

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th June 2017

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Ring the Quorum Bell.

(The Quorum Bell was rung)

We now have quorum. We may commence business.

COMMUNICATION FROM THE CHAIR

DECISION OF SENATE ON DIVISION OF REVENUE BILL

Hon. Speaker: Let me remind the House on the decision of the Senate on the Division of the Revenue Bill, because I have been informed that by the time the message was read out, there were very few Members present. Many Members were outside the Chamber.

I read a message from the Senate relating to the Division of the Revenue Bill. The Senate has already appointed its Members to the Mediation Committee. This is for the benefit of Members of the Budget and Appropriations Committee. I have already informed the Chairperson of the Committee about that message. Therefore, the Members of the Mediation Committee should find out from the chairperson when they intend to do the mediation in the course of today and tomorrow morning.

Hon. Mutava Musyimi, you can get your Members to convene a meeting.

Let us proceed.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Financial Statement for the East African Community (EAC) Budget for Financial Year 2017/2018.

Budget Speech on presentation of the Budget of the EAC to the East African Legislative Assembly (EALA).

Report of the Committee on General Purpose on the EAC Annual Report for the period 2014/2015.

Report of the Committee on General Purpose on the Draft Estimates (EAC Budget) for Financial Year 2017/2018.

Report of the Committee on Agriculture, Tourism and Natural Resources on Waste Management in the EAC Region.

Report of the Committee on Communication, Trade and Investments on Single Customs Territory in the EAC Region.

Report of the East African Legislative Assembly.

Report of the Committee on Legal, Rules and Privileges on consideration of the proposal to amend the Rules of Procedure of the East African Legislative Assembly.

Report of the Committee on Accounts for the oversight activity of the new EAC institutions (the EAC Science and Technology Commission and Kiswahili Commission).

Bills raised for the First Reading in the East African Legislative Assembly–

(i) The East African Youth Council Bill, 2017;

(ii) The East African Community Cross Border Trade in Professional Services Bill, 2017;

and,

(iii) The East African Community Mining Bill, 2016.

Bills passed by the East African Legislative Assembly–

(i) The East African Community Polythene Materials Bill, 2017;

(ii) The East African Community Supplementary Appropriation Bill, 2017; and,

(iii) The East African Community Appropriation Bill, 2017.

Resolution of the East African Legislative Assembly to introduce EAC Integration Education Syllabus in EAC schools.

Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2016 and the certificates therein:

(i) Communication Authority of Kenya; and,

(ii) Non-Governmental Organisations Co-ordination Board.

Thank you, Hon. Speaker.

Hon. Speaker: Let us now hear the Chairperson, Departmental Committee on Lands, Hon. Alex Mwiru.

Hon. Mwiru: Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Lands on:

(i) Land LR. No.MN/VI/1128-1132 and LR. No. 3666 in Mombasa County; and,

(ii) Petition by residents of Yala regarding their displacement from their ancestral land.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson, Public Accounts Committee (PAC), you have the Floor.

Hon. (Eng.) Gumbo: Hon. Speaker, I beg to table the Public Accounts Committee Legacy Report for the 11th Parliament.

Hon. Speaker, I have been informed that this may be the first such report to have been prepared by an investigative committee in the history of this country's Parliament.

Thank you.

Hon. Speaker: The Chairperson, Public Investments Committee (PIC), you have the Floor.

Hon. Keynan: Hon. Speaker, I beg to lay the following Paper on the Table of the House today Wednesday, 14th June 2017:

The Special Report of the inquiry into completion of the National Social Security Fund, Hazina Trade Centre Office Towers Project and the proposed joint venture property development on Kenyatta Avenue in Nairobi Central Business District and Mavoko Sub-County in Machakos County.

Hon. Speaker: Let us move on to the next Order.

NOTICES OF MOTIONS

ADOPTION OF PUBLIC INVESTMENTS COMMITTEE SPECIAL REPORT

Hon. Keynan: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Special Report of the inquiry into completion of the National Social Security Fund, Hazina Trade Centre Office Towers Project and the proposed joint venture property development on Kenyatta Avenue in Nairobi Central Business District and Mavoko Sub-County in Machakos County, laid on the Table of the House on Wednesday, 14th June 2017.

Hon. Speaker: It was expected that the Chairman of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly (EALA), Hon. Katoo ole Metito, would be ready with a report but indications are that they are not ready. They are still looking around for quorum to approve the report.

Hon. Gikaria: On a point of order, Hon. Speaker.

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

Hon. Gikaria: Thank you, Hon. Speaker. The parents of a primary school called “Naka” brought a petition to this House. On several occasions, I have asked for the progress report through the Deputy Speaker to no avail. The Committee had promised to bring the report last week but it was not able to do so. Today, I have heard a petition being addressed by the same Committee and yet nothing has been mentioned about the petition by Naka Primary School. It has taken a long time to prosecute that petition. We were expecting to get a report so that the school could start getting funds from the National Government Constituencies Development Fund (NG-CDF) in the coming financial year, but the report has not been forthcoming. I request, through you, Hon. Speaker, that we get a progress report concerning what the Committee has done with regard to the petition by Naka Primary School.

Thank you.

Hon. Speaker: I am sure that is good in the performance of your duties as a people’s representative, but very many committees are reporting that they do not have quorum. I am just wondering whether any direction given now would not be an exercise in futility or trying to extract blood from a rock. Which Committee is this, Hon. Gikaria? Fortunately, the Chairman of the Committee is seated next to you. I thought you would just move a few paces from there so that he can tell you the response. Hon. Mwiru, do you have any response to this issue of some primary school in Nakuru Town East Constituency?

Hon. Mwiru: Hon. Speaker, we just talked a few moments ago with the Hon. Member. We were supposed to step out and discuss the same. Fortunately, the same report was laid in this House last week by Hon. Nyamai who is seated next to me and who is also a Member of my

Committee. He can follow up on the issue at the Table Office. It has already been laid on the Table.

Hon. Speaker: The report was tabled. Is that not what you are saying?

Hon. Mwiru: Yes.

Hon. Speaker: Hon. Gikaria, maybe, you were not present at the time. Check in the Table Office.

Next Order.

Hon. Mwiru: On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Mwiru, what is out of order?

Hon. Mwiru: Hon. Speaker, something could be out of order because I was supposed to give notice of a Motion and I can see that your eyes did not catch me.

Hon. Speaker: Were you to give notice of Motion?

Hon. Mwiru: Yes, Hon. Speaker.

Hon. Speaker: No! The only person listed here to give notice of Motion is Hon. Keynan and he has already done so. We could suspend Order No.7 to allow you to give notice of the Motion because we are just moving out of Order No. 6.

ADOPTION OF REPORT ON LAND MATTER IN MOMBASA COUNTY

Hon. Mwiru: Thank you, Hon. Speaker, for that indulgence. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Land L.R. No. MN/6/1128-1132 and LR No.3666 in Mombasa County, laid on the Table of this House today Wednesday, 14th June 2017.

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

STATEMENTS

INTIMIDATION OF HEADMISTRESS OF OSHWAL SCHOOL BY MR. NITIN MALDE

Hon. Sunjeev: Thank you, Hon. Speaker. I wish to make a statement regarding the intimidation of the Headmistress of Oshwal School by the Chairman of the Hindu Council of Kenya, Mr. Nitin Malde.

Hon. Speaker, the genesis of the matter relates to a case of a six-year old child one Ms. Alika who was born slightly weaker than her twin sister. The child was enrolled in Oshwal School but could not cope with the pace of other children and so she was withdrawn under unclear circumstances. Later, it was established by the headmistress that the child was allegedly withdrawn from the school by the school management because of her state of health attributed to beating from her parents.

The headmistress pursued the matter through the school board but no action was taken prompting her to report the matter to the Children's Department and the police. The result of this was acts of intimidation from the Chairman of the Hindu Council of Kenya, Mr. Nitin Malde, who threatened to shut down the school and cause imprisonment of the headmistress as he claims that he is a personal friend to the President of the Republic of Kenya.

I, therefore, beseech this House to cause the Cabinet Secretary for Internal Security and Co-ordination of National Government as well as the House Committee on Administration and

National Security to investigate the matter and take necessary action against the Chairman of the Hindu Council of Kenya, Mr. Nitin Malde, for intimidating the headmistress of the school and Members of the Hindu community. He has also carelessly and deceitfully been using the President's name.

Thank you.

Hon. Speaker: Chairperson, Public Accounts Committee (PAC)

***PRESENTATION OF THE FIRST LEGACY
REPORT BY THE PUBLIC ACCOUNTS COMMITTEE***

Hon. (Eng.) Gumbo: Thank you, Hon. Speaker. I am honoured to have tabled today the first Legacy Report of the PAC of the 11th Parliament. The legacy report basically deals with the achievements of the Committee in the 1st, 2nd, 3rd, 4th and 5th Sessions outlining the number of sittings held and the businesses transacted. It also outlines the pending business before the Committee and also lists some of the achievements and challenges that the Committee faced. It also gives the way forward and conclusion so as to help the incoming Committee to provide a bridge between this outgoing Committee and the incoming one. I think this is a good practice so that we do not create a *lacuna*. I do not intend to go through the legacy report in detail.

I just thought that there are some areas that I wanted to highlight with regard to the challenges that the Committee has faced, for example, on issues of time constraints. Over time, the issues that come up before the Committee, particularly the Special Audit Report, have presented a lot of time constraints to the Committee. There is also the issue of reports of special funds such as the NG-CDF and the funding of political parties. We have also seen cases of undue influence where the Committee has, from time and again, faced constant attempts to derail its work through unsubstantiated and unwarranted claims, most of which were seemingly driven more by political expediency and malice made against Members of the Committee.

There are also issues of interference with the independent offices, particularly that of the Auditor-General and then misinterpretation by the media and the auditing of confidential expenditure. I am glad Hon. Mutava Musyimi, my great friend, spoke about this when he requested the Committee to approve supplementary expenditure for the National Intelligence Service (NIS).

The issue of auditing of confidential expenditure still remains a major challenge because while the Committee was alive to the sensitivity of some government operations, the Committee believes that all public funds should be subjected to review by the representatives of the people for the simple reason that the need for confidentiality will come up from time to time but the funds deployed to achieve that need of confidentiality are public funds.

Hon. Speaker, we have also had issues, which we have raised with you before, of the flippancy by accounting officers and delays in presenting special audit reports. The other issue which I have also discussed with you before is the presentation of particular PAC reports touching on special audits. If reports on special audits are not debated in time, then it defeats the whole purpose because some of these are emerging issues which defeat the whole purpose of the special audits.

We discussed this issue under the big nine and the tendency by most auditees to resort to the court process to frustrate the work of committees and the work of Parliament. There is also the issue of institutional memory. We also felt that we really need to look at demarcations on the mandates of PIC and PAC. The composition of the PAC as it is now is a major challenge. The

fact that majority of the members and the vice chairperson come from the ruling party coalition or parties remain a major impediment in the discharge of its duties. However, we have recommended the way forward, which is in the Report.

As I conclude, I want to say this. On the Floor of this House, I have many times spoken about the need for investigative committees to remain true to their calling and avoid acts that may appear like oversight banditry and gangsterism. I still hold that view. However, even as I hold that view, I think that even as we urge the Committees to stay within their mandates, this House must also find ways to deal with the growing habit by key witnesses to resort to besmirching the names of members of the Committees, the Committees themselves and by extension – because committees are appendages of Parliament – the institution of Parliament. I want to believe that such conduct must be seen in the proper context as being no more than attempts at mob lynching and barbarism and vain attempts to whip up public emotions against committees and the institution of Parliament.

I want to cite two cases. When we tabled the National Youth Service (NYS) Report, Mutahi Ngunyi, who is cited in the Report, whose company has been paid Kshs200 million for nothing other than an act of plagiarism, went ahead to say that he had been cited because he refused to pay rent to members of the Committee.

More recently, in a TV show, Ms. Anne Waiguru, who was a key witness, said that she was mentioned because some members of the Committee had approached her for money and she refused to pay. I was not watching TV at the time but I sent a text to Ms. Waiguru and said: “What you are talking about is a matter of national interest and as a responsible citizen you should have named these people even in a letter to the Speaker.” I would want to believe that if, indeed, these things are happening and people feel aggrieved because most of these things happen after reports have been tabled, I would believe that these people should, at least, approach you and write to you in confidence and name those members. This is because we are 27 members and people are coming from different backgrounds. Before I came here I was and I am still an engineer of repute in this country. I do not think it is fair for us to look like we are all being lumped together.

So, I request that because the Standing Orders are appendages of our Constitution, we must find a way where people who resort to sensationalising issues, which they cannot even bring to you--- Even if somebody does not want to bring such grave allegations to the Committee, I would expect them to bring them to you and tell you so and so has been approaching me. I do not feel nice about it. I am the Chair of the Committee. I would also like to know who approached Mutahi Ngunyi or Anne Waiguru. However, if it is made as a blanket statement, it starts to look expedient and you begin to wonder what the aim is.

Therefore, I thank you.

Lastly, this is likely to be my last major assignment in this House, God willing. I have said it before. I have stood in this House as one of the people with very humble backgrounds. As I was growing up, I did not know I would go beyond Form Four. God has been gracious to me. I not only went beyond Form Four, but I got a university degree, a master’s degree and an engineering degree.

Today, I am just one out of about 400 Kenyans who hold the title of registered consulting engineers. So, I thank the Almighty God. I thank you for the support you gave us when we were doing our work as the Committee. I also thank my colleagues. I have held the principle that when we come here--- I was looking at the history of Parliament and I found out that since Kenya became independent; probably less than 3,000 people have passed through this House.

Therefore, it is a privilege to serve as a Member of Parliament and I thank the Almighty God for the opportunity that I had to interact with all these great people from across the country.

Like I have said before, I think none of us chose to become a Member of Parliament. Some of us may have chosen but because so many--- This year, 15,000 people want elective posts out of whom only about just over 2,000 will be elected. I think it is a really privileged position. The best we can do for our country is to come here to preach the oneness of Kenya, to promote societal conviviality and not use the exalted position of this House to divide our nation and to engage in acts which just promote partisan interests.

Hon. Speaker, I thank you. It was great to work with you. You really assisted our Committee and we have done some landmark reports. The reports of investigative Committees cannot get unanimous approval but we did our best.

On behalf of the PAC, I thank your office most profusely. I have heard you say that you would wish to continue.

Hon. Speaker: Very well. That is like a farewell speech. Well spoken, Hon. Gumbo. Hon. Members, before we go to the next Order, allow me to recognise pupils from the following institutions in the Public Gallery:

Arimi Senior Academy and Backstreet Preparatory Centre Academy from North Imenti Constituency, Meru County.

They are welcome to observe the proceedings.

Next Order!

PROCEDURAL MOTION

RESOLUTION TO HOLD A SITTING ON THURSDAY MORNING

Hon. Speaker: Leader of the Majority Party.

Hon. A. B. Duale: I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold a Morning Sitting on Thursday, 15th June, 2017 commencing at 10.00 a.m. for purposes of considering urgent Business.

As Members may be aware, the House is scheduled to adjourn *sine die* tomorrow as per the Calendar of the National Assembly. This Procedural Motion, therefore, is to allow the House enough time to conclude the remaining important and crucial business before we adjourn and go back to the people to ask for fresh mandate. That is for those of us who want to come back to this House like me and Hon. Ottichilo. Those who want to go to the elders' House, or become Governor---

Hon. Members: (*Inaudible*)

Hon. A.B. Duale: Does Hon. Ottichilo want to become a Governor?

Hon. Members: Yes.

Hon. A.B. Duale: I am very sorry, Hon. Ottichilo. But I thought we should finish the Report on San Marco.

Among the very key business remaining before we adjourn tomorrow is the Supplementary Appropriations Bill, 2017; the Committee of the whole House on the President's Award Bill 2017; the Committee of the whole House on the National Assembly Standing Orders, the Report of the Departmental Committee on Finance, Planning and Trade on the approval for

the appointment of the Director-General for the Financial Reporting Centre; Sessional Paper No. 3 of 2017 on Government Guarantee on USD\$ 750 million in support of the restructuring of Kenya Airways; the Special Report of the Public Investments Committee on the Implementation of the Tourism Fund, Ronald Ngala and Utalii College Project; the Report of the Kenya Delegation to the Assemblies of Inter Parliamentary Union (IPU) and the related meetings; the Adoption of Sessional Paper No.3 of 2016 on the National Housing Policy; the Constitution of Kenya (Amendment) Bill No.6; and, the National Cohesion and Integration (Amendment) Bill No.11 of 2017.

That gives us a full tray of important, critical and urgent business. I am sure that this week the media will write about the 11th Parliament and more so the National Assembly. I hope they will do a comparison with the Senate. They should be able to compare the two Houses and determine which set of leaders can account for their deeds after being paid by the taxpayers. I am sure by tomorrow, this House will have passed close to 180 Bills, about 100 Motions, a number of Committee Reports and will have vetted key personalities.

Hon. Speaker, you will go into history as our leader. We also commend the staff of Parliament led by the Clerk. Compared to the 10th Parliament, which only did about 80 Bills - half of what we have done – the 11th Parliament has made history.

I cannot see the leadership from the other side of the House. Hon. Nyenze is busy campaigning for our President and we want to thank him most sincerely because there comes a time when the country is more important than a party and its leaders. I cannot see Hon. Chris Wamalwa and Hon. Jakoyo in the House. I will, therefore, ask the famous and the only surgeon in the House, Hon. Pukose to second.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. You know I have gone into history in this House as being the second surgeon parliamentarian after Dr. Chibule wa Tsuma who was a neurosurgeon. I am made aware that on the CORD side there is also another surgeon Prof. Khainga, who tramped my friend, Member for Lurambi, in the ODM nominations. I hope that he will win and come to this House.

I want to second this Procedural Motion by the Leader of the Majority Party. The term for this House has been very short. As we prepare for the elections, after the recent nominations, I can assure you that this is going to be a very short period. With regard to the eight months that we have not served, I believe we shall seek legal redress just like the Members of the County Assemblies (MCAs) did so that Members get compensated.

This has been a wonderful House. We have done our best. We know we have come up with many reports and some of them have not been tabled. My Committee, the Departmental Committee on Health, has tabled all its reports. We have done very well and I think this will go down well in the annals of history of this House.

Considering that tomorrow might be our last day in this Parliament, it will be procedural that we have a morning sitting so that we prosecute all the outstanding Bills. If possible, we should finish in the afternoon. We will be prepared if there will be others---

(Hon. Korir walked into the Chamber)

Hon. Speaker: The Member for Cherangany, walk back and come into the Chamber as an Honourable Member. Do not just walk in here as if you are doing a marathon!

(Laughter)

Hon. (Dr.) Pukose: So, Hon. Speaker, we hope that by the end of tomorrow's afternoon session we will have completed all the outstanding work and that we shall have done a clean job. With those few remarks, I second.

(Question proposed)

Hon. Speaker: Is it the desire of the House that I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

Hon. Speaker: For your information, the time is 10.00 a.m. and not 9.30 a.m. We do not want to suffer problems of quorum as we commence tomorrow. We want to begin at 10.00 a.m. on the dot.

Hon. Members, before we move to the next Order, it is important I indicate to the House that there is a Supplementary Order Paper, copies of which have been circulated. I, however, suspect that not every Member has got a copy. If you do not have a copy yet, you will get one as soon as possible.

THIRD READINGS

KENYA TRADE REMEDIES BILL

Hon. Ochieng': Hon. Speaker, I beg to move that the Kenya Trade remedies Bill (National Assembly Bill No. 4 of 2017) be now read a Third Time. I want to request Hon. Onyura of Butula to second.

Hon. Speaker: Hon. Onyura, you have the Floor.

Hon. Onyura: Thank you very much, Hon. Speaker. I have the pleasure to second this very important Bill.
Thank you.

(Question proposed)

Having confirmed that there is quorum, I put the Question.

(Question put and agreed to)

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

THE OCCUPATIONAL THERAPISTS (TRAINING, REGISTRATION AND LICENSING) BILL

Hon. Speaker: Hon. Members, again, debate on this Bill was concluded this morning at the Committee of the whole House sitting. Therefore, what remained at that time is to put the Question of agreement, which I hereby do.

(Question put and agreed to)

Hon. Speaker: Mover.

Hon. (Dr.) Pukose: Hon. Speaker, I beg to move that the Occupational Therapists (Training, Registration and Licensing) Bill (National Assembly Bill No. 41 of 2016) be now read a Third Time. I request Hon. Panadol to second.

Hon. Speaker: Did you call him Panadol? Hon. Ali Rasso.

Hon. (Dr.) Pukose: Hon. Sang.

Hon. Speaker: Hon. Leonard Sang.

Hon. Sang: Thank you, Hon. Speaker. I second.

(Question proposed)

(Question put and agreed to)

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

THE BASIC EDUCATION (AMENDMENT) BILL

Hon. Speaker: Hon. Members, again, debate on this Bill was concluded in the morning sitting at Committee of the whole House stage, but the question for agreement was not put. Therefore, I put the Question.

(Question put and agreed to)

The Mover, Hon. Mary Seneta, the Member for Kajiado.

Hon. (Ms.) Seneta: Hon. Speaker, I beg to move that the Basic Education (Amendment) Bill (National Assembly Bill No.39 of 2016) be now read a Third Time.

I request Hon. Iringo to second.

Hon. Speaker: Hon. Iringo.

Hon. Kubai Iringo: Thank you, Hon. Speaker. I beg to second.

(Question proposed)

(Question put and agreed to)

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

MOTION

ADOPTION OF THE TWENTY FIRST REPORT OF PIC

THAT, this House adopts the Twenty First Report of the Public Investments Committee (PIC) on the Audited Accounts of State Corporations, laid on the Table of the House on Thursday, 18th May 2017.

(Hon. Keynan on 7.6.2017)

(Debate concluded on 13.6.2017)

Hon. Speaker: Hon. Members, as you can see from the title of this report, it is the 21st Report of the PIC on the audited accounts of State corporations. I want to pay special commendation to this Committee. I know there is still one more report that has not yet been adopted, but they have done a commendable job. I hope the Chairperson, Hon. Keynan, will give us something similar to what Hon. (Eng.) Gumbo has given to the House, on the status. It is important for the country to know that what you have done as a committee has not been done in the recent history of this House.

(Applause)

Debate on this Motion was concluded. Therefore what remains is for me to put the Question.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, this House adopts the Twenty First Report of the Public Investments Committee on the Audited Accounts of State Corporations, laid on the Table of the House on Thursday, 18th May 2017, subject to:

- (i) deletion of Committee's recommendations under paragraph 14 appearing on page 378 of the Report;
- (ii) deletion of the Committee's observations and recommendations under paragraph 15 appearing on page 379 of the Report; and
- (iii) deletion of Committee's observations and recommendations under paragraph 16 appearing on page 382 of the Report.

Hon. Members, before we move to the next order, allow me to recognise the presence in the Speaker's Gallery of pupils from St. Joseph Boarding School in Chuka/Igambang'ombe Constituency, Tharaka Nithi County. They are welcome to observe the proceedings of the House.

(Applause)

Next Order.

BILL*First Reading*

THE KENYA CITIZENSHIP AND IMMIGRATION (AMENDMENT) BILL

*(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)***COMMITTEE OF THE WHOLE HOUSE***(Order for Committee read)**[The Speaker (Hon. Muturi) left the Chair]*

IN THE COMMITTEE

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

THE NAIROBI INTERNATIONAL FINANCIAL CENTRE BILL

(Clauses 3, 4, 5, and 6 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Order Members! Order, Hon. Kajuju and Hon. Wamunyinyi! We are now in the Committee of the whole House.

Clause 7

Hon. Gaichuhie: Hon. temporary Deputy Chairman, I beg to move:

THAT, clause 7 of the Bill be amended by –

(a) deleting the number “(1)” appearing immediately before the words “in order” in the opening statement;

(b) inserting the word “the” immediately after the word “legal” in paragraph (d);
and

(c) deleting paragraph (i) and substituting therefore the following new paragraph

–

“(i) undertake any other activity necessary for the fulfillment of its objectives under this Act”.

This is to correct typographical errors and better express the powers and functions under paragraph one.

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

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

(Clause 7 as amended agreed to)

Clause 8

The Temporary Deputy Chairman (Hon. Cheboi): There are two amendments here; one from Hon. Okoth and the other one by the Committee.

Proceed Hon. Gaichuhie. The one by Hon. Okoth is dropped.

(Proposed amendment by Hon. Okoth dropped)

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

THAT, clause 8 of the Bill be amended in sub-clause (2) by deleting the words “any of the following” appearing immediately after the words “level in” in paragraph (b). This is to remove the unnecessary words.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

Clause 9

Hon. Gaichuhie: Hon. temporary Deputy Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –

“(2) The appointment of members of the Board shall be done in such a manner as to ensure that the terms of the members appointed do not lapse at the same time and that there is continuity of service”.

This is to stagger the nomination of board members so that we can have institutional memory intact. If we do not do this, we will not have institutional memory.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

Clause 11

Hon. Gaichuhie: Hon. temporary Deputy Chairman, I beg to move:

THAT, Clause 11 of the Bill be amended by –

(a) deleting the word “legitimate” appearing immediately before the word “disbursements” in paragraph (d); and

(b) deleting the word “banking” appearing immediately before the word “accounts” and substituting therefor the word “bank” in paragraph (e).

This is to delete the unnecessary words and to correct typographical errors

(Question of the amendment proposed)

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I want the Vice-Chairman to explain because he is deleting a very important word “legitimate”. It is not a typographical error. You are deleting a word. So, do not tell us it is a grammatical error. Tell us what you are doing. This is an important word in law.

The Temporary Deputy Chairman (Hon. Cheboi): Okay, let us have Hon. Neto. Please, speak in English.

Hon. Oyugi: Thank you. I will try as much as possible to speak in English. I agree with the Hon. Leader of the Majority Party. The Vice-Chairman of the Committee is trying to delete “legitimate disbursements” from that phrase. You appreciate that the board is just a trustee of the enterprise, so it is not possible that the Board knows what the legitimate disbursements are. Even if that is deleted, the Board can disburse something else and that would be unfair. That is why I oppose this amendment.

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

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairman. I agree with my Vice-Chairman. There is no way legitimate and illegitimate money will be known by the Board. So, that should be removed because it is an ambiguity. I support my wise Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Make your decisions loud and clear.

Hon. A.B. Duale: Before you make your decisions, let us understand each other. The Financial Reporting Centre (FRC) is an institution which the law permits to receive grants, donations and any other money on behalf of the Authority and make legitimate disbursement thereof. If you remove the word “legitimate” then the money can be disbursed in a corrupt way.

So, I beg the Vice-Chairman to leave it the way it is in the Bill. It makes sense that way. This is a critical Bill because the legislation herein will be used by investors. So, let us use the word “legitimate”. It is good for us. I beg that you withdraw your proposed amendment.

Hon. Gaichuhie: Thank you, Hon. Temporary Deputy Chairman. In order to avoid many questions, I withdraw my proposed amendment. Let us leave the word “legitimate” intact in the Bill.

(Proposed amendment by Hon. Gaichuhie withdrawn)

(Applause)

(Clause 11 agreed to)

(Clause 12 agreed to)

Clause 13

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

THAT, Clause 13 of the Bill be amended by -

(a) deleting the word “consultations” appearing immediately before the words “with the Cabinet Secretary” and substituting therefor the word “consultation”;

(b) deleting the words “Cabinet Secretary” and substituting therefor the words “Salaries and Remuneration Commission”.

This is to correct one typographical error and also include the Salaries and Remuneration Commission (SRC) in the task of determining the salaries and allowances for the Chairperson and members of the Board. It is the mandate of the SRC.

(Question of the amendment proposed)

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

Hon. Bunyasi: I was going to speak on the previous one, but let me comment on this one as well.

I am not in agreement with the last one. It is proper to have the SRC but I worry about how they go about their work. It is, however, the legitimate institution and we shall support it. I wish to note that the way they function is not satisfactory.

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

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

(Clause 13 as amended agreed to)

Clause 14

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

THAT, Clause 14 of the Bill be amended in subclause (3) by deleting the words “any of the following” appearing immediately after the words “level in” in paragraph (b). We are just removing the words “any of the following” because it is an ambiguity.

(Question of the amendment proposed)

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

Hon. Dawood: I tend to agree with my wise Vice-Chair but he has to show us where that amendment is because I cannot see it in the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): You are seated close to him, so ask him to show you. Let us proceed.

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I think his intervention is valid. I cannot see it in the Bill.

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

(Clause 14 as amended agreed to)

Clause 15

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

THAT, the Bill be amended by deleting clause 15 and substituting therefor the following new clause 15 –

“15. (1) The Authority may appoint such staff as are necessary for the performance of its functions under this Act.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions of service as the Authority may, in consultation with the Salaries and Remuneration Commission, determine”.

This is because the staff of the Authority are public servants and therefore their terms and conditions of service should be subject to the Salaries and Remuneration Commission (SRC). In addition, it is the Authority which should consult with SRC and not the Cabinet Secretary (CS) because it is the one which appoints staff.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): There is no interest from Members. So, I proceed to put the Question.

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

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

(Clause 15 as amended agreed to)

Clause 16

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

THAT, Clause 16 of the Bill be amended by deleting the word “anything” appearing immediately before the words “done by any member” and substituting therefor the word “thing”.

This is also a typographical error.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

Clause 17

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

THAT, clause 17 of the Bill be amended –

(a) in sub-clause (1) by –

(i) inserting the words “or her” immediately after the word “his” wherever it appears in paragraph (b);

(ii) deleting the word “the” appearing immediately before the word “Act” and substituting therefor the word “this” in paragraph (b);

and

(iii) deleting the words “when lawfully required to do so” appearing immediately before the words “by a court” in paragraph (c).

(b) in sub-clause (3) by –

(i) inserting the words “or her” immediately after the word “his”;

(ii) deleting the word “to” appearing immediately before the word “subsection” and substituting therefor the word “of”; and

(iii) deleting the word “same” appearing immediately before the words “to any other person” and substituting therefor the words “document, material or information”.

(c) in sub-clause (4) by –

(i) deleting the word “an” appearing immediately before the word “imprisonment”; and

(ii) deleting the word “to” appearing immediately before the words “a term” and substituting therefor the word “for”.

These amendments look like they are very many but they are correcting typographical errors by deleting unnecessary words and clarifying the intention of the clauses.

(Question of the amendment proposed)

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

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

(Clause 17 as amended agreed to)

(Clause 18 agreed to)

Clause 19

The Temporary Deputy Chairman (Hon. Cheboi): We have two amendments. We will start with Hon. Ken Okoth. Being absent, his amendment is dropped. Proceed Hon. Gaichuhie.

(Proposed amendment by Hon. Okoth dropped)

Hon. Gaichuhie: I think all of Hon. Ken Okoth's amendments were dropped by the National Treasury and he is in agreement with them. That is why he is not in the House or maybe he has other reasons.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended by inserting the following new subclause immediately after sub-clause (1) –

(1A) The Authority shall provide secretariat services to the Council”.

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

The Temporary Deputy Chairman (Hon. Cheboi): Yes, the Leader of the Majority Party.

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Chairman. The National Treasury does not drop amendments but oppose at the Committee stage. Just to make it clear in the HANSARD because the Member has said dropped.

Hon. Gaichuhie: Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): In any case Hon. Gaichuhie you do not really need to speak on behalf of Hon. Okoth. Speak on your own behalf and that of the Committee. Let us proceed.

Hon. Gaichuhie: This is to prescribe who shall offer secretariat services to the Council

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Neto, you have the Floor. Speak in English.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Chairman. I would like to inform the House that Hon. Ken Okoth is out on a formal parliamentary trip in Marta. He is not absent without apology from the House.

With regard to the amendment which the Vice-Chair wants us to adopt, I know he wants to make it a new clause. I have looked at Clause 19 in the Bill with regard to the role of the Steering Council. It is not very clear and I am wondering whether it can be left as a policy-constructing body so that we do not say that the Authority is going to be providing secretariat services. This assumes there is a linkage between the Authority and the Council. I do not

understand the role of the Council as stipulated in the Bill and in my view I am not so sure they need a secretariat.

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

(Clause 19 as amended agreed to)

Clause 20

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

THAT, Clause 20 of the Bill be amended by –

(a) inserting the word “the” immediately before the word “exercise” in paragraph (a); and

(b) deleting the word “Parliament” and substituting therefor the words “the National Assembly” in paragraph (c).

This is just to correct the position that it is the National Assembly which appropriates money and not Parliament because this means it has to go to both Houses.

(Question of the amendment proposed)

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

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

(Clause 20 as amended agreed to)

Clause 21

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

THAT, Clause 21 of the Bill be amended by –

(a) deleting the words “in Kenya” appearing immediately before the words “invest in trust funds” in subsection (1); and

(b) deleting the words “such bank or banks” appearing immediately before the words “as it may determine” and substituting therefor the words “any bank” in sub-clause (2).

This is just for clarity purposes.

(Question of the amendment proposed)

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

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

(Clause 21 as amended agreed to)

(Clause 22 agreed to)

Clause 23

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

THAT, Clause 23 of the Bill be amended in sub-clause (2) by –

(a) deleting the word “the” appearing immediately before the word “equipment” in paragraph (f); and

(b) inserting the words ‘payment of’ immediately before the words “any other costs” in paragraph (g).

This is just to correct typographical errors and insert the missing words.

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

Clause 24

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

THAT, Clause 24 of the Bill be amended in sub-clause (1) by –

(a) deleting the word “all” appearing immediately before the word “proper”; and

(b) deleting the word “other” appearing immediately before the word “records”.

This is just to remove superfluous words.

(Question of the amendment proposed)

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, you have to help us. We are doing the very serious business of legislation and more so, establishing one of the first pieces of legislation. The Vice-Chair cannot just stand and say that he is just removing superfluous words. What is superfluous? He is deleting the word “all” appearing immediately before the word “proper”. He is also deleting the word “other” appearing immediately before the word “records”. Which word is superfluous? Is it the words “records”, “proper” or “all”?

Hon. Temporary Deputy Chairman, you have to save us. The Vice-Chair is under obligation to explain to us what he or the Departmental Committee on Finance, Planning and Trade is amending. I have allowed him to get away with three amendments. But I will not allow you to do so on this one. You must explain to us - whether you speak in English or Swahili - and give reasons.

Hon. Temporary Deputy Chairman, you must save us. Which word is superfluous? He says he is only removing superfluous words.

The Temporary Deputy Chairman (Hon. Cheboi): I hear him saying that all the words you said are superfluous. Let us hear from him.

Hon. Gaichuhie: I want to tell the Leader of the Majority Party that I am deleting the word “all” and not the word “proper”. When you say “all”, you have to be specific. That is why we are saying it should not be “all”. When we come to the second amendment, we are deleting the word “other” and not “records”. When you say “other records”, which records are those? It should be specific records and not other records. That is what I mean. English is foreign.

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

(Clause 24 as amended agreed to)

(Clause 25 agreed to)

Clause 26

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

THAT, Clause 26 of the Bill be amended by –

- (a) deleting the word “an” appearing immediately before the word “imprisonment” in sub-clause (2); and
- (b) inserting the following new sub-clause immediately after sub-clause (2) –

“(3) Where the offence is committed by a body corporate, the body corporate shall be liable on conviction to a fine not exceeding ten million shillings”.

We are trying to distinguish between a person and a company. That is the essence of this amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Neto. Speak in English.

Hon. Oyugi: Thank you very much, Hon. Temporary Deputy Chairman. It is what I want to try and construct. I have no problem with what he is trying to do in distinguishing between a body corporate and an individual person. I think that the phraseology is not correct. If at all he could adopt the following which is in English: “Where the offence is committed by a body corporate, the body corporate, upon conviction, shall be liable to a fine not exceeding ten million shillings” as opposed to what he has on the Order Paper. What he has on the Order Paper has a problem of subject verb order. That is English.

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

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

(Clause 26 as amended agreed to)

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

The Temporary Deputy Chairman (Hon. Cheboi): What is out of order, Hon. Chepkong'a?

Hon. Chepkong'a: There is nobody who has said "aye". You are voting on your own. There is nobody including the Leader of the Majority Party who has said "aye".

The Temporary Deputy Chairman (Hon. Cheboi): You are completely out of order! First, I have ears and I make the decision. I can assure you that I can count the few Members who---Actually you might have been in very deep thought that you did not---The Vice-Chair, for example, was very clear in his voting. He may not have had a lot of support but there was no other voting on the contrary. That is gone.

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I agree you have the legal ears on that account, I submit to the legal ears. There was a proposal by Hon. Neto who spoke in good English - as you asked him to - and the Vice-Chair did not appear to have any problem in carrying that proposal. If you do not mind Chair---

The Temporary Deputy Chairman (Hon. Cheboi): We will not reopen that anymore unless we recommit it later because the amendment has already been carried. The Chair did not in any way look like he wanted to make any proposal of an amendment. Even if that was the case, I did not---

Hon. Chepkong'a: I saw him nodding so I thought he was going to stand. Maybe he was overtaken by his mouth.

(Clause 27 agreed to)

Clause 28

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

THAT, Clause 28 of the Bill be amended in sub-clause (8) by inserting the word "are" immediately before the word "necessary" in paragraph (a).
That amendment is just inserting the missing word "are".

(Question of the amendment proposed)

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

(Clause 28 as amended agreed to)

Clause 29

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

THAT, Clause 29 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “license” and substituting therefor the word “licence” appearing immediately after the word ‘firm’s’ in paragraph (d);

(b) in sub-clause (2) by deleting the words “other than under subsection (1)(d) appearing immediately before the word “suspend”.

That is just a typographical error and clarifying the intention of the Clause.

The Temporary Deputy Chairman (Hon. Cheboi): What is the typo? To help you on that, it is the spelling of the word “licence”.

Hon. Gaichuhie: Thank you, Hon. Temporary Deputy Chairman. That is exactly the case.

The Temporary Deputy Chairman (Hon. Cheboi): I know you wanted to say that but you did not. Let us proceed.

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

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

(Clause 29 as amended agreed to)

(Clauses 30 and 31 agreed to)

Clause 32

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Okoth had an amendment to this Clause but he is not in. I will take it that what Hon. Neto said is the factual position. What is the Leader of the Majority Party?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, you have heard what Hon. Kaluma has said. He is asking why it is only the Jubilee Party in the House. I want to confirm that those of us in the House are sure of coming back. For you, you need to go and struggle with the independents.

The Temporary Deputy Chairman (Hon. Cheboi): I take it that the position by Hon. Neto that Hon. Okoth is out of the country on official duty is factual. There is no Member who has been given a note to prosecute the amendments by Hon. Okoth. So I will drop Hon. Okoth’s proposed amendments wherever I find them. We will drop that one.

(Proposed amendment by Hon. Okoth dropped)

(Clause 32 agreed to)

(Clause 33 agreed to)

Clause 34

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

THAT, Clause 34 of the Bill be amended—

(a) in sub-clause (1) by —

(i) deleting the word “persons” appearing immediately before the word “appointed” and substituting therefor the word “members” in the opening statement;

(ii) deleting the word “the” appearing immediately before the word “chairperson” and substituting therefor the word “a” in paragraph (a); and,

(iii) inserting the word “the” immediately before the word “financial” in paragraph (b);

(b) in sub-clause (3) by inserting the words “a term of” immediately before the word “three”;

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

“(4) The appointment of members to the Tribunal shall be done in such a manner as to ensure that the terms of the members appointed do not lapse at the same time and that there is continuity of service”.

(d) in sub-clause (5) by—

(i) deleting paragraph (b) and substituting therefor the following new paragraph —
“(b) accepts any position of employment the holding of which conflicts with his or her role in the Tribunal; and,

(ii) inserting the words “without the permission of the Tribunal” immediately after the word “Tribunal” in paragraph (e);

(e) in sub-clause (6) —

(i) by deleting the word “the” appearing immediately before the word “members”;

and,
(ii) by inserting the words “in consultation with the Salaries and Remuneration Commission” immediately before the words “from time”;

(f) by inserting the following new sub-clauses immediately after sub-clause (6) —

“(7) The Tribunal shall have jurisdiction to hear and determine appeals against any decision or order of the Authority.

(8) In determining an appeal, the Tribunal may affirm, quash or refer the decision or order back to the Authority for reconsideration”.

Hon. Temporary Deputy Chairman, the purpose of this amendment is to correct typographical errors, express the need for institutional memory, as I said earlier, and include the Salaries and Remuneration Commission (SRC) to determine remuneration of members of the Tribunal. It is also to provide for the jurisdiction of the Tribunal.

Thank you.

(Question of the amendment proposed)

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

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

be inserted, put and agreed to)

(Clause 34 as amended agreed to)

(Clause 35 agreed to)

Clause 36

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

THAT, Clause 36 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause -

“(1) The Judicial Service Commission may appoint such staff as are necessary for the performance of the functions of the Tribunal under this Act”; and,

(b) by inserting the words “in consultation with the Salaries and Remuneration Commission” immediately before the words “from time” in sub-clause (2).

Hon. Temporary Deputy Chairman, the import of this amendment is to better express the intention of the Clause and to include the SRC in determining the remuneration of staff of the Tribunal.

We have many typographical errors because the Ministry that did the drafting is the same one that drafted the Bill that we dealt with in the morning and the one that we are about to deal with. The drafting procedures at the Ministry of Trade are a bit different from the ones at Parliament. Their Bills have many typographical errors. I congratulate our legal team because of cleaning up the Bill. That should have been their work, but our legal team has done quite a lot in terms of looking at the Bills and making sure that they conform to the way we do our drafting at Parliament.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): That is noted, but it is quite an unfortunate sentiment because we are wasting a lot of time doing typos and other things. It is something that should go to the parties concerned in the Ministry. They should take a little more time to look at some very petty typos before they bring their Bills to Parliament.

(Question of the amendment proposed)

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

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

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

(Clause 36 as amended agreed to)

(Clause 37 agreed to)

Clause 38

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

THAT, Clause 38 of the Bill be amended in sub-clause (2) by deleting paragraphs (c), (d) and (e) and substituting therefor the following new paragraphs—

“(c) the nature of records to be kept;

(d) the procedure of giving notice to the parties;

(e) the fees to be charged; and”.

The Temporary Deputy Chairman (Hon. Cheboi): What is your justification? Is there anything substantive there?

Hon. Gaichuhie: There is nothing substantive.

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

(Clauses 39, 40 and 41 agreed to)

New Clause 32A

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 32—

Settlement of
disputes.

32A. (1) Where there is a dispute between the Authority and an NIFC firm arising out of or in connection with the rights and benefits conferred by section 32, the dispute shall be settled by arbitration, and, unless otherwise agreed by the parties, by a sole arbitrator, to be appointed by the Registrar of the Nairobi Centre for International Arbitration and any award, order or determination of or by such arbitrator shall be final and binding on all parties.

(2) The dispute referred to the arbitrator appointed by the Registrar under subsection (1) shall be administered in accordance with the Rules for arbitration of the Nairobi Centre for International Arbitration.

Hon. Temporary Deputy Chairman, Clause 32A of the Bill provides that despite any provisions to the contrary in any other law or regulations, the Nairobi International Financial Centre shall subject the provisions of this Act or regulations to arbitration. It is giving the investors a number of issues, for example, to have freedom to repatriate profits and realise investment.

Why am I introducing New Clause 32A? It provides for creation of a petitioning mechanism arising from the privileges which are bestowed by Clause 32A, which can be settled through arbitration as opposed to court processes. The reason is that court processes may be very slow, expensive and may lock out the necessary expertise. The leading financial markets in the world have institutions that are similar to what we are establishing. The London Financial Centre and the ones in Paris and Dubai have supportive systems of arbitration which are preferred more by many of the investors.

We are doing this in order to attract foreign investors. As we have the court process, we are creating under Clause 32A, through the Ministry of Finance; that if a dispute can be resolved through arbitration outside the court system, it can be accepted. That is basically what this new clause is trying to do.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

Hon. Dido: Thank you very much, Hon. Temporary Deputy Chairman. I support the suggestion by the Leader of the Majority Party. Having read the original Bill, I know that this aspect has not been covered. It is a serious missing link, particularly in terms of trade disputes. There is the infamous case in Kenya of the Duty Free Shops at the Jomo Kenyatta International Airport, which serves as a case study. For that reason, I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairman. I rise to support the proposal by the Leader of the Majority Party. As you know, our Constitution recognises alternative dispute resolution mechanisms. It is important to give confidence to investors who intend to bring their money to Kenya so that they are not engaged in long and windy court processes that, at times, may take three to four years to be concluded. So, this ADR mechanism will give them confidence and some sort of a safeguard to ensure that if their money is brought to Kenya, they will not be subjected to unnecessary torturous court processes that our courts are known for.

Lastly, investors will have confidence that they will not be subjected to arbitrariness when disputes arise pursuant to their investments in this country. I support.

The Temporary Deputy Chairman (Hon. Cheboi): Just before I put the Question, I noticed very close interactions among the independents in the morning and this afternoon. Let me hear briefly from Hon. Neto.

Hon. Oyugi: Hon. Temporary Deputy Chairman, I know I am going to be part of the independents. So, if you are giving room for independents, I cannot be very brief. I would like to say four things.

One, I hope that the Leader of the Majority Party appreciates that his amendment with regard to arbitration is only with regard to Clause 32 of the Bill and so, all issues that are going to be subjected to arbitration in Clause 32 (a) only concern that particular clause.

The reason I needed to catch your eye is because of the way he phrases the rest of the amendment. The draft reads, "...unless otherwise agreed by the parties..." The parties in the arbitration ought to be given the first hand in terms of the choice of an arbiter so that its them first having the choice before you assume that there is going to be no choice of an arbiter. He needs to rework that particular one.

The third thing is with regard to the rules of arbitration that should apply whenever there is a misunderstanding. You only agree to the rules of arbitration if it is the Registrar of the Nairobi Center of International Arbitration who is going to appoint the arbiter. However, he also needs to appreciate that should the parties choose an arbiter, then they need to agree on a set of rules that they need to be governed with. That is what I need to help him understand. I can see him nodding his head in disagreement, but this is where colleagues learn from each other.

On the structure of how arbitration ought to take place, first, it is a partisan arbitration process. So, there should be made a choice of an arbiter. It is only in the absence of a choice of an arbiter that you can then revert to what exists in the normal scenario. You also need to give the rules of arbitration with regard to the prevailing context. I hope he understands what I am saying.

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

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

Hon. Dawood: Hon. Temporary Deputy Chairman, there is something on dispute resolution in clauses 34 to 38. I do not understand why we have another one in 32A.

The Temporary Deputy Chairman (Hon. Cheboi): That is a New Clause.

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

(The new clause was read a Second Time)

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

Schedule

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

THAT, the Schedule to the Bill be amended –

(a) in paragraph 2 by –

(i) deleting the word “of” appearing immediately before the words “the business” in subparagraph (2);

(ii) deleting the word “total” in subparagraph (3); and

(iii) deleting paragraph 8.

(b) in paragraph 3 by inserting the words “does not disclose his or her interest in a contract or any other or who” immediately before the words “benefits” in subparagraph (3);

(c) in paragraph 4 by deleting the words “all instruments or decisions” and substituting therefor the words “instrument or decision”.

This is just to correct typographical errors and to make non-disclosure of interest an offence. When you have interest and you do not disclose that you are an interested party, you commit an offence. We want to make it an offence if you do not disclose your interest.

(Question of the amendment proposed)

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

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

(Schedule as amended agreed to)

Clause 2

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

THAT, Clause 2 of the Bill be amended by inserting the words “under section 28 (4)” immediately after the word “Authority” in the definition of the term “NIFC firm”.

This is to provide clarity on the section.

(Question of the amendment proposed)

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

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): That marks the end of that particular one. Can I call the Mover of the Bill to move reporting?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Nairobi International Financial Centre Bill (National Assembly Bill No.5 of 2017), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): We will move to the next one, which is the Legal Metrology Bill (National Assembly Bill No.8 of 2017).

THE LEGAL METROLOGY BILL

The Temporary Deputy Chairman (Hon. Cheboi): Is it Hon. Gaichuhie who is moving? Please, move it quickly.

(Clauses 3, 4, 5, 6, 7, 8, 9, 10 and 11 agreed to)

Clause 12

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

THAT, Clause 12 of the Bill be amended—

- (d) in sub-clause (3) by deleting the word “production” appearing immediately before the word “thereof” and substituting therefor the word “issuance”;
- (e) in sub-clause (5) by inserting the words “Legal Metrology” immediately after the word “primary”.

This is just to insert the missing words and correct grammatical errors.

(Question of the amendment proposed)

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

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

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

(Clause 12 as amended agreed to)

Clause 13

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

THAT, Clause 13 of the Bill be amended—

- (a) in sub-clause (4) by inserting the words “Legal Metrology” immediately after the word “primary”;
- (b) in sub-clause (5) by inserting the words “Legal Metrology” immediately after the word “primary”.

This is just to insert the missing words. The missing words are “Legal Metrology”.

(Question of the amendment proposed)

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

(Clause 13 as amended agreed to)

Clause 14

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

THAT, Clause 14 of the Bill be amended –

- (a) in sub-clause (2) by inserting the words “Legal Metrology” immediately after the word “primary”;
- (b) in sub-clause (5) by deleting the word “forces” and substituting therefor the word “force”.

This is inserting the missing word and also correcting the typographical error. The missing words are “Legal Metrology” and the typo is the word “force” without an “s”.

(Question of the amendment proposed)

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

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

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

(Clause 14 as amended agreed to)

(Clauses 15, 16 and 17 agreed to)

Clause 18

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

THAT, Clause 18 of the Bill be amended –

- (a) by inserting the expression “(3)” immediately before the words “Use for trade does not include use in a case where” appearing immediately after sub-clause (2)(c);
- (b) by inserting the expression “(4)” immediately before the words “Any equipment” appearing immediately before clause 19.

This is just by inserting the expressions “(3)” and “(4)”.

(Question of the amendment proposed)

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

(Clause 18 as amended agreed to)

(Clause 19 agreed to)

Clause 20

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

THAT, Clause 20 of the Bill be amended by inserting the words “or her” immediately after the word “his”.

Here we are only trying to be gender sensitive.

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

Clause 21

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

THAT, Clause 21 of the Bill be amended by inserting the words “or her” immediately after the word “his”.

It is the same case. We want to be gender sensitive.

(Question of the amendment proposed)

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

(Clause 21 as amended agreed to)

(Clauses 22, 23, 24 and 25 agreed to)

Clause 26

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

THAT, Clause 26 of the Bill be amended -

(a) in sub-clause (1) -

(i) by deleting the word “or” appearing immediately after the word “stamp” in paragraph (a);

(ii) by deleting the word “or” appearing immediately after the word “stamp” in paragraph (b);

(iii) by deleting the word “or” appearing immediately after the word “equipment” in paragraph (c);

(iv) by deleting the word “or” appearing immediately after the word “unjust” in paragraph (d);

(b) in sub-clause (4) -

- (i) by inserting the words “or her” immediately after the word “his”; and
- (ii) by deleting the word “of” appearing immediately after the word “possession”;
- (iii) by deleting the word “or” appearing immediately after the word “Act” in paragraph (a); and
- (iv) by deleting the word “or” appearing immediately after the word “stamped” in paragraph (b).

This is to include reference to all genders and correct typographical errors.

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

Clause 27

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

THAT, Clause 27 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “or she” immediately after the word “he”;
- (b) in sub-clause (4)—
 - (i) by inserting the words “or her” immediately after the word “his”; and
 - (ii) by inserting the word “a” immediately before the word “denomination”;
- (c) in sub-clause (9)—
 - (i) by inserting the words “,the inspector” immediately after the word “her”; and
 - (ii) by inserting the word “a” immediately before the word “fees”.

This is to include reference to all genders and correct typographical errors. I ask the gender that is here to support this because we are trying to be gender sensitive.

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

Clause 28

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

THAT, Clause 28 of the Bill be amended —

- (a) by inserting the words “or her” immediately after the word “his” wherever it appears; and,

(b) by deleting the words “that person” appearing immediately before the word “commits”.

This is to include reference to all genders and correct typographical errors.

(Question of the amendment proposed)

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

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

(Clause 28 as amended agreed to)

Clause 29

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

THAT, Clause 29 of the Bill be amended –

(a) by inserting the words “or her” immediately after the word “his”; and

(b) by deleting the words “and the onus of proving the contrary shall be upon him” appearing at the end of the section.

This is to include reference to all genders and delete the provisions that place the burden of proof on the accused.

(Question of the amendment proposed)

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

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

(Clause 29 as amended agreed to)

Clause 30

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

THAT, Clause 30 of the Bill be amended–

(a) in sub-clause (5) –

(i) by inserting the word “who” immediately before the words “uses for trade”;

(ii) by inserting the words “or her” immediately after the word “his”; and

(iii) by deleting the words “he or she” appearing immediately before the word “commits”;

(b) in sub-clause (8) by inserting the words “or her” immediately after the word “his”.

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

Clause 31

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

THAT, Clause 31 of the Bill be amended in sub-clause (2) by inserting the words “or her” immediately after the word “his”.

Hon. Duale has just said that he is going to pray. I thought he is going to pray for me. This amendment is to include reference to all genders.

(Question of the amendment proposed)

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

(Clause 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

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

THAT, Clause 33 of the Bill be amended in sub-clause (1) –

- (a) by deleting the word “licenses” appearing in paragraph (m) and substituting therefor the word “licences”;
- (b) by deleting the word “licenses” appearing in paragraph (r) and substituting therefor the word “licences”; and,
- (c) by inserting the words “or she” immediately after the word “he” appearing in paragraph (v).

It is the same case. It is just to include all genders and also to correct grammatical errors.

(Question of the amendment proposed)

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

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

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

(Clause 33 as amended agreed to)

Clause 34

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

THAT, Clause 34 of the Bill be amended in sub-clause (2) by inserting the word “the” immediately before the word “size” appearing in paragraph (b). This is just to include the word “the” appearing before the word “size”.

(Question of the amendment proposed)

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

(Clause 34 as amended agreed to)

Clause 35

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

THAT, Clause 35 of the Bill be amended in sub-clause (1)–

(a) by deleting the words “(including in particular information as to quantity or capacity)” appearing in paragraph (a) and substituting therefor the words “including information as to quantity or capacity,”;

(b) by deleting paragraph (c) and substituting therefor the following new paragraph –
“(c) as to the conditions which shall be satisfied in marking with information as to the quantity of goods made up in the container or on which any goods are made up for sale where those goods are goods on sale of which the quantity of the goods sold is required by any such provision to be made known to the buyer as or before a particular time;”.

This is meant to remove the many unnecessary words that are there and make it conform to the way we draft our Bills in this House.

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

(Clause 36 agreed to)

Clause 37

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

THAT, Clause 37 of the Bill be amended—

(a) in sub-clause (1)—

(i) by inserting the word “a” immediately before the word “quantity” in the opening statement;

(ii) by inserting the words “or her” immediately after the word “his” appearing in paragraph (a);

(iii) by inserting the words “or her” immediately after the word “his” appearing in paragraph (b); and,

(iv) by inserting the word “a” immediately before the word “quantity” appearing in paragraph (b);

(b) in sub-clause (2) —

(i) by inserting the words “or her” immediately after the word “his” wherever it appears; and

(ii) by deleting the words “sell or agree” appearing in paragraph (c) and substituting therefor the words “sells or agrees”.

This is meant to correct the grammatical errors and include reference to all genders.

(Question of the amendment proposed)

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

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

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

(Clause 37 as amended agreed to)

Clause 38

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I beg to move;

THAT, Clause 38 of the Bill be amended —

(a) in sub-clause (2) by inserting the words “or her” immediately after the word “him”;

(b) in sub-clause (6) by inserting the words “or she” immediately after the word “he”.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted,

put and agreed to)

(Clause 38 as amended agreed to)

(Clauses 39 and 40 agreed to)

Clause 41

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

THAT, Clause 41 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –

“(2) For the purposes of this section any statement, whether oral or in writing, as to the weight of any goods shall be taken, unless otherwise expressed, to be a statement as to the net quantity of the goods”.

This will avoid cross-referencing.

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

Clause 42

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

THAT, Clause 42 of the Bill be amended -

- (a) in sub-clause (1) by inserting the words “or her” immediately after the word “his” appearing in paragraph (a);
- (b) in sub-clause (3) by deleting the words “(whether any sale or a sale of any particular description)” appearing in paragraph (b)(ii);
- (c) by deleting sub-clause (5) and substituting therefor the following new sub-clause –

“(5) For the purposes of this section, any statement, whether oral or in writing, as to the weight of any goods shall be taken, unless otherwise expressed, to be a statement as to the net quantity of the goods”.

This is meant to include both genders and also to avoid unnecessary cross-referencing to sub-sections.

(Question of the amendment proposed)

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

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

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

(Clause 42 as amended agreed to)

Clause 43

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

THAT, Clause 43 of the Bill be amended -

(a) by inserting the words ‘in the event’ immediately before the words “that document” appearing in sub-clause (1);

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

—
“(2) For the purposes of this section any statement, whether oral or in writing, as to the weight of any goods shall be taken, unless otherwise expressed, to be a statement as to the net quantity of the goods”.

This is to correct grammatical errors and avoid unnecessary cross-referencing.

(Question of the amendment proposed)

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

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

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

(Clause 43 as amended agreed to)

(Clauses 44 and 45 agreed to)

Clause 46

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

THAT, Clause 46 of the Bill be amended –

(a) in sub-clause (1) by inserting the words “or her” immediately after the word “his” appearing in paragraph (e);

(b) in sub-clause (3) by deleting the words “(however expressed)” appearing in paragraph (a).

This is just to include all genders. I want to confirm that our legal officer is a lady and that is why you can see the many considerations of gender.

(Question of the amendment proposed)

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

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

(Clause 46 as amended agreed to)

Clause 47

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

THAT, Clause 47 of the Bill be amended in sub-clause (2) by deleting the words “(not being a person under the control of the person charged)” and substituting therefor the words “not being a person under the control of the person charged,”.

That is the drafting style of this House.

(Question of the amendment proposed)

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

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

(Clause 47 as amended agreed to)

Clause 48

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

THAT, Clause 48 of the Bill be amended -

(a) in sub-clause (1) by deleting the words “(whether by way of pre-packaging or otherwise)” appearing in paragraph (a);

(b) in sub-clause (2)–

(i) by deleting the words “of this section” appearing in paragraph (a);

(ii) by deleting the word “that” appearing in paragraph (b); and

(iii) by deleting the words “of this section” appearing in paragraph (b);

(iv) by deleting the word “that” appearing in paragraph (c); and,

(v) by deleting the words “of this section” appearing in paragraph (c).
The essence of this is just to delete all the unnecessary words that are appearing in that clause.

(Question of the amendment proposed)

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

(Clause 48 as amended agreed to)

Clause 49

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

THAT, Clause 49 of the Bill be amended in sub-clause (1) by deleting the words “(whether by way of pre-packaging or otherwise)” appearing in paragraph (a).
This is meant to remove unnecessary words.

(Question of the amendment proposed)

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

(Clause 49 as amended agreed to)

Clause 50

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

THAT, Clause 50 of the Bill be amended by deleting the word “a” appearing immediately before the word “sufficient” in paragraph (a).
This is just to correct the grammatical error.

(Question of the amendment proposed)

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

(Clause 50 as amended agreed to)

(Clauses 51, 52 and 53 agreed to)

Clause 54

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

THAT, Clause 54 of the Bill be amended in subsection (4) –

- (a) by inserting the words “Weights and Measures” immediately before the words “Act repealed”; and
- (b) by deleting the expression “67” and substituting therefor the expression “68”.

This is to insert missing words and correct the cross-referencing error. The missing words are “weights and Measures”.

(Question of the amendment proposed)

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

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

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

(Clause 54 as amended agreed to)

Clause 55

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

THAT, Clause 55 of the Bill be amended -

(a) in sub-clause (2) –

(i) by inserting the word “any” immediately before the words “Deputy Director”; and,

(ii) by deleting the words “to any” appearing immediately before the words “Assistant Director”.

(b) in sub-clause (6) –

(i) by inserting the words “Weights and Measures” immediately before the words “Act repealed”;

(ii) by deleting the expression “67” and substituting therefor the expression “68”.

This is just to insert missing words, correct grammatical and cross-referencing errors.

(Question of the amendment proposed)

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

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

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

(Clause 55 as amended agreed to)

Clause 56

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

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I do not seem to have an amendment to Clause 56.

The Temporary Deputy Chairman (Hon. Cheboi): You have.

Hon. Gaichuhie: Sorry, I do. Just a minute!

The Temporary Deputy Chairman (Hon. Cheboi): Do you have it?

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

THAT, clause 56 of the Bill be deleted.

We are moving it to a new Part IA.

The Temporary Deputy Chairman (Hon. Cheboi): What did you say?

Hon. Gaichuhie: I am proposing that we delete clause 56. We are bringing in a new Part IA.

The Temporary Deputy Chairman (Hon. Cheboi): Let us just do the deletion. The new clause will come later.

(Question of the amendment proposed)

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

(Clause 56 deleted)

Clause 57

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

THAT, Clause 57 of the Bill be amended –

(a) in sub-clause (7) –

(i) by inserting the word “or her” immediately after the word “him”; and

(ii) by deleting the words “to him necessary” and substituting therefor the words “necessary to him or her”;

(b) in sub-clause (8) by inserting the words “or her” immediately after the word “him”.

This is to include reference to both genders.

(Question of the amendment proposed)

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

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

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

(Clause 57 as amended agreed to)

(Clauses 58, 59 and 60 agreed to)

Clause 61

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

THAT, Clause 61 of the Bill be amended by deleting the words “each commit an offence” and substituting therefor the words “on conviction be considered to have jointly and severally committed an offence”.

This is to better express that liability for an offence follows conviction of the offender.

(Question of the amendment proposed)

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

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

(Clause 61 as amended agreed to)

(Clauses 62, 63 and 64 agreed to)

Clause 65

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

THAT, Clause 65 of the Bill be amended in sub-clause (1) by deleting the word “that” appearing immediately before the words “person shall be liable” and substituting therefor the word “such”.

This is to correct some grammatical errors.

(Question of the amendment proposed)

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

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

(Clause 65 as amended agreed to)

(Clauses 66, 67 and 68 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, as we proceed to the new parts, let me take this opportunity to recognise, in the Speaker's Gallery, students and pupils from All Saints Kebulonik Academy in Mosop Constituency of Nandi County.

NEW PART

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

THAT, the Bill be amended in the following new Part immediately after Part1—

PART 1A – THE INSTITUTE OF TRADE
STANDARDS ADMINISTRATION, KENYA

Establishment of
the Institute.

2A. (1) There is established an institute known as the Institute of Trade Standards Administration, Kenya.

(2) The Institute is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;

(c) borrowing money or making investments;

(d) co-operating with other persons or bodies for the furtherance of the functions of the Institute;

(e) establishing branches in Kenya for the purpose of promoting the functions of the Institute; and

(f) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

The Temporary Deputy Chairman (Hon. Cheboi): Let me call the Mover to move Second Reading.

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Legal Metrology Bill, 2017.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gaichuhie, move that the new clause be read a Second Time. We are on new clause 2A now.

(Question of the new clause proposed)

(New clause read the First Time)

Hon. Gaichuhie: Sorry, Hon. Temporary Deputy Chairman. I beg to move that the new clause 2A be now read a Second Time.

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

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

(The new clause was read a Second Time)

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

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

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

THAT, the Bill be amended by inserting the following new Part immediately after Part I

—
Powers of the
Institute.

2B. The Institute shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Institute shall have the power to—

- (a) manage, control and administer its assets in such a manner and for such purposes as best promotes the purpose for which the Institute is established;
- (b) open such bank accounts for its funds as may be necessary;
- (c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Institute;
- (d) subject to approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Institute's funds not immediately required for the purposes of this Act, as it may determine;
- (e) receive gifts, grants, donations or endowments made to the Institute and make disbursements therefor;
- (f) enter into association with such other bodies or organisations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Institute is established; and,
- (g) undertake any activity necessary for the fulfillment of any of its functions.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

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

THAT, the Bill be amended by inserting the following new Part immediately after Part I

Functions of the Institute.

2C. The functions of the Institute shall be to –

- (a) advance the legal, technical, scientific, practical and general knowledge of persons engaged in the administration of legislation relating to legal metrology, fair trading, consumer protection and Trade Standards Administration;
- (b) promote the sharing of ideas, opinions and experiences between its members;
- (c) promote and encourage courses for the industry;
- (d) provide information on consumer affairs and keep members and all other persons as may be interested aware of and involve them from time to time on any new or proposed legislation which affects the activities or responsibilities of the Institute or which arises as a consequence of Kenya's association with the African Union and any other country and to consult on those matters with such committees of the national or county governments, trade associations or other bodies;
- (e) promote and encourage research and learning, provide facilities for and to promote and encourage research and learning and to undertake research in all subjects and matters relating to or affecting the administration of this Act and any other legislation or duties which are, or may be administered or undertaken by its members;
- (f) record and preserve and make available the results of research and learning for the benefit of students and all such persons as may be interested;
- (g) develop curricular and examinations, set standards and regulate training and education of candidates for the statutory qualification as an Inspector of Weights and Measures, Trade Standards Officer or Legal Metrology Officer or other professional qualifications of the Institute, or for any or all of the examinations of the Institute;
- (h) appoint examiners and arrange, administer, conduct and control such examinations as may be necessary or desirable to test the knowledge, suitability and competence of persons engaged in, or seeking to be engaged in the administration of this Act or in any other branch of administration, or in any parts, of which any of its members are engaged, and in proper cases, to issue certificates to such persons as may be recommended by such examiners as being worthy and to do all or any of such things jointly or in consultation with any person or body including a State Department;
- (i) promote the attainment of uniformity of practice in all aspects in the administration of legal metrology activities and any other legislation or duties administered or undertaken by its members;
- (j) consider all proposed legislation and take cognisance of all such matters affecting or likely to affect the administration of the statutes under which its members hold office or appointments and to make such representations as may be considered advisable;
- (k) obtain from members and from any other source information relating to matters arising under legislation administered by its members and to

- disseminate such information among members and stakeholders by means of a journal or by such means as may be found appropriate;
- (l) print and publish, lend and distribute any communications made to or by the Institute or any similar body and any Bills and Acts of Parliament and subject to the consent of the issuing authorities, any official documents or circulars and purchase, reproduce, print, publish and distribute by way of sale or otherwise as the Institute may deem fit of any books, papers, treaties or communications relating to the work of its members;
 - (m) establish, uphold, advance and promote the highest standards of competence and practice amongst its members; and
 - (n) make donations to any charitable, scientific, cultural or educational objects, institutions or associations.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

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

THAT, the Bill be amended by inserting the following new Part immediately after Part I

-
- Council. 2D. (1) The Institute shall be managed by a Council which shall comprise of the following members elected at the General Meeting –
- (a) a chairperson;
 - (b) a vice-chairperson;
 - (c) a secretary;
 - (d) an assistant secretary;
 - (e) a treasurer;
 - (f) an assistant treasurer;
 - (g) the Chairperson of the Constituent Committees;
 - (h) each Branch representatives; and
 - (i) the immediate past Chairperson of the Institute who shall be an *ex-officio* member of the Council.
- (2) Each member of the Council shall serve for a term of one year,

and shall be eligible for re-election for one further term of one year.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

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

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

Part I

Funds of
Institute

2E The Funds for the Institute shall consist of —

- (a) monies that may accrue to or vest in the Institute in the course of the exercise of its functions under this Act;
- (b) gifts, grants, donations or endowments as may be given to the Institute;
- (c) monies that may be borrowed by the Institute for the discharge of its functions;
- (d) fees for services rendered to any designated institution in terms of a service agreement; and
- (e) monies from any other source provided for the Institute.

This is to show where the sources of the funds will be coming from.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

(First, Second, Third and Fourth Schedules agreed to)

Clause 2

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

THAT, Clause 2 of the Bill be amended-

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

—

“Council” means the Council established under section 2D”;

(b) in the definition of “custodian” by inserting the words “Legal Metrology” immediately after the word “Primary”;

(c) in the definition of “Institute” by inserting the words “,Kenya established under section 2A” immediately after the word “Administration”;

(d) in the definition of “International Bureau of Weights and Measures” by deleting the words “*Internationale des Poids et Mesures*” and substituting therefor the words “*Bureau International des Poids et Mesures*”;

(e) in the definition of “international definition” by deleting the word “of” appearing immediately after the word “Conference” and substituting therefor the word “on”;

(f) in the definition of “measuring instrument” by deleting the words “length, area, volume, capacity and gauge” and substituting therefor the words “quantities based on the international system of units (SI) and their derivatives”; and,

(g) in the definition of “secondary standards” by inserting the words “Legal Metrology” immediately after the word “Primary”.

We are inserting the missing words, correcting typographical errors and having the right reference to the International Bureau of Weights and Measures.

(Question of the amendment proposed)

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

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Mover to move reporting.

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Legal Meteorology Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS AND THIRD READINGS

THE NAIROBI INTERNATIONAL FINANCIAL CENTER BILL

Hon. Speaker: Let us have the Chairperson.

Hon. Cheboi: Hon Speaker, I beg to report that the Committee of the whole House has considered the Nairobi International Financial Center Bill and approved the same with amendments.

Hon. Speaker: Mover.

Hon. Gaichuhie: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Mary Wambui to second.

Hon. (Ms.) Munene: I second.

(Question proposed)

Hon. Speaker: Hon. Members, for reasons well known to you, we may not proceed to the next stage which is to put the Question. So, we move to the next one.

(Putting of the Question deferred)

THE LEGAL METROLOGY BILL

Hon. Cheboi: Hon Speaker, I beg to report that the Committee of the whole House has considered the Legal Metrology Bill and approved the same with amendments.

Hon. Gaichuhie: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Mary Wambui to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Ms.) Munene: I second.

(Question proposed)

Hon. Speaker: Hon. Members we may not proceed beyond there for reasons which are well known to the House.

(Putting of the Question deferred)

Next Order!

MOTION

ADOPTION OF REPORT ON AMENDMENTS TO STANDING ORDERS

Hon. Cheboi: Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Orders Nos. 264 and 265, this House adopts the Report of the Procedure and House Rules Committee, laid on the Table of the House on Tuesday, 13th June, 2017, and further—

(i) approves the amendments proposed to the Standing Orders as contained in the Schedule of the report.

(ii) resolves that the amendments to the Standing Orders shall, upon approval by the House, take effect at the commencement of the next Parliament; and,

(iii) in view of the amendment proposed in Standing Order 212B (Committee on Members' Services and Facilities) rescinds the decision of the House of 14th March, 1967 as amended on 29th November 2011 which established the National Assembly's Catering and Health Services Committee.

What we are doing today is ordinarily done at the tail-end of every Parliament. As we do this, it should dawn on all Members that the curtain is falling on 11th Parliament. As you are aware, the Procedure and House Rules Committee is established under Standing Order No.208 and is mandated to, among other matters, consider the report on all matters relating to the Standing Orders. The Committee is also charged with the task of amending the Standing Orders for consideration by the House.

This is the Fifth Report by this Committee. The first one was done in 1966 to adopt the new realities of the dissolution of the Senate as then was. Many others have been done, including to also take care of the multi-party era and so forth. In this regard, the Committee embarked on a process of amending the Standing Orders having received proposals for amendment from various Members of this House, including the Leader of the Majority Party; Hon. Chepkong'a, the Member for Ainabkoi; Hon. Athanas Wafula Wamunyinyi; Hon. Patrick Musimba who has been very active this afternoon consolidating the independent team together with Hon. Gumbo; and, Hon. Mulu who contributed towards the process of amending the Standing Orders very seriously.

The Committee also received proposals from the State Department of East African Community, the Office of the Attorney-General, the Devolution Forum and various directorates and departments of the National Assembly and, in particular, the Legislative and Procedural Services, Committee Services, Legal Services, Parliamentary Budget Office and the Serjeant-at-Arms Office. The Committee was also to consider the amendments initiated internally on procedural developments and other issues noted during the life of the current Parliament. In order to facilitate the work of the Committee in discharging its mandate given the limited timelines available and the need to comprehensively review the entire Standing Orders, the

Office of the Clerk established a taskforce to undertake the review and report back to the Committee. The taskforce reviewed the Standing Orders and submitted to the Committee a Report for consideration and possible adoption.

Subsequently, the Committee was able to comprehensively review the proposed draft report and text while making various observations, additions and refinement before adopting the Report for consideration by the House. The Report proposed various amendments to the Standing Orders.

Hon. Speaker, permit me to highlight just a few of the salient areas which were proposed in the amendments.

On Part I of the Standing Orders which is the introductory part, the Committee is proposing to do the following:

- (a) To expand the scope of guide to the Speaker's decision to include parliamentary practices.
- (b) Define the term "broadcast" to include live transmission of proceedings of the House by radio, televisions and webcast.

As you are aware, the House proceedings are already being broadcast live via YouTube.

- (c) Codify the significance of the Mace by providing that it symbolises the authority of the Speaker in the House so that Members - like the famous one who is aspiring to become the Senator for Kisumu - will completely be dissuaded from touching the Mace in Parliament if he was to come back here.

Moving to Part II of the Standing Orders which deals with the swearing of Members and election of the Speaker, the Committee is proposing to amend the Standing Orders to provide for the swearing in of Members of the East African Legislative Assembly (EALA) and prescribe the process of removal of the Speaker and the Deputy Speaker which is not provided for in the current and all other previous Standing Orders.

On Part III of the Standing Orders which deals with Deputy Speaker and the Chairpersons of Committees, it is proposed that Standing Order No.14 be amended to provide clear timelines when the House shall be open following the First Sitting of the House after the General Elections. As it is now, Standing Order No.14 is ambiguous and the Committee, therefore, proposes that Parliament should be opened not later than 30 days following the First Sitting of the House after the General Elections.

Hon. Speaker, on Part IV of the Standing Orders which deals with the position of the Leader of the Majority Party and the Leader of the Minority Party, the Committee proposes to delete Standing Order No.19(4) and 20(4) providing for removal of the Leader of the Majority and the Leader of the Minority Party and their deputies only upon election of a Member to fill the position. The intention of this provision is to ensure that there is no vacuum in specific offices for streamlined flow of business in the House. However, the deletion was proposed as it was felt that the provisions were frivolous and created an avenue for a prolonged replacement process. It was also noted that this is a political process which should be left to the parties to resolve and subsequently inform the House.

Proceeding to Part V of the Standing Orders which deals with Address by the President, visiting dignitary and other persons, the Committee proposed to amend the Standing Orders to provide that the Speaker may designate a suitable place in the Chamber or at the Bar of the House for a Cabinet Secretary responsible for Finance to make a public pronouncement of budget policy and other persons to make submissions to the House.

On Part V of the Standing Orders which deals with the Calendar and sitting of the House, the Committee proposes amendments to, among other things, effect the current Wednesday Morning Sitting Hours beginning at 9.30 a.m. and ending at 1.00 p.m. The Committee has also proposed an extension of the afternoon sitting hours of the House by a further 30 minutes. Time for interruption of business therefore, moves to 7.00 p.m. from the current 6.30 p.m.

In Part X of the Standing Orders which deals with statements, the Committee proposes amendments to effect the change of timing for Members to make general statements from Tuesday at 6.00 p.m. to accommodate the time of interruptions of business of the House.

In Part XIII of the Standing Orders which deals with the special motions, the Committee also proposes that it be amended to provide for a resolution of removal of a Speaker or Deputy Speaker from office as a special motion and also provide clear timelines for considerations of a motion for removal of a Speaker or his or her deputy.

In Part XVIII of the Standing Orders which deals with order in the House and in the Committee of the whole House, it proposes to provide for the expansion of the definition of “disorderly conduct” so as to provide for a graduated scale of punishment commensurate with the disorder and manner of punishment for Members of Parliament. The Committee observes that there is need to redefine and categorise disorderly conduct into two and also allow Members who have a Bill to appear before the House or a Committee when their Bill is being considered, notwithstanding the punishment being served.

In Part XIX of the Standing Orders which deals with public Bills, the Committee made an amendment to prescribe, among other things, the manner of handling legislative proposals, provide for forms of public participation which the Committee can undertake and elaborate the process of the Committee of the whole House.

The Committee also proposed the amendments of Part XIX of the Standing Orders which deals with Committees, by among others proposals:

- (a) To reduce membership of the House Business Committee and Select Committees in order to enhance the efficiency of the committees;
- (b) To provide the process of discharge of Members from committees giving regard to due process of laws of natural justice and others;
- (c) Reconstitute the mandates of committees by splitting:
 - (i) the Departmental Committee on Energy, Communication and Information into two; namely, the Energy Committee and the Communication and Information Committee;
 - (ii) the Departmental Committee on Finance, Planning and Trade into Finance and National Planning Committee and Trade, Industry and Co-operatives Committee; and,
 - (iii) Departmental Committee on Labour and Social Welfare be split into Labour and Social Welfare Committee and Sports, Tourism and Culture Committee;
- (a) Establish a Special Funds Committee to deal with and examine audited accounts of political parties, special funds and other such funds established from time to time by the national executives. This will ease pressure on the Public Accounts Committee which has a large number of reports to consider; and,
- (b) Establish a Committee on members services and facilities to consider, advise and report on Members’ welfare and provide a forum for Members to raise concerns on those issues.

The Committee also amended the Standing Orders to separate ordinary petitions from petitions for removal of members from constitutional commissions and holders of independent

offices. The amendment also provides that the petitions for removal of persons from commissions and independent offices shall not lapse at the expiry of the time of Parliament.

The Standing Orders were also amended to create clarity on financial procedures and generally to provide for matters not currently provided for in the Standing Orders and, in particular, the powers of the House to summon persons to appear before it pursuant to the provisions of Article 125 (1) of the Constitution and make provisions for how Members should seek permission to be away.

As I conclude, allow me to state that this House will agree with me that, although the task of reviewing the Standing Orders was not an easy one, the Committee did a relatively good job and I would like to thank every Member who participated in the review process. As the term of this House ends tomorrow, we will certainly leave a legacy of having undertaken a comprehensive review of Standing Orders which will assist the next House to operate more effectively.

Let me take this opportunity to wish my colleagues the very best as they go and fight it out at the grassroots for seats. It is not a very easy task. I wish them all the best so that they can be happy participants of the next 12th Parliament and, therefore, enjoy some of the benefits of these Standing Orders that they, themselves, helped to effect.

Hon. Speaker, I also wish you all the best as you take the short leave from tomorrow. I also wish that you take the opportunity to become the Speaker in the next Parliament. I wish you all the best as you also wish us the best. For the independent members, I do not wish you too much because I am a victim of the independents. May the best persons win from whichever constituencies. I believe we are likely to see a surge in the number of independents in the next Parliament. I am told that in the Ugandan Parliament, they have close to 50 independent members of parliament. That is why the Member for Kibwezi was very active today together with Hon. Gumbo. I hope it will not get to that magnitude in this one, but I wish all the Members all the best.

I beg to move. I ask the gracious lady from Kibwezi to second. She has been a very active Member of that Committee.

Hon. Speaker: Let us have Hon. Jessica Mbalu.

Hon. (Ms.) Mbalu: Thank you, Hon. Speaker. I must congratulate Hon. Cheboi for moving the resolutions of the Procedure and House Rules Committee on the Standing Orders that have been achieved by this House. We must appreciate the difficulty that we have, sometimes, had in this House in terms of running the House and procedures. A very common issue that has been witnessed in this House was the Motion by my very good friend - my counterpart from Kibwezi West - who did a very good job on the removal of the Speaker. He is in the House. The Standing Orders were not very clear and I am sure he tried to look for ways. But now, with the definition in the Standing Orders as described by Hon. Cheboi in his moving, we are now clear on the way forward in the removal of a Speaker or a Deputy Speaker. I am aware that is why nothing had been achieved or was achieved at that point because nothing was clear on the removal of a very good speaker, you, Hon. Speaker. You are the Chair of the Procedure and House Rules Committee.

As moved by Hon. Cheboi, this House will be remembered because of the amendments that were done to the Standing Orders. You being the Speaker and the Chairperson of your panel, it has not been easy to make some decisions because the Standing Orders have not been very clear on what to apply as far as running the House is concerned. I believe and trust that some of us will come back in the 12th Parliament. We are pronouncing success.

(Hon. Cheboi laughed)

Stop laughing, Mr. Cheboi, because I know you will be here. You are so confident. *Inshallah!* We will have a 12th Parliament that will really benefit from the great minds of this House. The Committee did a very good job. Starting from the resolutions and the amendments of the Standing Orders as stated by Cheboi, the 12th Parliament will benefit from our amendments. The 10th Parliament made amendments on time and so, this 11th Parliament did not have any difficulties.

I must congratulate you and the House. You have used your mind to make decisions that, of course, were based on your legal mind as a Speaker.

Hon. Cheboi has stated, quoted and brought out very clearly the relevant Standing Orders. I trust that the Members will support the Committee, which did a very a good job by going through each Standing Order and looking at their applications, implications and effects to the House. I am sure they did a great job.

I have nothing much to add other than to support the amendments to the Standing Orders. I second and support.

Hon. Speaker: After tomorrow, one would expect that everybody would have known the current Standing Orders.

Hon. Musimba: On a point of order, Hon. Speaker.

Hon. Speaker: You see this is now the problem. You cannot purport to rise on a point of order when the Hon. Speaker is on his feet.

(Question proposed)

Member for Kibwezi West, you can now claim to rise in your place on a point of order or by way of contribution, whichever.

Hon. Musimba: I rise on a point of order.

Hon. Speaker, it is your initials which invoke the whole essence of action. The initials “JB” is James Bond 007, on a lighter note.

I want to thank you for this opportunity. I rise pursuant to the Standing Order No.54 and propose an amendment to the Motion. The proposed amendment to the Motion reads---

Hon. Speaker: If that is what you intend to do, Hon. Musimba, you do not have to claim to rise on a point of order. All you needed to do was to have written the proposal and brought it for consideration.

Hon. Musimba: Standing Order No.54 is clear that before the Question is put on a Motion at hand, anyone can rise.

Hon. Speaker: Why are you rising on a point of order if you want to propose an amendment?

Hon. Musimba: Points of order are based on the Standing Orders, Hon. Speaker.

Hon. Speaker: Hon. Musimba, if you want to propose an amendment to the Motion, first of all, it is not possible that the Speaker can be on the Chair and be ambushed without prior notice.

Hon. Musimba: We propose amendments at this stage. I have done so severally on the Floor of the House.

Hon. Speaker: You have done it before?

Hon. Musimba: Yes, pursuant to Standing Order No.54.

Hon. (Ms.) Mbalu: On a point of information, Hon. Speaker.

Hon. Speaker: Do you want the information?

Hon. Musimba: No, I do not want the information.

Hon. Speaker: What is the gist of your proposal?

Hon. Musimba: The amendments were already considered in the Committee. It is nothing new to the House. You are not being ambushed in any way. It is simply for consideration on the Floor of the House.

The amendment reads “A notice is given by the Member for Kibwezi West, that Hon. (Dr.) Patrick Musimba intends to move the following amendments to the Motion. 44. The Second Reading of Bills and tabling of reports be conducted in the mini-Chamber at the County Hall to enable the House to execute its legislative role expeditiously and in a timely manner.

48. The proposed amendments to provide for the following–

(a) The definition of a Parliament party to include independent Members, a coalition of independent Members.

(b) The definition of a party whip to include any other whip designated by any other parliamentary party registered with the Clerk of the National Assembly; and,

(c) Creation and recognition of Leader of Independents in the National Assembly.

Hon. (Ms.) Mbalu: On a point of order, Hon. Speaker.

Hon. Musimba: I am on a point of order. You cannot portend to rise on a point of order.

Hon. Speaker: Hon. Patrick Musimba, what you are reading is a proposal you submitted to the Committee.

Hon. Musimba: Yes, but I am now making it substantial.

Hon. Speaker: It has been considered by the Committee. Did you submit that proposal to the Committee?

Hon. Musimba: Yes, I did.

Hon. Speaker: Has it been considered by the Committee?

Hon. Musimba: Yes.

Hon. Speaker: The Committee has made a report on it.

Hon. Musimba: I have read the report, Hon. Speaker.

Hon. Speaker: Are you, therefore, saying that you want to disagree with the Committee?

Hon. Musimba: Listen. If you look at the import, even the Committee does not make a conclusive recommendation on them. For instance, on the first one, which is on the mini-Chamber, the recommendation reads as follows: “The Committee was of the view that the amendments would offend the Constitution on Article 85 by threatening the position of independent Members...”

Hon. (Ms.) Mbalu: On a point of order, Hon. Speaker, on the procedures of this House.

Hon. Musimba: I am responding to the Speaker.

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

Hon. (Ms.) Mbalu: Hon. Speaker, as much as Hon. Musimba would have very valid points, it is at your own discretion. We are amending the Standing Orders to ensure that this House is run through procedures and rules. It is only you and through you, if you can use your discretion, if it is possible, because any amendments to any Motion and Bill have to go through the right channel.

If it is true Hon. Musimba passed his amendments, it can only be through your discretion. You have to certify them or they have to pass through the Clerks-at-the-Table as per the

procedures of this House so that we can start to make amendments to the Standing Orders. We are breaking it before the baby is born. As much as my counterpart is doing the right thing, or whatever kind of amendments he is introducing, we can only follow the procedures to ensure that the right thing is done.

Hon. Musimba: Hon. Speaker, while I thank my counterpart from Kibwezi East, this particular Committee is headed by none other than Hon. Speaker. In all the Motions that are before this House, it does not give Committees discretion to have the final word. That is why it has been brought to the Floor of the House for consideration by the full membership of the House. Whereas I would agree that under the Standing Order No.1, the Speaker has discretion to rule one way or the other, this is a Motion which touches on a Committee where he himself is the Chair. If a Member like myself is today aggrieved by the nature of the recommendations that have been placed before this House on this particular Motion, I must ventilate on it on the Floor of the House, because there is nothing that will circumvent the voice of the people. We are the voice of the people. We are making these Standing Orders for posterity. There is no way you can say that you are going to gag me on that basis. That is why I have ably brought up this matter, in accordance with the current Standing Orders. The Standing Order No.54 allows me to rise at any time, before the Question is put, and propose amendments, just as we have done in this House before.

If you allow me---

Hon. Speaker: Hon. Musimba, before I make a ruling on this matter, I would like you to understand that proposed amendments must be submitted to the Speaker because an amendment has to be proposed. If you now claim to be moving an amendment Motion, then what do I propose? I do not have the text of the proposed Motion.

Hon. Musimba: I have it. I have a copy for you. It is nothing new.

Hon. Speaker: No. The fact that you have it does not mean I have it. That is why I must have it. Hon. Musimba, you will not argue. If you intend to move a Motion---I now order you to sit down. If you intend to move an amendment, you must submit it in writing to the Speaker.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, what you did were proposals. You submitted them to the Committee which then considered them, in fact, the whole of Friday last week. Remember that you are not the only one who wrote. If you listened to Hon. Cheboi as he moved, he gave the names of various Members who suggested amendments to the Standing Orders, including Hon. Chepkong'a, Hon. Wamunyinyi, the Leader of the Majority Party, Hon. (Eng.) Gumbo and yourself, which is very good. By the way, that is commendable, Hon. Musimba. If at this point you intend to move an amendment, then the Speaker must have a copy of the proposed amendment. You rose in your place to claim to be moving an amendment. If I allowed you to do so and if somebody seconded you, what would I be proposing after that? I do not have it.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, you will not argue with the Chair. You must follow the rules. Nobody is denying you the right to move your amendment. The debate is not concluded and it is not concluding anyway. In order to give you adequate time to do what is necessary, if you intend to move an amendment, you must submit it in the normal way. It is important.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: You are telling me you have a copy of it, but you are not the Speaker. If I allow you to move the purported amendment and then you are seconded, what shall I be

proposing? A proposed amendment is similar to the Motion itself. If I allow you to do that, what shall I be proposing? I commit everything to memory?

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, I will not! You must follow the rules.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, you are not on record. You are out of order. It is not okay.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, you are out of order. I have advised you what to do. Submit the proposed amendments.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, just listen. Do not get agitated for nothing. It will not help. Do not engage in an argument with the Speaker.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: I have advised you to submit your proposed amendments.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Hon. Musimba, you do not control the calendar of this House, do you? I am telling you this Motion is not concluding today. As you have said, you need more time. So, you can go and prepare.

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Do not submit to me. I do not receive Motions here!

Hon. Musimba: *(Inaudible)*

Hon. Speaker: What are you trying to do? Serjeant-at-Arms!

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Serjeant-at-Arms! Hon. Musimba, get out! Out of the House for the balance of the day. Out!

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Get out! Serjeant-at-Arms, get him out! Hon. Musimba, if you allow yourself to be removed---

Hon. Musimba: *(Inaudible)*

Hon. Speaker: Get out! Walk out of the Chamber!

(Hon. Musimba withdrew from the Chamber)

It is unfortunate that at the tail-end somebody cannot do a simple thing. The Motion is not ending today. He has all the time to prepare an amendment and bring it to the Floor. It will be considered. It is not me to consider.

Hon. Members, I am told that in the front row, microphones are not working. Did I see Hon. Keynan desiring to speak? Can you try?

Hon. Keynan: Thank you, Hon. Speaker. I also want to take this opportunity to thank the Committee that prepared these amendments to the Standing Orders. I have had an opportunity to interrogate most of the proposed amendments. I must thank the Committee for coming up with the progressive amendments that will add value to the way the business of this House is going to be managed in the next Parliament.

These Standing Orders are meant for the wellbeing of everybody. They are meant to manage the House, to guide the House and to interpret all other existing laws in a simplified

form called the Standing Orders. They are not static. They can always be amended. What is being proposed is not final. Where there is a lacuna or where there is lack of proper understanding, they can always be amended. Let us take this as progressive amendment.

I know I will be proposing an amendment to define one or two things that are not here. I have done it. I have written to the Clerk and I am sure it will come to your attention. If it gets your approval, I am sure it will be listed tomorrow. That is one thing that Hon. Musimba missed.

On the face it, I must also admit that there was no time for public participation. There should have been time for Members to participate in the drafting of these amendments. However, taking into account the circumstances and the challenges that they are going through, that is understandable. Next time when the Standing Orders are being reviewed, it will only be fair if the Members are given an opportunity to contribute. I know they have had an opportunity to put their thoughts in writing, but a *Kamukunji* would have been more useful. On the face of it, the amendments being proposed are very good. They are progressive. They will add value. I hope we will adopt them before we adjourn *sine die* tomorrow.

I support.

Hon. Speaker: Do I see Hon. Onyura desiring to contribute? Is it on this matter?

Hon. Onyura: Yes, Hon. Speaker, but also to seek some guidance. The truth is that we have just got this Report. Many of us would have liked to go through it.

Hon. Speaker: So, you would want us to adjourn this debate and move to the next Order?

Hon. Onyura: Yes.

Hon. Speaker: That is a very fair request. Do I see the concurrence from Hon. Gumbo?

Hon. (Eng.) Gumbo: Hon. Speaker, Hon. Onyura has just taken words out of my mouth. Some of us who are seeking offices outside this House may not directly be affected by these Standing Orders, but I think laws are made for posterity and not individuals. That is why even with that knowledge, I was not keen on defending my seat. I proposed amendments. The request by Hon. Onyura is fair. Maybe what Hon. Musimba did not know – he is my friend as everyone knows – is that in the line of our duty, we must follow procedures. For example, I have amendments. I have seen how they have been dealt with. That does not prevent me from even proposing further amendments.

So, I kindly request your indulgence and that of my colleagues in the House that we get a little bit more time. I can see the Standing Orders are attempting to deal with the provisions in the Constitution, which makes it mandatory for Members who miss eight sittings to lose their seats. I think this is an important thing. I have even attempted to propose a constitutional amendment to that, which I knew was a tall order.

Hon. Speaker, with kind indulgence, I would request that you allow us to look at this and then we continue tomorrow. I thank you.

Hon. Speaker: That is a fair request. I am assuming that it is made under Standing Order No.96 on adjournment of debate. I do not see any objection. I think the request is fair so that Members can also have time to dig through into the Report and those who desire to make amendments, indeed, these are Standing Orders of the House and not for any particular person. Therefore, I grant the request. Let me put the Question.

*(Question, that the Debate be
now adjourned, put and agreed to)*

(Debate adjourned)

So, in any event, Hon. Members, it is not a do or die. The House had already passed a Motion for a morning sitting tomorrow at 10.00 a.m. So, there is enough time for us to deal with this matter.

We move to the next Order.

MOTIONS

REPORT ON VETTING OF NOMINEE FOR APPOINTMENT AS DIRECTOR GENERAL OF THE FINANCIAL REPORTING CENTRE

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the vetting of the nominee for appointment as the Director General of the Financial Reporting Centre, laid on the Table of the House today, Wednesday, 14th June, 2017 (Morning Sitting), and pursuant to the provisions of Section 25 of the Proceeds of Crime and Anti-Money Laundering Act, 2009, approves the appointment of Mr. Saitoti Kimerei Maika as Director-General of the Financial Reporting Centre.

Hon. Speaker: There is no Mover. The Motion is taken out to be debated tomorrow.

(Motion deferred)

Next Order!

ADOPTION OF SPECIAL REPORT ON IMPLEMENTATION OF TOURISM FUND RONALD NGALA UTALII COLLEGE PROJECT

Hon. Speaker: Hon. Keynan.

Hon. Keynan: Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Special Report of the Public Investments Committee (PIC) on the implementation of the Tourism Fund Ronald Ngala Utalii College Project in Kilifi County, laid on the Table of the House on Wednesday, 24th May 2017.

The PIC is a Select Committee – and I can see in the Standing Orders there is a lot that is about to change – established pursuant to the Standing Order No.206, responsible for the examination of the workings of public investments. One of the mandates of the Committee is to examine reports and accounts of public investments. I am sure the proposals being made in the amendments to the Standing Orders will define what public investments are. It examines reports, if any, of the Auditor-General on public investments and examines, in the context of autonomy and efficiency of public investments, whether the affairs of public investments are being managed in accordance with sound financial and business principles and prudent commercial practices.

Pursuant to its mandate to examine, in the context of autonomy and efficiency of public investments, whether the affairs of public investments are being managed in accordance with sound financial and business principles and prudent commercial practice, the Committee

commenced its inquiry into the implementation of the Tourism Fund Ronald Ngala Utalii College Project in Kilifi County on 31st March 2016 and tabled its findings on 24th May 2017. In conducting the inquiry, the Committee had several sittings in which it closely received oral and written submissions and examined evidence from the following witnesses:

- 1) Mr. Allan Chenane, the former CEO of Tourism Fund.
- 2) Mr. Joseph Cherutoi, the CEO of Tourism Fund.
- 3) Former members of the Tourism Tender Committee.
- 4) The current board of trustees.
- 5) Former board of trustees.
- 6) Mr. Ibrahim Mohamed, the former Principle Secretary (PS) in the Ministry of Tourism.
- 7) Mr. Najib Balala, the current Cabinet Secretary (CS) for Tourism.
- 8) Senator Dan Mwazo, former Minister for Tourism.
- 9) Ambassador Ruth Solitei, former PS in the Ministry of Tourism.
- 10) Ms. Phillis Kandie, former CS in the Ministry of Tourism and the current CS for the East African Community, Labour and Social Protection.
- 11) Mr. Mulji Devraj and Brothers project contractor.
- 12) Baseline Architects consortium of consultants for the Ronald Ngala Utalii College Project.
- 13) Mr. Morris Juma, the Director of the Public Procurement Regulatory Authority (PPRA).
- 14) Mr. Henry Rotich, the CS of the National Treasury.

The Committee also undertook a site visit on the project on 20th August 2016 to apprise itself on the progress made in the implementation of the project. We wish to draw the attention of the Members to the Tourism Act, 2011, which established the Tourism Fund. It actually commenced on 1st September 2012. The Fund replaced the defunct Catering and Tourism Development Levy Trustees (CTDLT) and established the Tourism Fund, pursuant to Section 66 of the Tourism Act of 2011. The Fund is mandated to achieve the following objectives:

- (i) Development of tourism products and its services.
- (ii) Marketing of Kenya as a tourism destination through the Tourism Board.
- (iii) Undertaking tourism research, tourism intelligence and national tourism information management system.
- (iv) Coordinating activities of the tourism sector and the tourism sector safety, communication and crisis management centre to be established and managed by the ministry.
- (v) Coordinating training and capacity development activities.
- (vi) Mobilisation of resources for support of tourism related activities.

The Fund is managed by a board of trustees. From the oral and written submissions, the Committee heard the following on this particular project:

- 1) The first Cabinet Memorandum which dates back to 1st February 1996 was not properly implemented.
- 2) The second Cabinet resolution dates back to 13th September 2007.
- 3) In the period preceding this particular Cabinet Memorandum of 2007, the Ministry of Tourism in conjunction with the Ministry of Public Works had developed the initial concept paper and design works of the college. As per the concept paper, the project should have constituted the following:

- (a) A training facility with an initial capacity of 600 students.
- (b) Training and demonstration facility including tuition blocks, administration block, student block and quarters, a nursery and a primary school, health centre, library and recreation facilities.
- (c) A five star hotel complex.
- (d) In addition, the college will be structured to offer specialised training in emerging fields of cruise tourism, training of trainers and entrepreneurship.

The project was revised in the year 2010 that changed both the scope and the design of the project. Again, in 2012, the Tourism Fund commenced the procurement of the project's consultant and the procurement of the consortium of consultants comprising of architects, quantity surveyors and civil engineers to oversee the design. The overall supervision of the project commenced in February 2012. The tender proceeded and everything was completed. Again, the procurement of the project contractor commenced immediately after the consultants' reports and the design was ready.

*(Hon. Speaker
(Hon. Muturi) left the Chair)*

*(The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) took the Chair)*

Later on, after the tender was awarded, rationalisation of the project commenced. In 2013, owing to economic and austerity measures, consultations were made between the Ministry of Tourism and the National Treasury where it was agreed that even though the works were tendered and awarded at the cost of Kshs8.96 billion, the project should be rationalised by removing all auxiliary proposed developments and retaining only the functional components. Therefore, the total construction cost was scaled down to Kshs4.93 billion.

These consultations culminated in the draft Cabinet Memorandum dated 9th July 2014. On the features of the down scaled project is the financing model for the five star hotel as a component of the whole project to be undertaken with the public-private partnership programme.

The Committee made the following general observations:

1. The Fund was without a substantive board of trustees between the period of July 2012 and October 2015 to oversee, amongst other things, the implementation of the Ronald Ngala Utalii College project. The reason we are in this state of affairs is that pursuant to Section 6(2) of the State Corporations Act, the former Minister for Tourism, Hon. Dan Mwanzo, revoked the appointment of the board of trustees and appointed new ones vide Gazette Notice No.10228 dated 20th July 2012 with the aim of improving the Fund's performance. The de-gazetted trustees, however, challenged the decision vide court case No.317 of 2012, which was filed by one Abdikadir M. Omar and others against the Cabinet Secretary for Tourism. Although the case was withdrawn in April 2013, the Fund remains without a substantive board. This has affected the performance of the board.

2. In the absence of a substantive board of trustees between 19th July 2012 and 2nd October 2015, the firm management proceeded with the tendering process and awarded the tender of construction of the project to Mulji Devraj and Brothers and signed the contract on 14th May 2013. The management further proceeded to approve the first addendum to the contract on

23rd June 2013 and the second addendum on 25th August 2014 without the board's approval for checks and balances. All these were necessitated because there was no board.

3. The cost of the project was varied from Kshs8.96billion to Kshs4.9billion without the Cabinet's approval.

4. The Draft Cabinet Memorandum, jointly signed by the Cabinet Secretary, Treasury and the Cabinet Secretary for the East African Affairs, Commerce and Tourism dated on 26th June 2014 and 9th July 2014 respectively, is still awaiting the Cabinet's approval.

5. The total remittances from the Treasury to the project since inception, namely, from the Financial Year 2010/2011 to 2015/2016 amounts to Kshs2,359,397,211.

6. The Auditor-General's report in the financial statement of the Tourism Fund for the Financial Year 2014/2015 observed that the project is branded by the management as Vision 2030 project, but does not appear in the documented planned flagship projects. Further, no feasibility study was done for the project to establish its viability.

7. The Committee observed that the Auditor-General further noted that the estimated cost of the project was neither captured in the Fund's procurement plan nor in the multi-year procurement plan as envisaged in Section 26(3) of the Public Procurement and Disposal Act of 2005 and Section 47(c) of the Public Finance Management Act of 2012.

The Committee made the following recommendations after having carefully looked at all the evidence deduced:

1. The project should be implemented as per the CTDLT Board resolution of 13th December 2010 to redesign the college to accommodate 3,000 students among other additional components at the cost of Kshs8.9 billion. This will ensure cost effectiveness of the project and give taxpayers value for their money.

2. The Cabinet Secretary for Tourism should, as a matter of urgency, pursue a post-factual Cabinet approval for the downscaled project. The Cabinet Secretary ought to seek Cabinet's approval for the implementation of the hotel component of the project through the public private partnership framework. The Cabinet Secretary for Tourism should report to the National Assembly on the status of implementation of this recommendation not later than six months after the adoption of this Report.

3. There is need for all parties involved to work together to ensure successful completion of the project not later than 13th June 2018 as per the signed contract and the subsequent addendums issued on 14th May 2013 and 25th August 2014 respectively. The Chief Executive Officer (CEO) of the Tourism Fund is to report to the National Assembly on the status of the implementation of this recommendation not later than 12 months after the adoption of this Report.

4. Tourism is a very important sector in Kenya's economy and successful completion of the project will improve the sector. The CEO of the Tourism Fund should therefore, in liaison with the Public Private Partnership Unit of the National Treasury, identify a suitable financier to complete the first two components of the project. The CEO is to report to the National Assembly on the status of this implementation not later than six months after the adoption of this Report.

5. Owing to the vital role of the project in the tourism sector, the CEO of the Tourism Fund in liaison with the Vision 2030 Secretariat should ensure that the project is incorporated as flagship project in the tourism sector. The CEO should report to Parliament on the implementation of this particular recommendation not later than six months after the adoption of this Report.

6. The Fund's management should comply with Section 53 of Public Procurement and Asset Disposal Act of 2015 by ensuring that the total estimated cost of the project is captured in the Fund's procurement plan. The CEO is to report to the National Assembly on the status of the implementation of this recommendation not later than six months after the adoption of this Report.

7. The appointing authority of boards should ensure that there is timely appointment of board members for the effective operation of the Fund as a good governance practice.

In conclusion, we realised that tourism plays a very important role. It is a very important sector in our economy. Right now, we are facing other competitive destinations like Seychelles, Mauritius and other emerging tourism destinations. It is high time this sector was given all the attention it deserves because there is commitment by the Government to fund it. Those who are tasked with implementing certain decisions of the Government at times give priority to their own interests and forget about national interest. Therefore, it is incumbent upon the concerned oversight agencies to ensure that critical Government decisions are implemented as required. Without tourism, the Coast region would face a great challenge. When the Government decided to come up with another branch of the Kenya Tourism College, it was a brilliant idea. However, what is seen now is a different thing from what was envisaged by the Cabinet. That is the reason the Committee recommends that it is high time those who are tasked with managing this sector went back to the original design, concept and Cabinet memo. They should ensure that what is being implemented is what was envisaged by the Cabinet. The Cabinet is not just a mere entity. It is the highest decision-making organ of the Republic of Kenya chaired by none other than His Excellency the President.

This is a critical recommendation by the Committee and I hope the Tourism Fund will take it seriously and ensure that the project is properly implemented and completed so that the many Kenyans in the tourism sector can continue to earn their living.

With those many remarks, I beg to move that this House adopts the Special Report on the Implementation of the Tourism Fund Ronald Ngala Utalii College Project in Kilifi County, laid on the Floor on 24th May 2017.

I ask Hon. Serem to second.

Hon. Serem: Thank you, Hon. Temporary Deputy Speaker. Before I second, allow me to congratulate our Chairman, a very able man. He has worked tirelessly to ensure that this Report is brought before this House. Before we give recommendations on the adoption of this Report, let me give you a background of the tourism sector, especially with regard to Utalii College which I have known since my childhood days. It is an institution our kids looked forward to training in and get a good job thereafter. As I speak, most of our children have no desire to join the institution. Even if they do, there are no opportunities. If we implement the recommendations in this Report, we will give our children an opportunity to advance their skills.

With the Members of the Committee, we realised that there are challenges in this institution that require a lot of soul searching to assist it to move forward. We made recommendations, which if implemented, we will have an institution that we will all cherish.

As I second the Motion, there is need to know that there is a challenge in the tourism sector in this country. Implementation of this Report will give an opportunity to the sector to come back to the status it was in, in the 1990s. All of us were looking forward to train there, but it has gone down. I hope Members of this House will look at this Report and give a favourable recommendation, so that it can be implemented. People will then say we had a Parliament that cared about their wellbeing.

I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. Before I even contribute, allow me to thank my brother and friend, Hon. Aden Keynan, for the excellent work that he has done at the PIC. I have had the privilege of serving with him in this Parliament and in the last Parliament. Without trying to please anybody, I think he has been one of the hardest working Chairmen. I remember in the last Parliament, he did a very famous report on the Tokyo Embassy. He has grown old a little bit. Then, he was very passionate. He did not even need the mics and you could hear him from Uhuru Highway. I thank Hon. Keynan and his team. The Committee has done a very wonderful job.

Tourism holds a great promise for our country. I want to believe that the idea to put up a second Utalii College is a good one. But the problem with our country is that we conceive very good projects, with very noble intentions that are intended to make this country move forward, but unfortunately, somewhere along the line, vested interests take root and we start thinking about benefits that will accrue to individuals as opposed to communal benefits. Then the whole objective is lost. I am hoping that the 2017 elections will for once produce leaders who by and large will pursue the communal interests. Of course, we all have personal interests that we have to pursue, but I want to believe that leadership is a calling. Some of the leaders that have made the greatest changes in their countries in the world are the selfless leaders that have put the interest of the society way ahead of personal interests.

Why do I say this? The issue of tourists and tourism in Kenya, we have tended to believe that unless we see some white man somewhere, or a Chinese or Japanese, then that is not tourism. I remember an incident about 16 years ago when I took my family to the then Mombasa Beach Hotel. We were sitting there having come from Ngulia Lodge in Tsavo West and a group of white people asked us: Are you also here as tourists? In their minds, we were not supposed to be tourists. This is the paradigm that we must change. Kenya now has a fast expanding middle class. I am told by the estimates from the Kenya National Bureau of Statistics (KNBS), the middle-class population in Kenya today could well be standing at between four to seven million people. That is a big potential for tourism. The biggest spenders in any society are not the upper or lower classes, but the middle class who, in more ways than one, usually have impulsive spending habits. In fact, sometimes the middle class is known to compare their success by how impulsively they can spend their newly acquired wealth.

I think it is time we started growing the tourism sector. While I do not say that we should stop encouraging foreigners from visiting our country, Kenya has some of the most beautiful features you can think of. There are countries in this world that attract millions of tourists as a result of man-made features. The other day I was in the UK and given the number of people who visit the Buckingham Palace. I was in France and was given the number of people that visit the Eiffel Tower. These are man-made features. They cannot have as much attraction as natural features that we have in this country. If we promote the wildebeest migration, how many Kenyans in this country have had a chance to go to the Mara to witness the 7th wonder of the world? This can only happen if we can incentivise the middle class so that we can have some sort of tax rebate. It is possible. It is doable. Now that we have two levels of government, what is lacking in promoting tourism in this country is just a little bit of creativity and incentives to make

our people appreciate it. There are many more Kenyans who can take their families for holidays, but they do not.

You will be very surprised at how little Kenyans know about what is happening around them. My constituency, which borders Hon. Millie Odhiambo's constituency of Mbita, has a beautiful resort called Lake Rusinga Lodge. The other day I was Googling the maps and somebody was asking me where this exotic hotel is. And it is just here in Mbita. I was amazed. In December, I took my family there for about a week. You would be surprised that for nearly a week, on full board and with a lot of attractions including lake skiing, excursion into the lake, going to see the white sand beaches of Takawiri, each one of us had hardly spent Kshs50,000. That is within the reach of the middle class.

I am not saying in any way that all Kenyans can afford this. What I am saying is that there are a lot of things that can make domestic tourism viable in Kenya, but we tend to focus on them. For example, I hear Najib Balala, our former colleague in this House in the 10th Parliament, talking about huge figures to go to Berlin, Tokyo, Beijing, America, but I do not hear much being said to promote domestic tourism. It is amazing how little Kenyans know about their country. I wish the Leader of the Majority Party was here. About four years ago, I took my family to stay in Garissa in a hotel owned by one of his relatives. The people there were amazed. They were asking me: Are there no hotels in Kisumu? We have put our minds to think it is only outside this country that we can tour. That is tourism for me. We stayed there for nearly a week. We enjoyed ourselves thoroughly. I would want my children to grow up knowing every part of this country because they are Kenyans and they shall always remain Kenyans.

So, we need more creativity to make tourism grow. Most importantly, investments such as the Ronald Ngala Utalii College in Kilifi County and noble intentions of projects be reflected in the way we implement them. Let us not allow vested interests to crop up because that is the biggest disease in this country. In fact, it is vested interest that has stopped some counties from growing. Right now, I am proud to say that I am gunning to be Governor of Siaya County. Part of the reason I am so determined like my life depends on it, is that public resources are being misused by few individuals and yet poverty has pervaded every village. People are getting poorer by the day and yet individuals, who a few years ago had nothing, now ask what they are supposed to do with the money they have stolen from the public. Our systems do not seem to do anything. Today you will see people who some time back were struggling to pay rent in towns such as Nairobi building swimming pools in the rural areas. It is obscene! I cannot believe it when I see people who purport to be championing democracy in our country still wanting to side with such people. It is an insult to the people of Kenya that somebody can want to live so large at the expense of so many people. So, let us go back and re-embrace the spirit of what the founding fathers of this country had in mind. Ours is a land of plenty. We have no reason, whatsoever, as Kenyans, to go to bed on empty bellies. All we need to do is to get our priorities right. Progress in tourism will give us that major promise.

Let me conclude by saying, once again, that Hon. Keynan and his team have done a wonderful job. I hope Hon. Kenyan, like we did a short while ago, will prepare a legacy report. It will help Members who will succeed us in the Committees we have been serving in. The good habits that we have adopted should be carried forward in order to make this nation great. I believe the true potential of Kenya is yet to be realised and it must be realised in our life time.

I support.

The Temporary Deputy Speaker (Hon. Mbalu): Very well spoken. Let me join you in congratulating Hon. Keynan because of the good Report. Next on my request list is Hon. Waititu.

Hon. Francis Waititu: Thank you, Hon. Temporary Deputy Speaker for giving me a chance to support the able Chairman and his Committee for this noble Report on tourism. I have known Utalii College for so many years. My daughter went to Moi University and got attached to various hotels in this country. I made sure I visited her in the 17 different hotels in the country that she had opportunity to work for. There was a time I would visit Kisumu together with Hon. Jakoyo. We have an able Cabinet Secretary in the Ministry of Tourism. What we should do now is talk good about our county. Let us remember that Kenya is a beautiful country and attracts tourists. We should not only focus on Mombasa, Nairobi and Kisumu. We need to look at other parts of this country because they too have beautiful scenes. Let us think about it.

Hon. Temporary Deputy Speaker, I have visited your area. There is a time I got about 1,000 acres of land in Ukambani where I planted bananas and oranges for export and many foreigners would visit my farm to see how I was doing my work.

Every county in this country has elements of tourism and, therefore, is an attraction to tourists. If we focus on that, we will make a lot of money as a country. We have 47 governors. If they put their minds together, with the support from the national Government, this country will make big strides economically. I am happy with Hon. Keynan. I have known him since his university days. I am sure he remembers I used to talk to him then. When I see him bring beautiful reports to this House, I feel so happy. I thank him so much. I would like to ask him to come back to the 12th Parliament.

I wish everybody well. Let us all talk about tourism in our respective counties. Let us talk to each other like brothers and sisters. We should stop the trend of campaigning even after elections because that is where we go wrong. Let us talk about our beautiful country.

I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Waititu. Let us have the Member representing the people of Limuru, Hon. (Eng.) John Kiragu.

Hon. J.K. Chege: I support this Report. I am a Member of the PIC and I had opportunity to visit the site in Mombasa.

Without repeating what has been said, this is a case of a good project, but without serious feasibility studies having been done. A project that was initially estimated to cost about Kshs8 billion was scaled down to Kshs4 billion. There are certain fundamental requirements that need to be addressed at the site, for example, treatment works. This is a college named after a very important leader in the coastal region and it should not stall. Plans to train people must be accompanied by opportunities for practical attachments in, for example, hotels. Utalii is one of the colleges that perform very well in this country. I had opportunity to travel in the Madaraka Express Train and was very impressed that the people who were providing services in that train are Utalii College graduates. I was very impressed as a Kenyan to see that we can provide first class services of hospitality in such a train.

I want to emphasise that it is very important for us to always have continuity in the management of our organisations including trust funds. You will note that lack of board members or trustees made it difficult for this project to flow properly. I want to emphasise like our Committee has done that we should not waste resources. If we are going undertake a project like this one, it is important for us to see it through. Looking at the hotels in Nairobi or at the Coast, hospitality is not as competitive as we would like it to be. We want to provide Kenyans

with the best hospitality in the hotel industry. That can only be achieved by making sure that we have such a college at the Coast so that this country becomes a better tourist destination compared to the rest of the world.

With those few words, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Onyura.

Hon. Onyura: Thank you, Hon. Temporary Deputy Speaker. I also rise to support this Report and call upon the House to adopt it. This college should be taken seriously. Its location in Kilifi at the Coast is very appropriate. I know we have Utalii College here in Nairobi and this should be seen as part of the necessary expansion of the college. One of the mistakes we have been making is killing some of our middle level colleges. There is nothing wrong with upgrading them to universities, but even as we do that, we should not lose the element of diplomas, higher diplomas and certificate levels. They allow people who leave school with various grades to attain higher education.

In fact, I would have wished we have one in Nairobi, another one at the Coast and perhaps another one in Western Kenya. Western Kenya where I come has a lot of potential for tourism. Lake Victoria is geographical and has historical importance. There are so many other features which would be of high tourist attraction like the Kakamega Forest which is a very unique natural rain forest. There is Mt. Elgon, the weeping stone in Kakamega and Kit Mikayi in Seme. Recently, I was reading in the daily newspapers of an area where our Lady Consolata appeared and I am sure it has great tourism potential.

I support the Motion and I am sure this college will open up Kilifi and fit very well with devolution. As I finish, I just want to call for the extension of the Standard Gauge Railway (SGR) as quickly as possible so that it can reach Busia border, in my area, Port Victoria and Sio Port, so that Kenyans can travel easily and comfortably from one corner of the country right to the Coast.

Attention also needs to be given to some of the very good hotels that existed at one time in Western Kenya like the Sunset Hotel and the Golf Hotel. I do not know what happened to them. It is just mismanagement and impunity that has led to the collapse of those very good institutions. This is a very good Report with well thought out recommendations. If it is implemented, it can only be good for our nation and economy.

I support the Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, there being no other requests, I call upon the Mover to reply.

Let us have Hon. Shaban. Your request was not seen.

Hon. (Dr.) Shaban: Asante sana, Mhe. Naibu Spika wa Muda. Vyombo hivi vimetengenezwa na binadamu na saa nyingine vina matatizo.

Pia mimi naunga mkono Ripoti hii.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Members! Since I had given an opportunity to the Mover to reply, it is at my discretion to give opportunity to Hon. Shaban because her request was not indicated. I order that she be the last one to speak and then the Mover to reply.

Hon. (Dr.) Shaban: Mhe. Naibu wa Spika wa Muda, asante sana kwa kunipatia nafasi hii. Ningependa kusema kuwa Mwenyekiti wa Kamati hii ya kukagua kazi za Serikali, haswa

vile Serikali imetumia pesa, na kama pesa zimefujwa ama zimetumika sawasawa, amefanya kazi nzuri. Mhe. Keynan na wenzake wamefanya kazi nzuri.

Chuo hiki ni cha muhimu sana. Lakini juu ya hapo, ni jambo la muhimu kuwa Wakenya wafahamu kuwa haiwezekani kuwa tunajenga chuo miaka nenda miaka rudi na hakiishi. Kama chuo kilichorwa na mipangilio ilikuwa kuwa awamu ya kwanza ijengwe kwa kutumia pesa taslimu karibu bilioni mbili, basi wangekuwa wamemalizia awamu hiyo ya kwanza. Halafu, kama kuna chochote cha kuongezewa, kiongezewe baadaye. Lakini kwa sasa hivi, miaka imesonga mbele. Hata reli kutoka Mombasa hadi Nairobi ilijengwa kwa miaka mitatu. Ulimwengu mzima, tunapongezwa kuwa hakuna pahali pengine reli inajengwa kwa kasi namna hiyo. Chuo hiki kingekuwa kinawafaa watoto wetu hapa nchini Kenya, na haswa sisi wapwani ambao swala la utalii ni la muhimu sana kwetu na Wakenya wote kwa jumla. Mpaka sana, watu wanakizungumzia kuwa kimetumia pesa mara tano ya kiasi kile ambacho kilikuwa kimetarajiwa kutumika. Na hata leo tunavyozungumza, chuo bado hakijakamilika. Ni mambo ya kustaajibisha sana.

Ni lazima ufujaji wa pesa Kenya hii ukome. Katika uchaguzi unaokuja, wananchi watafanya uamuzi kuwa ufujaji wa pesa lazima ukome. Katika hali ya ugatuzi, vyombo vya ugatuzi na kazi za ugatuzi, unaona kuwa ufujaji unaendelea. Tunaomba kuwa Wakenya wafanye uamuzi, wachague viongozi ambao wataweza kutumia pesa vizuri na vile vile chuo hiki kiweze kukamilika. Mhe. Rais anataka chuo hiki kikamilike maanake anajua faida na hali ya uchumi ambapo utalii unasaidia. Tunaomba chuo hiki kimalizike mara moja. Lakini juu ya hapo, ufujaji wa pesa lazima uchungwe na ulindwe ili chuo hiki kiweze kutekeleza matarajio ambayo kilitarajio kutekeleza.

Nikimalizia, nawaunga mkono wenzangu kwa yote waliyosema na kwa wote waliotoa mapendekezo. Tunaomba chuo hiki kikamilike.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Keynan, you can now reply. You have your six minutes.

Hon. Keynan: Thank you, Hon. Temporary Deputy Speaker. I will take a very short time taking into account that I am fasting and I have to break my fast in the next 10 minutes.

I want to take this opportunity to thank all the Members who have contributed to this very important Report. In particular, I am thankful for the kind words from my friend, Hon. Gumbo. I hope he will be the first governor to be elected on an independent platform. We will then see how things will work out.

The benefits of having a vibrant and working sector is not something that I can overemphasise right now. We understand it. Over the years, we have been saying that the tourism sector is the backbone of our economy, but all that has been theoretical. We need to walk the talk. Other very important tourist destinations are emerging in different parts of the world. Therefore, this particular sector is under threat. What we need to do, and in particular for those who are in charge of this sector, is to reinvent the wheel and look at other dynamics within this sector and ensure that whatever is envisaged in any Government plan is properly implemented.

Having said that, I beg to reply and urge this House to adopt the Special Report of the Public Investments Committee on the Implementation of the Tourism Fund Ronald Ngala Utalii College Project in Kilifi County, laid on the Table of the House on Wednesday, 24th May 2017.

Thank you.

The Temporary Deputy Speaker (Ms.) Mbalu): Hon. Members, I am not in a position to put the Question. I order that putting of the Question be done at the right time as prescribed in the Standing Orders.

(Putting of Question deferred)

Hon. Members, allow me to thank all of you for your cooperation. I wish you a nice evening.

Thank you.

ADJOURNMENT

The Temporary Deputy Speaker (Ms.) Mbalu): Hon. Members, the House stands adjourned until tomorrow, Thursday, 15th June 2017 at 10.00 a.m., as per the resolution that was made by this House earlier today.

The House rose at 6.27 p.m.