will not understand the import. It is just bringing in the employees of the county governments.

The county governments are running health facilities and therefore, the benefit accruing from NHIF will also be applied in these areas. Those benefits are outlined in Section 22(3). All they are saying is that when these benefits are being given in the counties, this will be as per Section 22(3). So, the way we are going, people are not getting.

Let me go back, when you look at all those amendments we passed, they were removing everybody except government officers. At the same time, they were increasing the payment from employers. So, we have a situation where we are earning money for an organisation and removing everybody who is bringing that money including the Director of Medical Services.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal, we hear you.

Hon. (Dr.) James Nyikal (Seme, ODM): I know I have gone beyond, but some of us did not see the mischief which the Committee had to deal with and that is what I am explaining.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal that is a good contribution to the debate, the House took a vote and the ayes go it. With that debate and the moving by Hon. Sabina Chege, allow me to put the Question.

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

(Section 5(1) as amended agreed to)

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

Section 10

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Mover to move amendments on Section 10.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(d) in the proposed amendment to Section 10, by deleting the proposed new subsection (1B) and substituting therefor the following new subsection—

“(1B) The Chief Executive Officer shall serve the Fund for a term of three years and shall be eligible for reappointment for one further term of three years, subject to satisfactory performance of assigned functions.”

The amendment seeks to provide for the tenure of the Office of the Chief Executive Officer (CEO). This is because leaving it upon the board to prescribe the term of the CEO may lead to unforeseen abuse. It is, therefore, imperative to set a clear tenure of the CEO expressly in this Act. I move and we are also harmonizing it with *Mwongozo*.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The mood of the House is that I put the Question which I, therefore, put.

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

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

(Section 10 as amended agreed to)

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

Section 15(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Mover to move Section 15 (2), Hon. Sabina Chege.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(e) in the proposed amendment to Section 15(2), by—

(i) deleting the proposed new paragraph (c);

(ii) renumbering the proposed new paragraph (d) as (c).

The requirement that employers match employees' contribution lacks consideration of cost implication to the employers. This would, therefore, impose an unforeseen financial burden on employers as we earlier amended.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that import, I propose the Question.

(Question of the amendment proposed)

The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I need the Chair to clarify because in Section 15(2) we have (c) and (d) and I thought she said, we delete (c) and substitute with (d).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, we are in Section 15(c).

Hon. Aden Duale (Garissa Township, JP): You know, I am not in a market, for those who are answering me.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No! Leader of the Majority Party you are protected so, just carry on.

Hon. Aden Duale (Garissa Township, JP): So, if it is renumbering there are Subsections (c) and (d). So, if Subsection(c) becomes (d), it means you have deleted it and she should say so.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Mover, I agree with the Leader of the Majority Party because it is important for Members to make a decision by taking a vote from a very informed point. Hon. Kajwang' you want to make a comment on this?

Hon. T.J. Kajwang' (Ruaraka, ODM): Thank you, Hon. Temporary Deputy Chairlady. I want to comment on what the Leader of the Majority Party has alluded to. I have no problem with the first amendment, but we need to be careful when renumbering. We usually leave this to be done by the Clerks-at-the-Table when preparing the Blue Paper for the Cabinet. If we do the renumbering you are talking about...I do not know whether I have the Act because there is confusion in the numbering. There is confusion on numbering because there are one and two and no paragraphs although this is a new sub-section. Anyway, it is safer to leave the numbering to clerks because then we confuse legislation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We may all be saying the same thing, but it is important for clarity. Please pronounce yourself on the renumbering part of the amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I was very clear that we are deleting (c). We had (c) and (d). Automatically, once we delete (c), then the (d) will become (c) and we have deleted (c).

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

(Section 15(2) as amended agreed to)

(Sections 16(3)(c), 16(4), 21(5(a) agreed to)

Section 22(3)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We will call the Mover, Hon. Sabina Chege, to move Section 22(3).

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I wanted clarification because we had a new amendment to Section 21(1). Will that come later?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Section 21(1) will come later. It is a new amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(g) in the proposed amendment to section 22(3), by inserting the following new amendment—

“Delete the word “Minister” and substitute therefor the word “Cabinet Secretary”;

That is just in line with the current situation in Government.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, please just recollect. We are on Section 22(3) where you have a proposed amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, it is not an amendment. It is an insertion to that amendment. This is an insertion of what is part of the amendment. There are issues of optical services.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang', it is not an amendment. She is having a new insertion, which is in your Order Paper. The proposed amendment is deleting the word “Minister” and in its place substituting the word “Cabinet Secretary”. So, whatever is in the original Bill remains. Hon. Kimunya, are we on the same page? Okay. Hon. Kajwang', I want to put the Question on this.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I am consulting the parent Act itself. She is right.

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

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

(Section 22(3) as amended agreed to)

Section 23(1)

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(h) in the proposed amendment to Section 23(1), by deleting the word “maintain” and substituting therefor the words “cause to be kept” in the proposed new subsection (1);

This amendment is necessary as the function of keeping and maintaining registers is performed by the officer of the board on behalf of the board. The board, therefore, causes the register of contributors to be kept by officers of the NHIF.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, may I inquire if we dealt with amendments to Section 22(3) as in the Bill. Of course, we dealt with those of the Chair of the Committee and replaced the words “Cabinet Secretary” with “Minister” but there was an amendment in the Bill itself on optical services. May I find out if we dealt with it?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’, this was a further insertion. If you look at the parent Bill, we already have Section 22(3). However, what the Mover is intending to do, which we have already gone through, was to insert. Look at your Order Paper.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, my inquiry is this: There are two amendments. As I understood it, there were two amendments to Section 22(3). One was by the Chair of the Committee which was to insert “Cabinet Secretary” in place of “Minister”, which I know that we have transacted, but I do not recall if we then voted on what was on the Bill, which is optical services. I do not recall that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’, you also understand that it was moved as amended.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, I beg to inquire because there were two amendments. They are separate and their intentions are different. We could not transact them together. That is why we started by substituting the word “Minister” with the words “Cabinet Secretary”. We voted on the amendment by the Chair of the Committee. We have not dealt with the amendment as it is in the Bill. In other words, we need to move that Section 22 (3) as amended be part of the Bill. If that is not done, we will lose that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Kajwang’, the only amendment on the Order Paper is that which has been proposed by Hon. Sabina Chege. It is on Section 22(3). It is on record. She proposed an insertion which we passed. That was the only amendment. They are not two amendments. Please visit your original Bill. I have the Bill here. Section 22(3) is already part of the Bill. We are not amending it. It was passed and is already part of the Bill. Section 22(3) reads: Insert the words “and optical services” immediately after the words “boarding costs”. We were not dealing with that. We will deal with it when we put the overall Question. The only amendment we were dealing with was the one by Hon. Sabina Chege. We are together with Hon. Kajwang’. We respect the views of every Member. Let us move on.

We had already put the Question on Section 23(1) but for purposes of record, I will do so again.

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

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

(Section 23(1) as amended agreed to)

(Sections 23 (2), 24 and 25(2)(b) and (c) agreed to)

Section 25(3)

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

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

(i) in the proposed amendment to Section 25, by deleting the proposed amendment to Subsection (3) and substituting therefor the following new amendment—

s.25 (3) Delete Subsection (3) and substitute therefor the following new subsection—

“(3) Any person who—

(a) prints, manufactures or issues the National Health Insurance cards in circumstances other than as contemplated in this Act;

(b) misuses the card for purposes not contemplated in this Act;

(c) fraudulently obtains or uses a card to obtain benefits; or

(d) misrepresents himself or herself in relation to the cards, commits an offence and is liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding five years, or to both.”

Hon. Temporary Deputy Chairlady, there is need to have a provision creating the offence of printing or manufacturing fake NHIF cards, as well as imposing a penalty for the same. There should not be a vacuum in the law in respect to the offence. The original provision in the Act created the offence of printing and selling NHIF stamps illegally. Since the stamps are no longer in use, it is prudent to substitute this provision with offences related to the NHIF card.

(Question of the amendment proposed)

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

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

(Section 25(3) as amended agreed to)

Section 26(a)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, we do not have any amendment to this section.

(Section 26(a) agreed to)

Hon. Members, because of the interest of time, I call upon the Mover to report progress. Hon. Kajwang’.

(Hon. Amos Kimunya spoke off-record)

Hon. T. J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Chairlady, there is Section 26. Hon. Kimunya, the veteran and doyen of procedure in the House, there is a proposed amendment to Section 26 by the Chair of the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Kajwang’, I had already called the Mover to report progress.

Hon. T. J. Kajwang’ (Ruaraka, ODM): Is it possible to finish with it?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I respect your views and those of the Members, but this is a new section. It is a further amendment. We will treat it as a new section.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Give Hon. Kajwang’ the microphone.

Hon. T. J. Kajwang’ (Ruaraka, ODM): I am most obliged.

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

PROGRESS REPORTED

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Statute Law (Miscellaneous Amendment) (No. 2) Bill (National Assembly Bill No. 13 of 2018) up to Section 26 (a) of the provisions relating to the NHIF Act, 1998 and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Order Members. Can we have the Chairperson to report to the House?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.13 of 2018) up to Section 26 (a) on the provisions relating to the National Hospital Insurance Fund Act, 1998, and its approval thereof with amendments and seek leave to sit again.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. I call upon the Mover of the Bill to move for agreement with the Report.

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. The only two serious people who sat with me this afternoon were Hon. Millie and Hon. T. J. Kajwang'. Because of my history with Millie, I will ask Hon. T. J. Kajwang' to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): When there is a point of order from the Leader of the Minority Party addressing the Leader of the Majority Party, it is very...Let us hear the Leader of the Minority Party. Maybe the Leader of the Majority Party is not in order in how he moved. Let us have the Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, the Leader of the Majority Party cannot get away with that. We have been here up to this time and he says that the only people who are serious are Hon. Millie and Hon. Kajwang'. In fact, if I am not interested in a Bill, I do not sit here. I even helped him to sort out some mischief and now he is abandoning me.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, please learn to respect the Members in the House. They are all equal and very important.

Let us have Hon. Kajwang' to second.

Hon. T. J. Kajwang' (Ruaraka, ODM) seconded.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. I pronounce that he has bowed and bowing is procedural.

(Question proposed)

Order Members. We are not in a position to put the Question. We are guided by the procedures. We will pick up from that point.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 7.03 p.m., this House stands adjourned until Tuesday, 7th May at 2.30 p.m.

The House rose at 7.03 p.m.