

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th April 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: There is no quorum. Ring the Quorum Bell.

(The Quorum Bell was rung)

Very well. We may commence. We now have quorum.

PETITIONS

REVIEW OF VARIOUS ARTICLES OF THE CONSTITUTION

Hon. Speaker: Make your way in, Hon. Tobiko. Just take a seat.

Hon. Members, pursuant to Standing Order No.225 (2)(b), I wish to convey to the House that my office is in receipt of a Petition signed by Ezekiel Njeru Namu, a resident of Embu County. The Petitioner is proposing amendments to several Articles of the Constitution and statutes. Regarding amendments to the Constitution, he is proposing amendments to Article 89 on delimitation of electoral units, Article 98 on membership of the Senate, Article 101 on election of Members of Parliament, Article 120(1) on official languages of Parliament, Article 136 on election of the President and Article 177 on membership and term of County Assemblies.

He is also proposing amendments to the electoral laws with regard to the qualifications for nomination and election of persons into the Offices of a Member of Parliament and Member of County Assembly.

In summary, the Petitioner recommends the following amendments to the Constitution:

- (i) increase the numbers of constituencies from 290 to 300 constituencies;
- (ii) abolish the position of nominated female Senators;
- (iii) abolish the position of Members of County Assemblies nominated on the basis of gender;
- (iv) increase the term of a Member of Parliament to serve for six years in respect of a Member of National Assembly and seven years for Senators;

(Laughter)

- (v) reduce the term of the Presidency from five to four years;
- (vi) abolish all academic qualifications for election to Parliament and County Assemblies; and
- (vii) allow use of local languages in the proceedings of county assemblies.

You will agree with me that the prayers sought by the Petitioner require thoughtful consideration as they propose to fundamentally alter the architecture of our Constitution. The Petition, therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is requested to consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order 227(2). The Committee should undertake to engage the Petitioner and may thereafter introduce necessary Bills for consideration by this House, in respect to the prayers sought by the Petitioner, and should undertake to engage the Petitioner as aforesaid.

RATIFICATION OF THE INTERNATIONAL LABOUR
ORGANISATION CONVENTION 189 OF 2011

Hon. Milemba: Hon. Speaker, I, the undersigned, on behalf of members of the Kenya Union of Domestic, Hotels, Educational Institutions, Hospital and Allied Workers, draw the attention of the House to the following:

THAT, Article 27 of the Constitution provides that every person is equal before the law and has the right to equal protection and benefit of the law;

THAT, Article 41 of the Constitution provides that every person has the right to fair labour practices;

THAT, the Kenya Union of Domestic, Hotels, Educational Institutions, Hospital and Allied Workers is a trade union founded in 1942, with the mandate of securing, promoting and protecting the welfare and interests of workers in the domestic sector amongst them, hotels, educational institutions, hospitals, homes and churches;

THAT, domestic workers are a component of the Kenya Union of Domestic, Hotels, Educational Institutions, Hospital and Allied Workers;

THAT, there are an estimated 100 million domestic workers globally;

THAT, in Kenya, the domestic workers sector is not recognised. Further concerned that the sector contributes more than 1 per cent to the GDP annually;

THAT, domestic workers face numerous challenges, among them low and irregular pay, long working hours, lack of legal recognition, discrimination and lack of terms of employment;

THAT, in 2011 the International Labour Conference adopted the Decent Work for Domestic Workers Convention No.189 of 2011 and Kenya is party to the Convention;

THAT, the Convention seeks to guarantee decent work for domestic workers, provide a comprehensive legal framework which acknowledges the right of workers and secure minimum protection of domestic workers rights;

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

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Labour and Social Welfare:

- (i) Causes the ratification of the International Labour Organisation Convention No. 189 of 2011, in accordance with Ratification of Treaties Act of 2012;
- (ii) Introduces and passes necessary legislation for the operationalisation of the said Convention; and
- (iii) Makes any other order or direction that it deems fit in the circumstances of the matter.

Your Petitioners will ever pray.

Hon. Speaker: Hon. Members, for the convenience of the House, because of the business that is before us, I will suspend the operation of Standing Order No.226 with regard to comments on the two Petitions so that the House can deal with the business that is on the Order Paper. The two Petitions will stand committed to the relevant Committees. The one by Hon. Omboko Milemba should go to the Departmental Committee on Labour and Social Welfare. The other one is as directed to the Departmental Committee on Justice and Legal Affairs.

Let us move to the next Order.

PAPERS LAID

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

Estimates of Revenue and Expenditure from the Equalisation Fund for the 2017/2018 Financial Year;

The Judiciary's:

- (a) Sub-sector Report;
- (b) Programme-based Budget (PBB) for the Medium Term Expenditure Framework period 2018/2019 to 2020/2021; and
- (c) Recurrent and Development Budget Estimates for the Financial Year 2018/2019.

Hon. Speaker: Those Reports stand committed to the relevant Committees.

Let us move on to the next Order.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 24TH TO 26TH APRIL 2018

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No.44 (2) (a), I rise to give the statement on behalf of the House Business Committee. The Committee met this week at the rise of the House to give priority to the business that will be considered.

On Tuesday next week, we will consider in the Committee of the whole House, the Petroleum (Exploration, Development and Production) Bill, 2017. Also scheduled for consideration at the Second Reading is the Kenya Coast Guard Service Bill, 2017. In the same week, we shall schedule the Report of the Committee on Delegated Legislation relating to the National Transport and Safety Authority (Operation of Commercial Vehicles), Regulations 2018 for debate if not concluded today.

Hon. Speaker, on Questions before committees, Cabinet Secretaries are scheduled to appear before the committees on Tuesday, 24th April 2018 as follows:

One, the Cabinet Secretary for Interior and Coordination of National Government will appear before the Departmental Committee on Administration and National Security to answer Questions from the following Members: Hon. William Kamket, MP, Hon. Muturi Kigano, MP, Hon. Caleb Kositany, MP, Hon. Gideon Mulyungi, MP and Hon. Aramat Lemanken, MP, and Hon. Omar Mohammed Maalim, MP, in the main chamber at County Hall at 10.00 a.m.

Two, the Cabinet Secretary for Labour and Social Protection before the Departmental Committee on Labour and Social Welfare to answer Questions from the following Members: Hon. Muturi Kigano, MP and Hon. David Gikaria, MP, in the main chamber at County Hall.

Three, the Cabinet Secretary for Environment and Natural Resources before the Departmental Committee on Environment and Natural Resources to answer Questions from Hon. Peter Kaluma, MP, in the main chamber at County Hall at 11.30 a.m.

The HBC will reconvene on Tuesday, 24th April 2018 at the rise of the House to consider business for the coming week. I now wish to lay the Statement on the Table of the House.

Thank you.

(Hon. A.B. Duale laid the document on the Table)

Hon. Speaker: Hon. Maoka Maore.

Hon. Maore: There was a statement sought by the Member for Mathare about ICT innovations. That is what I want to give.

Hon. Speaker: Yes. Proceed.

REQUIREMENT TO ESTABLISH ICT INNOVATION
HUBS IN CONSTITUENCIES THROUGH NGCDF

Hon. Maore: Hon. Speaker, during the House sitting of Thursday, 12th April 2018, Hon. Andrew Oluoch, MP, for Mathare Constituency requested for a statement pursuant to the provisions of Standing Order 44(2)(c), regarding establishment of ICT innovation hubs in every constituency through National Government Constituencies Development Fund (NG-CDF).

In the Statement, the Member requested the Chairpersons of Budget and Appropriations Committee, Select Committee on NG-CDF and Departmental Committee on Communication, Information and Innovation to address the following concerns:

1. Though the executive/Ministerial directive to establish innovation hubs is a noble idea, is it within the provisions of the NG-CDF Act, regulations as well as the Constitution?
2. Considering the limited funds available to NG-CDF, would the Ministry consider having the hubs established and the infrastructure maintained through the line Ministry, and budgeted accordingly for approval in the 2018/19 budget Estimates, while constituencies provide the physical infrastructure (buildings) to host the project?

3. Considering the Kshs15 million reduced from NG-CDF during the 2017/18 Supplementary Budget, would the Budget and Appropriations Committee consider allocating a similar amount in the 2018/19 Supplementary Estimates II?
4. When is the National Treasury expected to release outstanding NG-CDF funds to NG-CDF committees to enable them discharge their duties?

Noting that the second and third concerns are properly before the Departmental Committee on Communication, Information and Innovation and Budget and Appropriations Committee respectively, I would wish to address the first and the fourth questions.

The Ministry responsible for Information, Communication and Technology (ICT), in line with Kenya Vision 2030, initiated Constituency Innovation Hub (CIH) project with a view to mainstream ICT at the grassroots level and provide youth with a platform for digital opportunities, including online jobs.

The partnership between the Ministry and NG-CDF was discussed during a retreat bringing together the Ministry, NG-CDF Board and the National Assembly Select Committee on NG-CDF held in February 2017. This entails the Ministry through Telkom Kenya Limited procuring the system and services comprising of a Satellite Antennae, Router, Digital Access Kit and Digital Ruggedized Tablets, Wi-Fi with outdoor wireless device complete with 12U cabinet complete with installation accessories.

The NG-CDF, through the Constituency Committees, on the other hand, will pay Kshs1,169,256.80, inclusive of 16 per cent VAT as a one-term payment to Telkom Kenya Limited for each site. The Ministry will subsequently pay recurring bandwidth charges at an estimated Kshs11,716 inclusive of 16 per cent VAT per site. Each constituency will be expected to support the implementation of, at least, four sites at a cost of Kshs4,677,027.20

At present, a total of 244 constituencies have proposed funding for ICT Hub Project and have allocated money for the projects for the 2017/18 Financial Year. These comprise the following: 37 constituencies from Nyanza Region; 24 constituencies from Coast Region; 27 constituencies from North Rift Region; 22 constituencies from Upper Eastern Region; 16 constituencies from Nairobi Region; 20 constituencies from Lower Eastern Region; 31 constituencies from Western Region; 40 constituencies from South Rift Region and 27 constituencies from Central Region.

Most constituencies have proposed four hub projects which are the minimum required. However, there are those that have proposed one, two and three, but also, there are constituencies that have exceeded the four and have proposed as high as seven like Mwala Constituency.

With regard to responsibilities of the parties in the agreement the following shall apply:

- (a) The Ministry of Information, Communications and Technology shall be responsible for:
 - (i) Payments of all the recurring monthly charges incurred in the utilization of internet bandwidth in up to four sites in the 290 constituencies, and
 - (ii) Offering any other Information, Communication and Technology assistance or policy guidance and/or support to ensure efficient delivery of the services in the project.
- (b) The Constituency Development Fund Committee shall be responsible for:

- (i) Undertaking necessary consultations with the respective constituencies in the supply, installation, testing and commissioning of the equipment and the overall project implementation.
 - (ii) Provision of the necessary funds for the supply, installation, testing and commissioning of equipment.
 - (iii) Maintain liaison, as may be necessary with other constituencies in the implementation of the project.
 - (iv) Facilitating the execution of the resulting framework contracts between the respective Committee and the company in the supply, installation, testing and commissioning of the equipment.
 - (v) Full time staff to man the place, have secure place to store the devices and have a framework and policies of operationalisation of the hub
- (c) The Telkom Kenya Limited shall be responsible for:
- (i) Ensuring that the equipment supplied, installed, tested and commissioned is fully integrated/compatible with the services, and,
 - (ii) Submitting the necessary invoices on the utilization of the internet for settlement by the Ministry.

Hon. Speaker, the Constituency Innovation Hub project is consistent with Section 49 of National Government Constituencies Development Fund Act that provides that the Board may consider part-funding of a project financed from sources other than the Fund as long as the financiers or donors of the project have no objections, provided that the part-funding availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project.

For the project of this magnitude to succeed, parties involved need to engage further and consult more regularly with users and other stakeholders. It has not been the case so far.

Hon. Speaker, regarding the status of receipt of funds from the National Treasury and Ministry of Planning and disbursement of funds to the constituencies as at 17th April 2018, the summary is as follows:

The Board was allocated Kshs26.5 billion in the Financial Year 2017/2018. This comprises Kshs25.175 billion being allocation for disbursement to the constituencies. Kshs1.325 billion was 5 per cent allocation to the Board's secretariat for administrative purposes. The Board has so far received Kshs16 billion from the National Treasury and Ministry for Planning as at 16th April 2018. They have been releasing Kshs2 billion on a weekly basis for the last eight weeks beginning 19th January. The total amount they have released is Kshs16 billion.

During the Financial Year 2016/2017, the allocation to the Board was Kshs25 billion. The Board also had pending receipts from National Treasury which were amounting to Kshs4,976,750,000 relating to Financial Years 2011/2012, 2013/2014 and 2014/2015 by the end of 2015/2016 Financial Year. This totalled to Kshs29,976,750,000 expected to be received in Financial Year 2016/2017.

However, in a preliminary ruling in the High Court on the Petition against NG-CDF, the Cabinet Secretary in charge of the National Treasury was barred from releasing to the NG-CDF any amount exceeding Kshs25 billion during the Financial Year 2016/2017 pending hearing and disposal of the Petition. Due to this court ruling, the Board only received Kshs25 billion allocated in the Financial Year 2016/2017. The arrears are still pending to date. The breakdown of the arrears is as follows: For 2011/2012 Financial Year, it is Kshs541,750,000. For 2013/2014 Financial Year, it is Kshs2,128,500,000. For 2014/2015 Financial Year, it is Kshs2,306,500,000. The total amount is Kshs4,976,750,000.

On the criteria for disbursement of funds to constituencies, due to piecemeal release of funds, the Board has been facing challenges in meeting the constituency financial demands. In this regard, the following disbursement criteria have been adopted: First, priority is to constituency requisitions with respect to past financial years. Second, priority is to constituencies whose proposals have been approved and therefore qualify for funds for Financial Year 2017/2018.

Out of the funds received from the National Treasury, Kshs14,000,000,000 has been disbursed to the constituencies and the secretariat as follows:

- (a) Kshs3,945,166,470 has been disbursed to the constituencies with respect to their outstanding balances for previous financial years.
- (b) Two hundred and sixteen constituencies have received 50 per cent, that means Kshs5 million and Kshs37 million, a total of Kshs43 million. During the financial year 2017/2018 an allocation amounting to Kshs9,372,962,461 has been made.
- (c) Seven Constituencies have received statutory allocation of their Financial Year 2017/2018 allocation amounting to Kshs164,301,541.
- (d) Sixty seven constituencies have received Kshs5.5 million each out of their Financial Year 2017/2018 allocation amounting to Kshs368,500,000
- (e) Kshs132,220,000 has been set aside for the NG-CDF Board secretariat for administrative purposes.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Mathare. Unfortunately, under Standing Order No. 44(c) which you used, there is no opportunity for debate. But, I want to give you one minute.

Hon. Oluoch: Thank you, Hon. Speaker.

Allow me to thank Hon. Maoka Maore for the response and speedy manner in which he has responded to this matter which is clearly one that concerns all Members of this House, gauging from the mood of the House last time.

There are only two things I wish to state by way of clarification or correction. Yes, under Section 49 of the National Government Constituencies Development Fund Act, committees may be able to partner to carry out projects. But the question here is: Were these projects proposed by the Board as contemplated by the NG-CDF Board and, was there public participation? With the possible exception of the Leader of the Majority Party who clearly refused and I agree with him, these ICT projects were imposed upon all constituencies. If this is the case, this must be revised. We agree with the ICT hubs but, we need that Kshs4 million revised and taken to projects on need basis of each constituency.

As I thank him, this issue should be revisited so that the NG-CDF committees at the constituencies are allowed, in accordance with the needs in the constituencies to either adopt or not to adopt these ICT hubs.

Thank you.

Hon. Speaker: Hon. Maore, do you want to respond?

Hon. Maore: Yes. I want to clarify.

From the response we have done, the approval is not mandatory. As I have said, there are 244 constituencies which have already requested for funding. They have put their proposals to the Board and they have been approved. So, it is upon Members. They have a minimum of up to four hubs. We have approved for two in my constituency. For those who do not want them, it is not a must. When something of this magnitude comes in, there is what we call “the devil is in the details”. We do not want you to say that it is the NG-CDF Board or anybody who forced you to

undertake this initiative. Do it according to your conscience; do according to the needs of your constituency. You may cancel or withdraw. It is only that the law is on your side.

Hon. Speaker: Hon. Members, if you look at Standing Order No. 44(2)(c), there is no opportunity for debate. We are not yet through with this Statement. There was a component which went to ICT. Hon. Kisang, do you also have a Statement?

(Several Members stood in their places)

Be very careful Members. Standing Orders are very clear. Do not stand between the Chair and the Member speaking.

Hon. Kisang: Thank you, Hon. Speaker.

As the Departmental Committee on Communication, Information and Innovation, we have discussed this matter with the Cabinet Secretary in charge of ICT on several occasions. What the Chairman of the Committee on the National Government Constituencies Development Fund (NG-CDF) needs to tell us is why the NG-CDF Board made this a mandatory requirement. If you do not put up the four ICT hubs, your proposal for 2017/2018 will not be approved. So, that is where there is a contention. But, as a Committee, we have called the CS and discussed.

Since this is the House that passes the Budget for the national Government, we are in discussions and we are proposing to remove this allocation from the NG-CDF and channel the funds through the Ministry in charge of ICT so that it can implement the ICT hubs in every constituency. We do not have to do all the four at once. There are some constituencies with seven wards, some with six and others with three. So, we need to phase out these Constituencies Innovation Centers. But before we conclude discussion of the Budget for 2018/2019, we need to look at the 2017/2018 Financial Year's allocation. It should be budgeted through the Ministry in charge of ICT so that we do not have to use the resources that are factored under NG-CDF as demanded by the NG-CDF Board. That is what we are discussing. Before we break for recess, we would want the Cabinet Secretary to commit so that we put money into the Budget for 2018/2019 instead of using the NG-CDF.

Hon. Speaker: Hon. Lessonet do you have a comment regarding that Statement? Please Hon. Members, be very brief.

Hon. Lessonet: Thank you, Hon. Speaker. I will be very brief. We are responding to the Statement by Hon. Oluoch specifically on the Kshs 4.5 billion which was reduced in Supplementary Estimates I from the NG-CDF. During the 2017/2018 Financial Year, NG-CDF was allocated Kshs 30.9 billion. However, during the first Supplementary Budget Estimates last year in October, that figure was reduced to Kshs 26.5 billion because the Government was in need of cash to run elections. We are now in the second Supplementary Budget Estimates. As the Budget and Appropriations Committee, we shall be waiting for submissions next week from Departmental Committees and we will be looking forward to see whether there will be a proposal to increase the NG-CDF by Kshs 4.4 billion so that we go back to Kshs 30.9 billion. The Budget and Appropriation Committee will then put that into consideration.

That is the end of the Statement, I thank you.

Hon. Speaker: I hope every Member listened to that. Hon. Oluoch, unfortunately, I may not allow you to thank or even seek clarification from him, because there may be no need. To emphasise the point, the Budget and Appropriations Committee is scheduled to meet the Chairs of other Departmental Committees and the Select Committee on the NG-CDF. Hon. Lessonet, the House Business Committee has already discussed this matter and scheduled that by

Wednesday, if possible you should be through and bring your report and resolution so that before the end of the week the Supplementary Appropriation Bill, No. 2 is published. As you know the House is scheduled to proceed on the normal recess on 3rd May 2018. So it is fair that those processes of the Supplementary Budget are completed. It will not make sense for the House when it resumes on 5th June to come and discuss matters of Supplementary Estimates when it will be less than 10 days to the date that the Cabinet Secretary for National Treasury will be scheduled to give the Budget highlights for 2018/2019. Therefore it is absolutely necessary that before the end of next week the House expresses itself on the Supplementary Estimates No. 2.

Hon. Gikaria, Member for Nakuru Town East.

Hon. Gikaria: Thank you, Hon. Speaker. I am rising to make a comment on what the Leader of the Majority Party had earlier indicated. He said that I should go before the Committee next Tuesday. I just want to request through the Leader of the Majority Party and the HBC to reschedule and allow me to go to the Committee on some later date. On Tuesday, my committee, the Committee on Energy will be travelling to Iceland for a conference on matters to do with geothermal. As you had directed last time, if a Member is not present, then his Statement will be dropped. So I am requesting that I be rescheduled for a later date.

Thank you, Hon. Speaker.

Hon. Speaker: It is good that you were attentive when the Leader of the Majority was reading out the business for Tuesday next week. Leader of the Majority Party, having heard Hon. Gikaria's request, coordinate with the Clerk's Department to make sure that the business is not scheduled on Tuesday next week. The Leader of the Majority Party and Hon. Gikaria should also coordinate with regard to the Petroleum Bill which was to come to the Committee of the whole House, next week.

Hon. Gikaria: Thank you, Hon. Speaker. I had forgotten about that. Some time back the Leader of the Majority was very categorical about how committees should be handling their affairs. If the Chairman is not there, then he or she should not kill the process of the committee. We have agreed with my committee Members and I gave that responsibility to my Vice Chair who will be handling the Petroleum Bill. So I think the Third Reading on Petroleum Bill will proceed because we have an arrangement with the Vice Chair.

Hon. Speaker: That is good. Next Order.

CONSIDERATION OF REPORT AND THIRD READING

THE KENYA ROADS BILL

Hon. Speaker: Hon. Members, as you will all recall, the House resolved into Committee of the whole House yesterday to consider the Kenya Roads Bill (National Assembly Bill No. 47). I must commend the House and those Members who stayed. Members, you are aware that the House gets criticised about the quality of Bills. The quality of Bills that come out is as good as your participation. You are the ones who inform the quality of legislation that comes out. Obviously, I must exonerate myself from quality because it is your business and you are the ones who input into the Bills. I am saying this because we have two other Bills that are scheduled for the Committee of the whole House and I urge you to participate because you help enrich the Bills for the benefit of the rest of the country.

(Question proposed)

(Question put and agreed to)

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Kenya Roads Bill (National Assembly Bill No. 47 of 2017) Bill be now read the Third Time. I request Hon. Cecily Mbarire to second.

Hon. (Ms.) Mbarire: Hon. Speaker, I second.

Hon. Speaker: Hon. Members, as you know, this procedure sometimes looks tedious, but it is part of our tradition and custom. I therefore propose the Question.

(Question proposed)

At this point, a Member may make comments but if there are none like I see none... The Member for Seme, Hon. Nyikal, I noticed that you participated extensively in the Committee.

Hon. (Dr.) Nyikal: Hon. Speaker, let me start by congratulating the Committee. They did a good job and there are a lot of important amendments that are now going to be part of the law. But one thing that came out and I want to comment about is that there was a lot of input from the PPP arrangements that have come into this Bill. The way I saw it, it is going to be extremely important that the Ministry in charge takes keen interest on how these are applied. Yesterday I said, and I think some officers are in the House, that it is going to be extremely important that a unit in the Ministry is set up to monitor and lay down the procedures for implementing these PPPs. We must realise that the private sector is out for business and profit while the public sector is out for the interest of the public and safeguarding the interest of the public. Therefore, there is need for caution and there is need for that unit. We expect that at one point we should have a report on how this is proceeding.

Thank you, Hon. Speaker.

Hon. Speaker: It looks like there are no more comments. Therefore, I proceed to put the Question having confirmed that the House has quorum. As you know, it is a mandatory requirement under Article 122 that we cannot put a Question unless the House has the requisite numbers, which is not less than 50. I have confirmed that we have more than that, almost double.

(Question put and agreed to)

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

Hon. Speaker: Next Order.

BILLS

First Readings

THE URBAN AREAS AND CITIES (AMENDMENT) BILL

THE WAREHOUSE RECEIPT SYSTEM BILL

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

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

COMMUNICATION FROM THE CHAIR

PROPOSED AMENDMENTS TO THE ENERGY BILL

Hon. Speaker: Hon. Members, I have a communication to make before we proceed with the next business. This communication relates to the business which the House is going to consider regarding proposed amendments to the Energy Bill (National Assembly Bill No. 46 of 2017) by the Member for Mvita, Hon. Abdullswamad Sheriff Nassir.

The proposed amendments to clauses 194 and 195 seek to compel a licensee in the energy sector that is involved with power distribution to provide for compensation of consumers for a financial loss, physical injury or any other cases. Pursuant to the provisions of Article 114 of the Constitution, I am of the view that the said amendments have money Bill implications as the amendments will obligate the authority proposed to compensate consumers using public funds for financial loss arising from power outages. Moreover, the proposed amendment has not defined what outages are and their causes and whether the proposed compensation should obtain even if the said outages may be caused by what are naturally known as “acts of God”.

Article 114(2) of the Constitution provides that if in the view of the Speaker a Motion makes provisions for a matter listed in the definition of a money Bill, the Assembly may proceed only in accordance with the recommendation of the relevant committee, after taking into account the views of the CS responsible for finance. In this regard, I have not received recommendation from the Budget and Appropriations Committee, taking into account the views of the CS responsible for finance. In the circumstances, therefore, the Committee of the whole House shall not consider these particular amendments.

I thank you, Hon. Members.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

(The Chairman (Hon. Cheboi) took the Chair)

THE IRRIGATION BILL

Clause 3

Hon. A.B. Duale: Hon. Chairman, I beg to move:

THAT, Clause 3 be amended by deleting sub clause (1) and substituting therefor the following new sub clause—

“(1) The provisions of this Act shall apply, as more specifically provided in the Act, for development, management, financing, provision of support services and regulation of the entire irrigation sector in Kenya”.

This is just to conform to the letter and the spirit of the Constitution, as far as irrigation is accommodated in the distribution of functions under Schedule Four and also provide for the hydraulic process pertaining to irrigation water.

(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 3 as amended agreed to)

(Clauses 4 and 5 agreed to)

Part II

Hon. A.B. Duale: Hon. Chairman, I beg to move:

THAT, the heading to Part II be deleted and replaced with the following—

“PART II—DEVELOPMENT, MANAGEMENT AND REGULATION OF IRRIGATION”

This is to align with the statement of the object of the Act and be consistent with the content and framing of Section 6(i)

(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)

(Part II as amended agreed to)

Hon. Chairman: Hon. A.B. Duale, we will proceed sub-clause by sub clause.

Hon. A.B. Duale: Hon. Chairman, let us start with the Committee amendments.

Hon. Chairman: Let us look at it first, because the Committee does not have Clause 6(i). The Committee does not have an amendment on that one. So we will have to dispense with that one by the Mover of the Bill. Hon. Duale, the one which you are substituting and deleting.

Clause 6(1)

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

THAT, Clause 6 be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

“(1) The Cabinet Secretary shall develop, manage and regulate irrigation throughout Kenya and to this extent shall ensure the effective exercise and performance by any authority or person under the authority of the Cabinet Secretary of their powers and duties in relation to irrigation and drainage, including water harvesting and storage for irrigation”;

This is to delete and replace with what I have provided. The main gist is to be consistent with the object of the Act citing irrigation and not agriculture.

(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 6(1) as amended agreed to)

Clause 6(2)(b)

Hon. Ali Adan Hon. Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended in (2) by –

(a) deleting the words “by the counties” appearing in paragraph (b)

The amendment seeks to make the provision to be all encompassing and not just limited to counties. Thank you.

(Question of the amendment proposed)

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

(Clause 6(2)(b) as amended agreed to)

Clause 6(2)(d)

Hon. Chairman: Since the Hon. Leader of the Majority Party had a similar proposal and the fact that it has been carried, it serves the same purpose. Who will move Clause 6(2)(d) since both of you have similar amendments? The Hon. Chair, please proceed.

Hon. Ali Adan: Hon. Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended in sub clause (2) by—

(b) deleting the word “promote” and substituting therefore the word ‘facilitate’ appearing in paragraph 9d); and

This is to make it more general than limiting it to a particular county.

(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 6(2)(d) as amended agreed to)

Clause 6(2)(h)

Hon. Ali Adan: The Hon. Leader of the Majority Party has the narrative.

Hon. Chairman: No, not on this one. This one is by you the Chair.

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended in sub clause (2) by—

(c) inserting the following new paragraphs immediately after paragraph (h)—

“(ha) in collaboration with county governments, gather information and maintain data bases on irrigation development and management including data on irrigation water supplies, demands, projects, irrigated areas, management performance, potential for expansion and human resources;”

Hon. Chairman: Do you have reasons for it, Hon. Chair? Well, obviously Members have looked at it. Since I am not seeing any Member raising an issue on it, I will put the Question.

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

(Clause 6(2)(h) as amended agreed to)

Clause 6 (2)(hb)

Hon. Chairman: You want to place a new paragraph.

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended in sub clause (2) by—

(c) inserting the following new paragraph immediately after paragraph (ha)—

“(hb) conduct periodic technical and management audits of irrigation schemes infrastructure, governance, management and financing.”

This is because we would like to conduct periodic technical management audit of irrigation schemes infrastructure, governance, management and financing.

(Question of the amendment proposed)

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

(Clause 6 (hb) as amended agreed to)

Clause 6 (2)(j)

Hon. Chairman: That is for the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Chairman, I beg to move:

THAT Clause 6 be amended—

(b) in sub-clause (2), by—

(iii) inserting the words “or any other written law” immediately after the word “Act” in paragraph (j);

I am deleting that and then replacing it. The gist of it is just to provide for the roles assigned to the Cabinet Secretary through regulations at both levels of Government.

(Question of the amendment proposed)

Hon. Chairman: What is the point?

Hon. Wangwe: Hon. Chairman, we are lost. We seem not to be with the Leader of the Majority Party. Let him take us to where he is making the amendments.

Hon. Chairman: You said you are lost somewhere. Let us see how we can find you. Is it a problem with the Order Paper? Have you seen the supplementary one? What is it, Hon. Cecily Mbarire? Even as you rise, if you look at Page 265 of your Order Paper, you will see something in Roman (iii) at the very tail end. Look at that at the very end. Do you see something there? I can see you really put up your eye glasses and therefore you quickly found it.

What is it, Hon. Wachira Kabinga?

Hon. Josphat Wachira: Thank you, Hon. Chairman. I just wanted to understand because I also have an amendment in Clause 2 and we have already passed that. Are you going to go back?

Hon. Chairman: We have not yet reached Clause 2. Members keep asking about that. The Title, Clause 1 and Clause 2 always come at the tail end. So, be very patient and wait. It will be there.

The Leader of the Majority Party had already given his proposal and reason and I had already proposed. Probably, if there is a Member who wants to speak to it, I will be happy to see them at the intervention slot. I see none.

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

(Clause 6(2)(j) as amended agreed to)

Hon. Chairman: We proceed to Clause 6 (4) again by the Leader of the Majority Party. What is it Hon. Nyikal Wambura?

Hon. (Dr.) Nyikal: I fail to see at Page 265 what we have just amended. I looked at Page 265 of the Order Paper and I did not see.

Hon. Chairman: Let me read it for you. It says:

“inserting the words “or any other written law” immediately after the word “Act” in paragraph (j);

Hon. (Dr.) Nyikal: What I can see is Clause 9.

Hon. Chairman: Look at Clause 6 at Page 265. If you come back to Page 264, for you to be up to speed, you will see that we are dealing with Clause 6 at the very bottom. Can you see that? Then we proceed to...

Hon. (Dr.) Nyikal: I have found it.

Hon. Chairman: I am sure you have found it like you would find penicillin very easily on the doctor’s table. So, we were already at sub clause (4).

Clause 6(4)

Hon. A. B. Duale: Hon. Chairman, I beg to move:

THAT Clause 6 be amended—

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

“(4) The Cabinet Secretary shall, in consultation with the county governments and other stakeholders, formulate and publish in the Kenya Gazette, a five-year national irrigation services strategy, based on, among others, the national irrigation policy for the time being in force”;

For Members to follow, I am deleting that section and replacing it with another one which reads:

“The Cabinet Secretary shall, in consultation with the county governments and other stakeholders, formulate and publish in the Kenya Gazette, a five-year national irrigation services strategy, based on, among others, the national irrigation policy for the time being in force.”

This is just to make sure that we synchronise it with the planning policy cycle of five years applicable to government development blueprint.

Hon. Chairman: I understand why the Members are having issues. It is because we have really dealt with a specific clause in sub-clauses.

(Question of the amendment proposed)

Hon. Chairman: I see no interest in this one. I will 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 6(4) as amended agreed to)

Let us now go to the last one in Clause 6 which is sub-clause (5).

Clause 6(5)

Hon. A. B. Duale: Hon. Chairman, I beg to move:

THAT Clause 6 be amended—

(d) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The Cabinet Secretary shall ensure effective implementation of the national irrigation services strategy and to this end shall institute reviews aligned to planning cycles or at such times as the Cabinet Secretary may determine”.

Hon. Chairman, basically I am deleting and replacing it with what is now sub-clause (5). This is again to synchronise with the planning cycle of five years applicable to the government development blueprint.

(Question of the amendment proposed)

Hon. Chairman: Hon. Members, I have said any Member who wants to speak has to press the intervention button and I do not see any Member.

*(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 6(5) as amended agreed to)

Now having done all what is in Clause 6, I now put the Question.

(Clause 6 as amended agreed to)

Part III Title

Hon. Chairman: Either Hon. Duale or the Chairman of the Departmental Committee on Agriculture and Livestock can move because your amendments are the same. Of course, I would prefer the Leader of the Majority Party to do it, but that is fine.

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, the title of Part III of the Bill be amended by deleting the word “development” appearing immediately after the word “irrigation”.

This is basically the heading to Part III be amended by deleting the word “development”.

(Question of the amendment proposed)

Hon. Chairman: Let us have the Leader of the Majority Party.

Hon. A.B. Duale: The Chair of the Committee has proposed to change the name of the authority. It was called the National Irrigation Development Authority before, but now we have said it should be National Irrigation Authority.

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

(Part III Title as amended agreed to)

Clause 7

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 7 of the Bill be amended in sub clause (1) by deleting the word “development” appearing immediately after the word “irrigation”.

The proposed amendment seeks to delete the word “development” which appears immediately after the word “irrigation. Thank you.

(Question of the amendment proposed)

Hon. Chairman: There is no interest on this proposed amendment.

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

(Clause 7 as amended agreed to)

Clause 8

Hon. Chairman: Hon. Members, we will handle Clause 8 the way we handled Clause 6. Please look at the sequence.

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended—

(a) in sub clause (2) by -

(i) inserting the words “the county government” immediately after the word “finance” appearing in paragraph (c);

(ii) deleting paragraph (e); and

(iii) deleting paragraph (i).

(b) in sub clause (3) by —

(i) deleting the word “shall” and substituting therefor the word “may”;

(i) deleting the words “primarily through the Authority and with the permission of the Cabinet Secretary, such powers and functions are best performed directly by the authority” appearing immediately after the word “contracts”.

The proposed amendment seeks to ensure consultation with county governments. Thank you.

(Question of the amendment proposed)

Hon. Chairman: Hon. Nyikal, please request to contribute at the intervention slot always because I am assuming that the Members who are making requests are basically queuing. I give you the opportunity to contribute now.

Hon. (Dr.) Nyikal: Hon. Chairman, I seek an explanation as to why the Members are moving the proposed amendments like this. They are saying that they move them as they appear in the Order paper. Many Members do not follow the logic behind it. That is why we are seated here.

Hon. Chairman: The Chair said that the proposed amendment will provide consultation with county governments but he can still clarify.

Hon. Ali Adan: Thank you, Hon. Chairman. The proposed amendment seeks to ensure consultation between the two levels of government.

Hon. Chairman: Hon. Wetangula, do you have something on this amendment?

Hon. Wetangula: No, Hon. Chairman. I wanted the Chair to give us the rationale of that amendment.

Hon. Chairman: Okay.

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

Let us proceed to Clause 8(2)(a)(ba) where there is an amendment by Hon. Wachira Kabinga.

Clause 8(2)(ba)

Hon. Josphat Wachira: Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended in sub clause (2) by—

(a) inserting the following new paragraphs immediately after paragraph (b)—

“(ba) in consultation with the county governments and other stakeholders facilitate formation and strengthening of scheme management committees at scheme level for management of the schemes.”

This is as a result of a lot of consultation with farmers out there and calls to some of the existing schemes. The Bill which we are amending today is out of Cap 347 that has guided the management of irrigation schemes since 1958. We have had a lot of experience over time. It is our hope that this new Bill will not only enable better management of the schemes but also enable...

Hon. Chairman: You are giving a speech on this amendment.

Hon. Josphat Wachira: Hon. Chairman, I am not giving a speech. I wanted to explain why I have brought this amendment. For good and smooth management of irrigation schemes, we need three entities. We have the Water Users Association which is already defined in this Bill. We want to bring in a Scheme Management Committee because Article 19 of this Bill proposes the smooth transfer of skills and management to the local communities. That is why I have brought in Scheme Management Committee as a structure that will enable that transition of skills and management.

Thank you, Hon. Chairman.

Hon. Chairman: I want you to be brief in the next amendment because this is a Committee of the whole House.

(Question of the amendment proposed)

Hon. Wangwe, Member for Navakholo.

Hon. Wangwe: Thank you, Hon. Chairman. Whereas I appreciate what my colleague is saying, these are operational issues which cannot be levelled in the entire Act. Therefore, it is a suggestion that we agreed to as a Committee because of the introduction of the levels of administration. These are the Scheme Management Committee and the Water Users Association.

All the parties in the irrigation systems should be left in the regulation but not in the way it is in the Act.

Thank you.

Hon. Chairman: Are you opposing the amendment?

Hon. Wangwe: Yes, I am, Hon. Chairman.

Hon. Chairman: Hon. Kabinga, do you want to say something about the amendment?

Hon. Josphat Wachira: Hon. Chairman, I would like to have the right to reply.

Hon. Chairman: By the way, this issue of the right to reply at the Committee of the House stage does not arise. I am giving you an opportunity to clarify. I also heard that yesterday.

Hon. Josphat Wachira: Thank you, Hon. Chairman. I have proposed this amendment because the Bill already recognises the Water Users Association. It is part of the structures that we are talking about. If my colleague is saying we need to have Scheme Management Committee in the subsidiary regulations, then we also need to have the Water Users Association in it.

Thank you, Hon. Chairman.

Hon. Chairman: Since there is no interest in this amendment, I will put the Question. Hon. Members, your voices have to be clear. Those who support the proposed amendment by Hon. Wachira Kabinga will vote aye and those who oppose it will vote no. There will be no voice abstentions. I will assume that everybody will have participated.

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

(Clause 8 (2)(ba) as amended agreed to)

Clause 8(2)(bb)

Let us proceed to Clause 8(2)(bb). Hon. Wachira Kabinga.

Hon. Josphat Wachira: Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended in sub clause (2) by—

(a) inserting the following new paragraphs immediately after paragraph

(b)—

“(bb) in consultation with the county governments and other stakeholders facilitate formation and strengthening of dispute resolution committees at scheme level for the resolution of disputes relating to scheme management.”

This clause is the same as Clause 8 (2)(ba). We are looking at dispute resolution committees here.

(Question of the amendment proposed)

Hon. Chairman: I thought you had given the reason, Hon. Kabinga. If you did not, you will not convince your colleagues. There is no Member who wants to contribute to this amendment. It gives me a problem. I do not know whom I will give the opportunity to contribute.

Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Chairman, I want to support this amendment. The Member wants to make sure that there is proper participation of the people at the ground whether it is in management or dispute resolution. That is desirable. I support.

Hon. Chairman: Members will vote.

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

(Clause 8 (2)(bb) as amended agreed to)

Hon. Chairman: Let us have the Chairperson.

Hon. Ali Adan: We do not have an amendment from the Committee on Clause 8 (2) (i). Unless it is from the Leader of the Majority Party.

Hon. Chairman: There is one if you look at page 261 and look at the clause you are proposing to insert the words “county government” immediately after the word “finance” appearing in paragraph c.

It is (i). I do not know whether you have seen that.

Clause 8(2)(c)

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended—

(a) in sub clause (2) by -

(i) inserting the words “the county government” immediately after the word “finance” appearing in paragraph (c);

It is basically to insert the words “county government” immediately after the word “finance” appearing in paragraph (c).

Thank you.

(Question of the amendment proposed)

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

(Clause 8 (2)(c) as amended agreed to)

Clause 8(2)(e)

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended—

- (a) in sub clause (2) by-
- (ii) deleting paragraph (e);

This is basically deleting paragraph (e).

Hon. Chairman: Hon. Members, that is a deletion. It would serve us well all the time if we have some explanation. Now that you are seated with your Chair, you should be arranging yourself quickly. The next one will be a deletion also.

(Question of the amendment proposed)

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

(Clause 8 (2) (e) as amended agreed to)

Clause 8(2)(i)

Hon. Ali Adan: Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended—

- (a) in sub clause (2) by –
- (iii) deleting paragraph (i).

This is also basically to delete paragraph (i).

Thank you.

Hon. Chairman: I have some difficulties. I would always want you to explain, especially when the amendment is on deletion. You can tell us in a word what it serves.

(Question of the amendment proposed)

Hon. Chairman: Hon. Ali Rasso.

Hon. Dido: Thank you Hon. Chairman. The suggested amendment should be read alongside the parent Bill. The parent Bill talks about gathering information and maintaining a database. The Chair should qualify why this paragraph is being deleted. Having a database is very important in an irrigation scheme.

Thank you.

Hon. Chairman: Let us hear the Departmental Committee Chairman.

Hon. Ali Adan: Thank you, Hon. Chairman. The proposed amendment basically seeks to move the responsibilities of gathering information and maintenance of a database on irrigation, development and management and the technical and management audit of irrigation schemes from the Authority to the Cabinet Secretary. This function, being regulatory, has been moved to Clause 6(2) h) and (i). It is basically re-organisation. So the responsibility of gathering management and development and technical and audit of irrigation is moved from the Authority to the CS. It will make it leaner and it is basically administrative.

Thank you.

Hon. Chairman: Hon. Wambura.

Hon. (Dr.) Nyikal: Hon. Chairman, I want to oppose this amendment.

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

Hon. Chairman: What is your point of order, Leader of the Majority Party?

Hon. A.B. Duale: Hon. Chairman, is the system of the House infected with a virus? From the Kenyan and ethnic composition, Wambura is a female name. Is there some confusion? Let Hon. Nyikal confirm that he is called Wambura or Nyambura.

Hon. Chairman: He would very easily qualify himself as being of a male gender. I am using the name “Wambura” because it is raining. I believe it comes from that name. But let us hear from him. What is it about your name that is exciting everybody?

Hon. (Dr.) Nyikal: Hon. Chairman, we will dismiss that lightly. I am Dr. James Wambura Nyikal. Wambura is a very well-known name even among the Luo and we have it in Kuria land. In those places, it is not female. In other places, it may be female. Actually, the female name is “Nyambura.” So, there is a clear distinction. Get used to it. Those of you who know history, there was a Principal Secretary by the name Wambura.

Hon. Chairman: It is a lucky name with Permanent Secretaries.

Hon. (Dr.) Nyikal: Yes, it is a very important name.

Hon. Chairman: That is aside. Let us go to the Clause.

Hon. (Dr.) Nyikal: I am concerned because this is an Authority which is being given the duty of managing irrigation. The CS has many other functions in many areas of the Ministry. To remove the responsibilities and take them back to the CS is now limiting the Authority’s work. It is the Authority that should get that information. To that extent, I oppose the amendment. The Authority should do this work.

Hon. Chairman: Hon. Mbarire.

Hon. (Ms.) Mbarire: Hon. Chairman, I see it is very hard to self-regulate, self-audit or self-evaluate. It is better when it is done by the CS under the Ministry so that it is more objective, if you were to ask me. That might be what guided this amendment. It is not being done away with altogether. It is just being moved from the Authority to the CS. That makes sense, in my view.

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

(Clause 8(2)(i) as amended agreed to)

Clause 8 (2)(k)

Hon. Josphat Wachira: Hon. Chairman, I beg to move:

THAT, Clause 8 of the bill be amended in sub-clause (2) by—

(b) inserting the following new paragraphs immediately after paragraph

(k)—

“in collaboration with county government and other stakeholders and government agencies carry out periodic researches to determine and make recommendation on fair prices for crops, animals and fish products grown or produced on national and other irrigation schemes.”

This is an important function of the Authority that we are creating through this Bill to help farmers out there to at least have a feel of what they are supposed to do when it comes to selling of the merchandise. Most of the times, these farmers do a good job but nobody is there to enlighten them.

Thank you.

(Question of the amendment proposed)

Hon. Chairman: Hon. Wanyonyi.

Hon. Wetangula: Hon. Chairman, I am trying to understand the amendment and Clause 2(k) in the Bill. I thought the one in the Bill is more elaborate than what he is proposing.

Hon. Chairman: Hon. Kabinga, would you be able to say something more to it?

Hon. Josphat Wachira: Thank you, Hon. Chairman. Item (k) is talking about marketing. I am looking at doing periodical researches. Research will help in knowing the actual production cost of say one kilogramme of rice and thereby propose or recommend the price that farmers can adopt. Given time, I can give an example of December last year but I know we do not have that time.

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

(Clause 8 (2)(k) as amended agreed to)

Clause 8(3)

Hon. Chairman: Hon. Duale is proposing a deletion. If he succeeds, that will be it. If he does not, then we will consider the one from the Chairperson of the Departmental Committee on Agriculture.

Hon. A.B. Duale: Hon. Chairman, I beg to move:

THAT, Clause 8 be amended by deleting sub-clause (3).

Members, if you use the Order Paper without the Bill, you will get confused. So, it is good to have those two. I am sure Hon. (Dr.) Nyikal knows that. What I am deleting is on the powers and functions of the Authority. The creation of the Suthority is found in Section 7(1) and it is to provide for a public institution to deliver the object and the purpose of this Act. Section 8(3) creates an ambiguous arrangement without due structures and upon which oversight cannot be guaranteed outside the confines of Article 6(3) of the Constitution of Kenya.

What I am deleting is saying that the Authority shall exercise its various powers and functions under the section primarily through the mechanism of agency contracts. All those are found in section 8(1). It is ambiguous. I do not feel it has any power. I propose that we delete it. I am sure the Chairman will agree with me.

(Question of the amendment proposed)

Hon. Chairman: Hon. Wanyonyi.

Hon. Wetangula: I support that amendment, Hon. Chairman.

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

(Clause 8(3) as amended agreed to)

(Clause 8 as amended agreed to)

[The Chairman (Hon. Cheboi) left the Chair]

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

Clause 9(1)(d)

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Chairman.

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, look at what is happening. It has never happened in any Parliament. A Member is using his telephone.

The Temporary Deputy Chairman (Hon. Omulele): Who is that?

Hon. A.B. Duale: Hon. Pukose.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Pukose, you are out of order. You are completely out of order. In fact, I order that you... You cannot do that. That is absolute disrespect to the House. It is terrible.

Hon. Chairman, I hope you have now put your thoughts together.

Hon. Ali Adan: Yes. Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended —

(a) in sub clause (1) by—

(i) inserting the following new paragraph immediately after paragraph (d);

“(da) the Principal Secretary responsible for water or his representative”;

(Question of the amendment proposed)

Hon. (Dr.) Nyikal: Hon. Chairman, this is a good amendment but it is important to say it. The amendment is adding the PS responsible for Water to be a member. You cannot have irrigation body and exclude the PS for Water.

I support.

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

(Clause 9(1)(d) as amended agreed to)

Clause 9(1)(e)

The Temporary Deputy Chairman (Hon. Omulele): We would like to finish the entire clause so that we put its Question.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairman. In the interest of time, I beg to move:

THAT, Clause 9 be amended—

(a) in subclause (1), by deleting paragraph (e) and substituting therefor the following new paragraphs—

“(e) the Principal Secretary for the time being responsible for Water or his representative;

(f) five other members, who shall be appointed by the Cabinet Secretary, and approved by the President, taking into account the various stakeholder interests in irrigation development and management as defined in subsection (2) below”;

The essence is to provide for State Departments critical to irrigation and a balance between independent and non-independent members of the board for objectivity and effectiveness of governance in addition to having diversity in terms of professional representation, which can be realized. That is why I am talking of the Principal Secretary of the State Department for Water, or his representative, or five other members who shall be appointed by the CS and approved by the President, taking into account the various stakeholder interests in irrigation development and management as defined in sub-section (2) below. It is just to make sure we have a diverse team.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Members, you will realize that there is a similar amendment by the Chairman of the Committee. If the Chairman drops his, we shall be able to move.

Hon. Ali Adan: Thank you, Hon. Temporary Deputy Chairman. I want to support the Leader of the Majority Party on this. I withdraw my amendment.

(Proposed amendment by Hon. Ali Adan withdrawn)

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

Clause 9(5)

Hon. A. B. Duale: I beg to move:

THAT, Clause 9 be amended—

(b) in subclause (5), by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) holds relevant academic and professional qualifications including a university degree in any field relevant to or related to irrigation, agriculture, finance, law or business”.

This is to increase the pool of professionals available to bring diverse knowledge in matters of agriculture, finance, law and others in order to enhance the policies with the aim of having optimum and sustainable utilisation. It is about improving the Board.

(Question of the amendment proposed)

Hon. Nyikal, you can now have a go at it.

Hon. (Dr.) Nyikal: This amendment, in my mind, broadens the thing so much because it is related to irrigation, agriculture, finance, law or business. So, anybody with a qualification that is related to any of those, qualifies. I thought that the best would have been the way it was, that is, related to irrigation, but now we are proposing that it be related to irrigation, agriculture, finance, law or business.

The Temporary Deputy Chairman (Hon. Omulele): We shall have Hon. Emmanuel Wangwe, Member for Navakholo. Hon. Maanzo, you will have a go at it. Let Hon. Wangwe have a go at it first.

Hon. Wangwe: Thank you, Hon. Temporary Deputy Chairman. My opinion is that it would have been better once the Chairman of the Committee moves his amendment. On the one of Hon. Duale, I would be really opposing it when it comes to that time.

The Temporary Deputy Chairman (Hon. Omulele): The Hon. Maanzo?

Hon. Maanzo: I support Hon. Duale’s amendment. Irrigation encompasses a very wide field; from engineers to agriculturists to agronomists to contracts being signed. So, you need people with knowledge of law. Hon. Duale’s amendment fits very well into this sub-clause 5(c).

The Temporary Deputy Chairman (Hon. Omulele): Hon. Duale, you have the permission to clarify.

Hon. A.B. Duale: This is the chairperson of the new National Irrigation Authority (NIA). In the Bill it says those who qualify are those with education only relevant to irrigation. The chairperson must be somebody who has done irrigation in college. I am saying no. We need to open up. Yes, preference will be given to anybody with agriculture as the background, but those with educational backgrounds related to irrigation, agriculture, finance, law or business should fit to be chairpersons. We are not dealing with the CEO. We are dealing with the policy level at the board. If we go that route, we will have to have chairpersons of all boards with academic backgrounds related to what they head. For the Kenya National Highways Authority (KeNHA), it must be an engineer to chair. It is about management. It is about giving policy direction in an institution. Maybe, the Chairman wants to have a say.

The Temporary Deputy Chairman (Hon. Omulele): It is proper the Chairman has a say on this before I put the Question. Chairman, as you comment on this, remember that your amendment is also there. That is so that when we put the Question to this, if the amendment as proposed by Hon. Duale carries the day, yours will definitely bite the dust. You cede the Floor to the Hon. Mbarire.

Hon. (Ms.) Mbarire: Hon. Temporary Deputy Chairman, I am looking at the gist of this amendment by the Leader of the Majority Party. It is in relation to the chairperson of the board. He says one should hold the relevant academic and professional qualifications, including a university degree in any field relevant or related to irrigation, agriculture, finance, law or business. If you compare that with the Chairman's amendment, which wants one who holds relevant academic and professional qualification, including a university degree or its equivalent in any field, you realize they are saying the same thing. I would be more comfortable with the one by the Committee because it leaves it wide. It can go to law, finance, management and others because it is open. The Leader of the Majority Party is limiting it only to law, finance and the others you have mentioned.

A chair of a board can come from any related field. Actually, they are saying the same thing. Even a gender expert can come in but we have said "relevant field". The words are "relevant field". We are saying the same thing except that the Leader of the Majority Party has limited it to certain fields. This one is saying "relevant field". Relevant field can be any field that is relevant.

The Temporary Deputy Chairman (Hon. Omulele): I hear you quite clearly. We shall have Hon. Moses Kuria to have a say on this before we put it to question.

Hon. Kuria: Hon. Temporary Deputy Chairman, I want to fully support the remarks by Hon. Cecily Mbarire not only on the issue of chair but also on the issue of management. I will pronounce myself on Clause 12 later. This practice of ring-fencing certain job for certain professions is outdated. Even within Government and our own administrative framework called the Mwongozo framework, we are moving away from this habit of ring-fencing. Dr. Nyikal is a medical doctor and he knows very well that even for an institution like Kenyatta National Hospital (KNH), one of the best managers we had, Dr. Lesiyampe was not even a doctor. We have seen medical doctors mess an institution like KNH. You do not have to be an engineer to be a chair or a CEO. Some of the institutions that are facing problems are the ones that are run by people from the same profession. I would call it professional incest.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kuria I think I have heard you. To enable us make progress, I will give this opportunity to the Leader of the Majority Party to see what he does with his proposed amendment then we can move.

Hon. A.B. Duale: Hon. Temporary Speaker, I do not want to go the extreme end of Moses Kuria. Doctors can do better in KNH. We have now taken a cop, a police officer. We were better off with the former Chair because he was one time the Permanent Secretary in the Ministry of Public Health, now we have taken a police officer to deal with health matters. He can only deal with the security aspect of it. Having listened to friends and Hon. Mbarire, she decided that the Chair of the National Irrigation Board can even be a guy who has a degree in conflict management; I withdraw my amendment in favour of the Chair.

(Proposed amendment by Hon. A.B. Duale withdrawn)

The Temporary Deputy Chairman (Hon. Omulele): That is the spirit in which we should move. We should always move with consensus. He has withdrawn his proposed amendment so there is nothing to put the Question to.

I will now have the Chair moving his proposed amendment.

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended —

(b) In sub clause (5) by deleting paragraph (c) and substituting therefor the following new paragraph—“

(c) holds relevant academic and professional qualification including a university degree or its equivalent in any field.”

Basically this amendment is talking to what Hon. Cecily Mbarire was saying. The holder of the office should have relevant academic and professional qualifications including a university degree or its equivalent in any field.

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 9(5) as amended agreed to)

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

Clause 12(2)(c)

The Temporary Deputy Chairman (Hon. Omulele): I see two proposed amendments by Hon. Duale.

Hon. A.B. Duale: This amendment is following on the other one that I have withdrawn. So I withdraw this one too.

(Proposed amendment by Hon. A.B. Duale withdrawn)

The Temporary Deputy Chairman (Hon. Omulele): I therefore invite the Chair of the Committee.

Hon. Ali Adan: Hon. Temporary Deputy Chair, I beg to move:
THAT, Clause 12 of the Bill be amended in sub clause (2) by—

(a) deleting paragraph (c) and substituting therefore the following new paragraph –

“(c) holds a relevant academic and professional qualifications including a university degree in engineering or agriculture or any field related to irrigation;

This amendment talks of deleting paragraph (c) and substituting it with a new paragraph. This amendment seeks to provide for wider coverage of eligible professionals consistent with the board’s scope covering agriculture, business and others.

(Question of the amendment proposed)

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

Hon. Wetangula: Hon. Temporary Deputy Chairman, I prefer that you refer me as Hon. Wanyonyi. That is a better amendment and it broadens the field of selection. So, I support it.

The Temporary Deputy Chairman (Hon. Omulele): Your sentiments are noted but the name that appears on the records is the other one. I will take note that in future we shall refer to you as Hon. Wanyonyi.

*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 12(2)(c) as amended agreed to)

There is an amendment proposed by the Leader of the Majority, Hon. Duale.

Hon. A.B. Duale: I also drop that one.

(Proposed amendment by Hon. A.B. Duale withdrawn)

The Temporary Deputy Chairman (Hon. Omulele): Hon. Chair.

Clause 12(2)(d)

Hon. Ali Adan: Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 12 of the Bill be amended in sub clause (2) by—
(b) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) has at least fifteen years' experience in the management of a public or private institution, five of which should be at senior management level or is a distinguished scholar in a discipline relevant to irrigation.”

Thank you.

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

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

(Clause 12(2)(d) as amended agreed to)

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

Clause 14

The Temporary Deputy Chairman (Hon. Omulele): There is a proposed amendment by Hon. Duale.

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

THAT, Clause 14 be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1) Each county government may, within its area of jurisdiction, establish a county irrigation development unit for the better carrying out an irrigation function delegated by the Cabinet Secretary as may be prescribed in the Regulations.

One of the reasons is to conform to the distribution of functions as provided for in the Fourth Schedule of the Constitution and the provisions of Article 6(2). Two, irrigation is not agriculture, hence it is not a devolved function and it is not included in Part II of the Fourth Schedule of the Constitution. Consequent thereto, irrigation is a residual function of the national government in accordance with Article 186(3) of the Constitution, which provides that functions not assigned by the Constitution or national legislation to a county be retained as a function of the national government. That is the reason why I have deleted the provision and replaced it with better drafting language. I am sure the Chair will agree with me on this one.

I beg to move.

(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 14 as amended agreed to)

Clause 15

The Temporary Deputy Chairman (Hon. Omulele): I see a proposed amendment by the Chair.

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended in sub clause (2) by deleting the words “in pursuant” and substituting therefor the words “pursuant to”.

This is basically to bring us up to speed with the standard practice on compliance.

(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 15 as amended agreed to)

(Clauses 16, 17 and 18 agreed to)

Clause 19

The Temporary Deputy Chairman (Hon. Omulele): I see several proposed amendments to this. The first one is by Hon. Duale.

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

THAT, Clause 19 be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1) The Cabinet Secretary shall, through the Authority, oversee management of existing and new national or public schemes, except those under county governments, and particularly storage dams, intake, main and secondary systems as necessary.

The rationale for this, one, is to conform with the distribution of functions as provided for in the Fourth Schedule of the Constitution and the provisions of Article 6(2) that that is a function given to the CS. Two, the CS, having appointed the board of the authority, ceases to exercise direct management over the schemes. Subsequently, the CS can only exercise oversight in the management of the schemes. So we are saying that that is a function of the CS, but the moment he appoints the board, direct day-to-day management of the authority lies with the board. Hence his function just becomes that of oversight. So I really wanted to clean that in line with the Constitution. I am sure the Chair will agree with me.

(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)

The Temporary Deputy Chairman (Hon. Omulele): The amendment proposed by Hon. Duale having passed, the one by the Chair stands dropped. It is superfluous. So we shall move on. The one by Hon. Duale carries everything that you had proposed to do, and more. We shall make progress. We shall move to Clause 19(2). I see a proposed amendment by Hon. Kabinga.

(Proposed amendment by Hon. Ali Adan withdrawn)

Clause 19(2)

Hon. Josphat Wachira: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended—

- (a) in sub clause (2) by inserting the words “scheme management committees, dispute resolution committees” immediately after the words “water user’s association”.
- (b) in sub clause (3) by inserting the words “scheme management committees, dispute resolution committees” immediately after the words “water user’s association”.
- (c) in sub clause (4) by inserting the words “scheme management committees, dispute resolution committees” immediately after the words “water user’s association”.

This is for consistency. We have included this committee in Clause 8 and so I am bringing consistency in the whole Bill to ensure that how we treat the water user’s association is also the way we treat this particular committee.

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

(Clause 19 as amended agreed to)

Clause 20

The Temporary Deputy Chairman (Hon. Omulele): I see Hon. Kabinga has a proposed amendment.

Hon. Josphat Wachira: Thank you, Hon. Temporary Deputy Chair. Having gone through the proposed amendment by the Leader of the Majority Party and the Departmental Committee, I wish to withdraw this particular amendment.

(Proposed amendment by Hon. Josphat Wachira withdrawn)

The Temporary Deputy Chairman (Hon. Omulele): Very well, that is withdrawn. Are you withdrawing all your proposed amendments or you are just withdrawing the one on Clause 20 (2)?

Hon. Josphat Wachira: This is the entire clause.

The Temporary Deputy Chairman (Hon. Omulele): So, the amendments to Clauses 20 (2), (3) and (5) are all withdrawn by the Hon. Kabinga. Is that the understanding?

Hon. Josphat Wachira: Yes.

The Temporary Deputy Chairman (Hon. Omulele): Sorry, you are withdrawing your proposed amendments to sub-clauses 2 and 5 of Clause 20, and not sub-clause 3. So, those are withdrawn.

I see an amendment proposed by the Hon. Chair.

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 20 of the Bill be amended by deleting sub-clause (3).

This is because the proposed amendment seeks to delete the provisions giving powers to Water Users’ Association to set and collect fees from its members. Through Section 33, the Cabinet Secretary may come up with regulations providing for fees payable by the irrigation water users based on cost of operation and maintenance of the scheme.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): I see Hon. Nyikal.

Hon. (Dr.) Nyikal: I would want to be assured that this function has been removed from the water users and now it is going to be by the CS's regulations, whichever way the CS will bring it. The CS may still bring it to the water users. We will see it when it comes.

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

(Clause 20 as amended agreed to)

(Clauses 21, 22, 23 and 24 agreed to)

Clause 25

The Temporary Deputy Chairman (Hon. Omulele): I see a proposed amendment by the Chair.

Hon. Ali Adan: Hon. Temporary Deputy Chair I beg to move:

THAT, Clause 25 of the Bill be amended in sub clause (1) by —

(a) deleting the word “property” appearing before the word “operation”; and,

(b) inserting the word “irrigation” immediately after the words “association or at”.

Ownership of land is a sensitive issue which requires a broad-based approach and mechanism to resolve. This proposed amendment seeks to remove the resolution of disputes relating to property from the ambit of irrigation and Water Users' Association or at the scheme level.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. We know that in terms of the quality of legislation, the Committee of the whole House is critical. I appreciate what the Chair has said. Ordinarily, when you propose an amendment, you are supposed to give the motive or the gist of that amendment in relation to what you are changing.

I listened to the Chair of the Departmental Committee. We have two amendments on Clause 25 (a) and (b). The one on (a) is proposing deleting the word “property” appearing before the word “operation”. He has not explained to us the import of the amendment. He has just mentioned the fact that land issues are emotive, and the dispute resolution aspect. He has not explained the importance of deleting the word “property”.

I am humbly requesting the Chair of Committee, whom I congratulate for doing very well, to explain himself to Members in relation to deleting the word “property”. What is the gist or what is the motive? After that, in (b) there is the insertion of the word “irrigation”. In order for us to move quickly, he can combine the two.

Otherwise, I congratulate him, he has picked up very well as the Chair of the Departmental Committee on Agriculture and Livestock. It is only that we are having issues. We have no fertilizers.

Thank you.

The Temporary Deputy Chairman (Hon. Omulele): Chair, could you respond or you want the assistance of your equally able deputy, Hon. Wangwe?

Hon. Wangwe: Hon. Temporary Deputy Chairman, Hon. Chris has just come and he is welcome. Let him settle down and he will push us.

However, your concern is okay. The essence is that the topic is “Dispute Resolution.” We are trying to look at the ability of the scheme in totality to administer dispute resolution. What are the key elements upon which the scheme can address itself to? We are saying land is a sensitive issue. We would not want the scheme management to handle the issue of land. At that level, it should not happen.

Thank you.

*(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)*

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga has a proposed amendment.

Hon. Josphat Wachira: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended by deleting sub clause (2) and substituting therefor the following new clause—

“(2) The Dispute Resolution Committee shall handle all disputes relating to scheme management”.

I am only bringing the prevailing practice in some of the existing schemes where some of the small disputes, including for land, which we have just removed from the previous clause, can be settled within the scheme and where people are not satisfied, we then move to court. If we do not have that structure, we shall have very petty cases being presented to the court.

Thank you.

(Question of the amendment proposed)

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

Hon. Wangwe: Thank you, Hon. Temporary Deputy Chairman. Having passed the earlier amendment, recommending that the Dispute Resolution Committee shall handle all disputes relating to scheme management in itself negates the earlier amendment. I therefore believe that this amendment is not proper as it is.

Thank you.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga, that makes sense. I will give you an opportunity to see what to do with this proposed amendment.

Hon. Josphat Wachira: Thank you Chair. As I said, I am only providing for a prevailing situation. I would like to give an example of my own scheme in Mwea. As we talk

about land issues, we need to differentiate between serious land issues from issues relating to land within the scheme. In schemes we talk about boundaries. These are not things to take to court. I may need a clarification but that is my understanding.

The Temporary Deputy Chairman (Hon. Omulele): I will give two opportunities on this one. I will start with Hon. Duale, who will be followed by Hon. Chris.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, to my very good friend, the Member for Mwea, I want say that we do not legislate for current issues. The House legislates for posterity. So, kindly, you cannot use a legislation to solve your constituency issues.

The previous amendment was broader and it took care of your issues. I really indulge you, Hon. Member. Just drop this one so that we move faster.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Chris Wamalwa.

Hon. Wakhungu: I was going to request what Hon. Duale has just said. Before that, I thank the Member for Mwea. He has been very active and we should congratulate him. I wish other Hon. Members can emulate what he is doing. Whatever he has said has been overtaken by events. I sit in the Public Investments Committee (PIC) and we have issues of land. You cannot say petty boundaries in land. People die. Let it be handled where it belongs. We even have the National Land Commission (NLC). It can look at the historical injustices. Because your leader has spoken, I do not think you can go against that. I thank you.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga, I think the advice from the Members is sound because when you say “shall” and these are matters land, I think we will be getting into a territory that we do not want to get into. I do not know whether you have taken that advice. I will give you the last opportunity to say something before I put it to question.

Hon. Josphat Wachira: Thank you, Hon. Temporary Deputy Chairman. I want to go by what I have been advised by my seniors. So, I drop that particular amendment.

(Proposed amendment by Hon. Josphat Wachira withdrawn)

(Clause 25 as amended agreed to)

Clause 26

The Temporary Deputy Chairman (Hon. Omulele): I see the Chair has a proposed amendment.

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 26 and substituting with the following new clause—

“26. Where the water users association or at the irrigation scheme level is unable to resolve a dispute, the same shall be referred to the Dispute Resolution Committee at the first instance to consider and determine the matter before the same is referred to Court.”

Basically, the proposed amendment seeks to harmonise the dispute resolution mechanisms.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga, you need to pay close attention to this because if the proposed amendment by the Chair goes through, then your proposed amendment to the sub-clauses will be superfluous.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Hon. Nyikal, do you have something to say to this?

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairman, I think this is a very sound amendment. It is broad enough and it takes care of all the issues that may come. So, I actually support it.

*(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 26 as amended agreed to)

(Clauses 27, 28, 29, 30, 31 and 32 agreed to)

Clause 33

The Temporary Deputy Chairman (Hon. Omulele): Let us have the Chair.

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 33 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (f)—

“(fa) prescribe fees payable by irrigation water users based on costs of operation and maintenance of the scheme;”

This proposed amendment seeks to empower the CS to come up with regulation to provide for the prescribed fees payable by the irrigation water users and cost of operation and maintenance of the scheme.

(Question of the amendment proposed)

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

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga, you need to pronounce yourself on your proposed amendment on Clause 33 (2) now that the one by the Chair has passed.

Hon. Josphat Wachira: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 33 of the Bill be amended in sub clause (2) by inserting the words “scheme management committee and dispute resolution committee” immediately after the words, “associations” appearing in paragraph (f).

Again, this is for consistency where we want to add the scheme management committee and the dispute resolution committee in paragraph (f) after the water users association.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga, the amendment that was proposed by the Chair has passed. So, yours was proposing to do a very similar thing. I think the honourable thing will be to drop yours.

Hon. Josphat Wachira: Hon. Temporary Deputy Chairman, I need your guidance on this. Sub-clause (f) is not what the Chair amended. This sub-clause (f) still exists and what I am doing is adding the “scheme management committee” at the end. I am moving my amendment as it is.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kabinga, are you dealing with Clause 33 (2)?

Hon. Josphat Wachira: Yes, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Duale, I cannot seem to find any proposal from you to amend Clause 33 (2). Yours is to Clause 34. We are still at Clause 33. Hon. Kabinga, I will proceed to propose the Question.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairman (Hon. Omulele): Hon. Wangwe, what is out of order?

Hon. Wangwe: Thank you, Hon. Temporary Deputy Chairman. I seem not to be with you because what the Chair of the Committee has moved is Clause 33 (2) (f). Again you are putting the same Question twice on Clause 33 (2) (f).

The Temporary Deputy Chairman (Hon. Omulele): That is why I was getting a little confused in this clause. The Clerks-at-the-Table will look it as we make progress and then we shall come back to it.

(The Temporary Deputy Chairman consulted the Clerks-at-the-Table)

Hon. Members, I will use my discretion. We will re-visit this Clause and clear it up once and for all. The proposal by the Chairman of the Committee was on Clause 33 (2)(f) and the one by Hon. Kabinga is still on the same sub-clause.

Hon. Nyikal, make your contribution.

Hon. (Dr.) Nyikal: Even though the previous proposed amendment talked about (f), it only served to add another proposed amendment. This particular amendment is the one which is talking about (f). So, we now have two, that is, (f) and (fa). They are not the same.

The Temporary Deputy Chairman (Hon. Omulele): I get what Hon. Nyikal is saying. You added (fa). His amendment was on what exists. So, we can have both. We can make progress then. We are okay. We shall move on.

(Clause 33 as amended agreed to)

Clause 34

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I hope that my good friend, the Chairman of the Committee, will agree with me because my amendment is more specific. Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 34 be amended in subclause (2), by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) any person who, immediately before the commencement of this Act, was an officer, agent, or member of staff appointed, seconded or deployed or otherwise employed by the National Irrigation Board shall become an employee or otherwise seconded or deployed to the Authority on similar terms and conditions of service or as may be provided by the law”.

This is a very good and neat transitional clause which will safeguard the assets, liabilities, and staff of the current National Irrigation Board (NIB) as they migrate to the National Irrigation Authority. It brings clarity and guarantees smooth transition. It will ensure continuity with respect to staff. I read the amendment of the Chairman, but I think my amendment is very condensed. I want him to withdraw his amendment and we adopt mine.

The Temporary Deputy Chairman (Hon. Omulele): The proposal by Hon. A.B. Duale and that of the Chairman of the Committee are more or less the same. He has proposed that you withdraw your amendment. That will make our work easier. Let me hear from the Chairman of the Committee and then from Hon. Chris Wamalwa.

(Question of the amendment proposed)

Hon. Ali Adan: At the outset, I would like to state that our proposed amendment in Clause 34 is somewhat different from what the Leader of the Majority Party has moved. If I could read it out:

“THAT, Clause 34 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (f)—

“(fa) The members of the National Irrigation Board established under the Irrigation Act Cap 347, shall continue in office as members of the Board until the expiry of their existing terms”.

This proposed amendment seeks to provide transition of Board members to ensure continuity.

The Temporary Deputy Chairman (Hon. Omulele): I will give the opportunity to Hon. Wamalwa as I had directed and then we shall have Hon. Mbarire.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. Ordinarily, this is supposed to be a transition clause. Some of us have a bit of experience in this House. Hon. A.B. Duale’s proposal takes care of the Chairman’s interest. This is a transitional clause. The Chairman should respect experience. You know we have been in this House for a long time. My humble request is for the Chairman to drop his amendment and we adopt Hon. A.B. Duale’s proposal.

Hon. A.B. Duale has said that some people might take advantage and victimise others. That clause takes care of any subjectivity that might be there. With due respect, I am humbly requesting you to withdraw your amendment. Experience is the best teacher. We should adopt

Hon. A.B. Duale’s amendment and move forward. He has taken care of what you have proposed.

I thank you.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Mbarire.

Hon. (Ms.) Mbarire: Hon. Temporary Deputy Chairman, the Leader of the Majority Party's proposal is broader than the Chairman's amendment and it covers everybody. We know that in any transition, there is always the challenge of the staff of the organisation. They feel threatened or very unsure of where they stand. It also kills their morale. It is good for them to feel secure and taken care of. No one should victimise any members of staff who they are uncomfortable with.

I also want to add my voice to that of Hon. Chris Wamalwa and request the Chairman to withdraw his proposal because Hon. A.B. Duale's proposal captures the spirit of his proposal and goes beyond it.

The Temporary Deputy Chairman (Hon. Omulele): Chairman, I can see you are anxious to have your say on this amendment but let me give the opportunity to Hon. Iringo Kubai and then we shall come back to you.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Chairman, for giving me this opportunity to contribute. I concur with the Leader of the Majority Party. His proposed amendment encompasses the spirit of transition more than this other one. The amendment from the Chairman of the Committee is just a plain message. It says that during the transition, the members of staff will be assimilated as they were at the National Irrigation Board. Hon. A.B. Duale's proposed amendment is more specific. When one moves to the National Irrigation Authority, one moves with terms which will protect one the same way it was during the existence of the National Irrigation Board. Therefore, I support Hon. A. B. Duale's proposal and also join my friends to request the Chairman to withdraw his amendment.

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

Hon. Ali Adan: Thank you, Hon. Temporary Deputy Chairman. Having listened to the senior Members on the proposed amendment in this clause, I am left with no option but to agree. However, I want to thank my Committee. We looked at the same clause in the same way but the Leader of the Majority Party's amendment is more comprehensive. So, I want to thank the Members of my Committee who are here for doing a fantastic job. I withdraw my amendment. Thank you very much.

The Temporary Deputy Chairman (Hon. Omulele): Thank you, Chairman, for that spirit.

(Proposed amendment by Hon. Ali Adan withdrawn)

*(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)

New Clause 32A

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by introducing the following new clause immediately after clause 32-

32A. Abstraction
of water.

32A. Any person who abstracts water from an irrigation system or disrupts the distribution plan of a scheme commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to imprisonment for a term of one year or to both such fine and imprisonment.

(Question of the new clause proposed)

(New clause read the First Time)

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

Hon. A.B. Duale: This is a very important amendment. Those who disrupt the flow of water to major Government institutions by having their own selfish interests at the expense of greater security of the country will now be liable to certain penalties under this New Clause 32A.

There are people who are so selfish that they affect the flow of water and set up their green houses or flower farms. We are telling them that if they disrupt the flow of water... This is good for the Member for Mwea because there are bourgeois business people in Mwea. We want to make sure that the poor people of Mwea, in the settlement schemes, get water throughout the year. So, this is a very good safeguard. Food security is national security and we must protect it. I support the amendment.

The Temporary Deputy Chairman (Hon. Omulele): Let us have Hon. Nyikal followed by Hon. Washiali.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairman, whereas I support the amendment, I would like some point to be clarified. How far upstream does this apply? If you can interfere with the water flow and the scheme is hundreds or tens of miles away and somebody is interfering with it far upstream, does this apply? If that is the case, then it is a good amendment. I support it. But, we have to remember that some people can do it far upstream.

The Temporary Deputy Chairman (Hon. Omulele): Let us have Hon. Washiali.

Hon. Washiali: Thank you, Hon. Temporary Deputy Chairman. I stand to support this amendment. Hon. Nyikal has raised something I wanted to raise. The Department of Irrigation used to be under the Departmental Committee on Environment and Natural Resources, a Committee I belong to. Most of these technicalities may not be known by Departmental Committee on Agriculture and Livestock because irrigation is about provision of water.

I support this amendment because it costs the Government to put up irrigation schemes for specific reasons and the amounts abstracted for such irrigation schemes are usually measured from the source. Therefore, for any person to interfere with the process, he needs to be penalised as it has been proposed. I wish to support.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Pukose.

Hon. (Dr.) Pukose: I support this amendment. The punitive measure is too lenient. In my constituency of Endeless, we have people living down in Matimbei and there are those who live up in Salama who have been disrupting the water flow to the lower part. This will be a deterrent for them. I want them to carefully read what Parliament is passing so that they co-exist in

harmony as far as water usage is concerned. If they disrupt water flow, they will be fined not less than Kshs250,000 or a jail term of not less than one year. It will create harmony within communities.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Wachira, I want to give the House the opportunity to decide one way or another so that we can make progress. But since you are on your feet, proceed.

Hon. Josphat Wachira: Thank you, Hon. Temporary Deputy Chairman. I want to express my appreciation for this particular amendment. Currently, we have a lot of conflicts pertaining to upstream interrupting water flow and sometimes denying water for irrigation to people who live downstream.

The Temporary Deputy Chairman (Hon. Omulele): Is there anybody who might have a contrary position to what the previous speakers have expressed? I would like you to press the intervention button.

Hon. Iringo, do you have a contrary position on this?

Hon. Kubai Iringo: No, Hon. Temporary Deputy Chairman. I want to clarify that one further.

The Temporary Deputy Chairman (Hon. Omulele): Are you supporting?

Hon. Kubai Iringo: Yes.

The Temporary Deputy Chairman (Hon. Omulele): If you are supporting, allow me to put the Question.

*(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 agreed to)

Clause 2

The Temporary Deputy Chairman (Hon. Omulele): I see several proposed amendments. Let us start with the amendment by the Chair of the Committee.

Hon. Ali Adan: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended in the definition of the term “Authority” by deleting the word “Development”.

The proposed amendment seeks to ensure to cover all items in the objects of the Bill without overemphasis on development alone. Clause 2 of the Bill is amended to replace the “Authority” with “development.”

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): I also see a proposal to amend the same by Hon. Duale.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, clause 2 deals with definitions. So, I am dealing with definitions and that is why I was not sure what the Chairman of the Committee was saying. I am redefining object, authority, irrigation, large scale irrigation scheme and storage.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 be deleted—

- (a) in the definition of “Authority”, by deleting the word “Development”;
- (b) by deleting the definition of “irrigation” and substituting therefor the following—
“irrigation” means any hydraulic engineering process, which abstracts, stores and supplies water to crops or any other cultivated plans, livestock, aquaculture and desired forest trees;
- (c) by deleting the definition of “large scale irrigation scheme” and substituting therefor the following—
“large scale irrigation scheme” means a scheme which acreage size covers over three thousand acres, and is developed and managed by the Authority, and is established for national strategic purposes, or such schemes as implemented by the private sector;
- (d) by deleting the definition of “licence” and substituting therefor the following—
“licence” means a licence issued by the Cabinet Secretary or such other person as the Cabinet Secretary may authorize;
- (e) in the definition of storage, by deleting the word “agriculture” and substituting therefor the word “irrigation”.

The Temporary Deputy Chairman (Hon. Omulele): I think there is a problem in how the amendments have been listed. Hon. A.B. proposes to make a number of amendments.

The Chair proposes to amend only one. I propose that we deal with the amendments proposed by Hon. Duale. If we carry them, then it will not be necessary to deal with the one by the Chair. So, we shall deal with the amendments as proposed by Hon. Duale.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairman. I propose, in the first one, to delete the object of memorandum and replace it with the following:

“An Act of Parliament to provide for the development, management and regulation of irrigation to support sustainable food security and socio-economic development in Kenya and for connected purposes”.

The rationale is just to approach this legislation from a very positive angle. That is the whole thing.

On the definition of “Authority”, I am replacing what is in the Bill with the following: -

“Authority” means “National Irrigation Authority established under Section 7.”

On the definition of “irrigation”, I am replacing what is in the Bill with ““irrigation” means any hydraulic engineering process which abstracts, stores and supplies water to crops or any other cultivated plans, livestock, aquaculture and desired forest trees” so that we increase the scope.

On the definition of “large scale irrigation”, I am replacing what is in the Bill with the following:

“Large scale irrigation scheme” means a scheme whose acreage size covers over three thousand acres, and is developed and managed by the Authority, and is established for national strategic purposes, or such schemes as implemented by the private sector”.

We are talking of Galana and other Government or private-owned irrigation schemes. I have redefined what a large scale irrigation scheme is. This is to secure the national strategic interest as a country and provide avenues for strategic interventions on account of irrigation. Where we have food deficit, the government can come in.

Hon. Temporary Deputy Chairman, the last one is on storage, which I seek to redefine as follows:

“Infrastructure and practices designed to capture and store water for use in irrigation”.

This is just to make it consistent with the object of the Act citing irrigation and not agriculture.

That is the rationale of those amendments.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. I rise to support the definitions by Hon. Duale. We only differ on storage. When we were in school, we were told that when trying to define a noun, you do not use its verb in terms of definition. So, with due respect to Hon. Duale, if you are defining “storage”, we do not use “store”. Maybe we say “keep” water instead of “store” water. You cannot use its own word to describe it. It is just a bit of syntax.

The Temporary Deputy Chairman (Hon. Omulele): I see interest from Hon. Manje, Member for Kajiado.

Hon. Manje: Thank you, Hon. Temporary Deputy Chairman. While I support the amendment by Hon. Duale, I disagree with the definition of irrigation. When you use the term “hydraulic engineering” you exclude others like natural gravity because you can do irrigation through natural gravity and other primitive way of making sure that water goes down.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Sheikh, Members for Wajir South.

Hon. Mohamed Mohamud: I had the same sentiments as my colleague here. While I support the proposed changes by Hon. Duale, I also see in the same light as my colleague. I find that hydraulic engineering is not necessarily the only means to define irrigation. Obviously, there are other means. There are primitive ways and the old ways like what the Egyptians used. Therefore, we should redefine it. I would also propose the same; that the definition of irrigation should not be confined to hydraulic engineering.

Thank you.

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

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

The Temporary Deputy Chairman (Hon. Omulele): Hon. Nyikal, what is out of order?

Hon. (Dr.) Nyikal: I want to take you back. If you have several components and agree with one component and disagree with others, it is better to call out each of them.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Members, that is flogging the horse after it has fled. You have the Standing Orders; you know how to deal with it because you have already responded to the Question. Let us make progress. I will move on to the proposal to amend Clause 2 made by Hon. Kabinga.

Hon. Josphat Wachira: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by inserting the following new definitions in their proper alphabetical order—

(a) “Scheme Management Committee” means the Scheme Management Committee established under section 8(ba);

(b) “Dispute Resolution Committee” means the Dispute Resolution Committee established under section 8(bb).

We are defining what we have already approved; that is the Scheme Management Committee and the Dispute Resolution Committee. We are only defining them so that when you go to the body of the Bill, you do not ask yourself what they are.

Thank you.

(Question of the amendment proposed)

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

Hon. (Ms.) Mbarire: Hon. Chairman, I support that amendment by Hon. Kabinga.

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

(Clause 2 as amended agreed to)

(Long Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Omulele): Hon. Members, we are now through with the Irrigation Bill. I call upon the Mover to move reporting.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Irrigation Bill (National Assembly Bill No.46 of 2017) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

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

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

THE ENERGY BILL

Hon. Chairman: Hon. Members, we are now proceeding to the Energy Bill. This is a fairly long Bill. We must move very fast. Be very keen.

Clause 3

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 3 of the Bill be amended —

- (a) by renumbering the opening paragraph as sub-clause (1);
- (b) by deleting paragraph (b);
- (c) inserting the following new sub-clause immediately after sub-clause (1) —
 - (2) Save where this Act expressly provides otherwise, any license granted or anything done under this Act shall not affect the right, privilege, obligation or liability acquired by any licensee or other person in any contract or under any written law prior to the commencement of this Act.

Just to inform the Members, the Energy Bill has a lot to do with petroleum. In this Bill, most of the amendments will be to clauses in the Petroleum Bill. The reason for amendment in this clause is to delete the reference of importation, exploration and sale of petroleum as the Petroleum Bill will be the prevailing law on all matters relating to petroleum. This relates to matters that are supposed to be in the Petroleum Bill.

Hon. Chairman: Okay. That is a good preamble for Members to be up to speed. So, for those areas where it will be issues of shifting one part to another, we would not want to take a lot of time on them.

(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 3 as amended agreed to)

Clause 4

Hon. Chairman: There are two proposed amendments. One is from the Chairman and another from Hon. Osotsi.

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 4 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the relevant stakeholders” immediately after the words “the Cabinet Secretary shall”.

Most of this is to allow the CS to be making some consultations with stakeholders in development and publishing a national agency policy.

(Question of the amendment proposed)

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

Hon. Chairman: Let us have Hon. Osotsi.

Hon. A.B. Duale: *(Off-record)*

Hon. Chairman: That is a serious Member, Hon. Members. You should listen to him. He is a Secretary General of a party.

Hon. Osotsi: Thank you for that recognition. Hon. Chairman, I beg to move: THAT, Clause 4 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

(3) The Cabinet Secretary shall submit the published report to Parliament for its consideration.

The basis of this amendment, if you read through Part II of the Bill, really talks about monitoring and evaluation. It talks about the CS of the relevant ministry will prepare and publish the National Energy Policy. I have proposed these amendments so that Parliament can have oversight over this energy policy.

Thank you, Hon. Chairman.

Hon. Wakhungu: On a point of order.

Hon. Chairman: Can I propose the Question first then I give you a chance?

(Question of the amendment proposed)

Let us hear. What is it that is out of order before I give a chance to two Members to speak on it? We are having a problem with the gadgets. You can use the Dispatch Box.

Yes, what is it Hon. (Dr.) Wamalwa? Switch off your microphone, Hon. Osotsi. We are having an issue somewhere.

Hon. Wakhungu: Thank you, Hon. Chairman. I am not objecting to Hon. Osotsi's amendment, but ordinarily and procedurally, what has been happening is different. Before one comes and gives the gist of his or her amendment, one needs to mention it. He just went straight. When we were struggling to see where it is, he was talking of the gist of it. So, we did not see what it is about the policy. That is where the challenge was. I want him to start by saying "we propose to change a, b, c, and d", then to the gist of the amendment.

Hon. Chairman: That makes a lot of sense. Let us hear the Leader of the Majority Party.

Hon. A.B. Duale: I really want Hon. Osotsi, and I pray for him that he wins that case to become the Secretary General of the Amani National Congress (ANC)... Mr. Barrack Muluka and his shenanigans should know how parties are run. This Clause 4 deals with the CS wanting to consult with the relevant stakeholders in developing and publishing a national energy policy.

Hon. Osotsi is saying that policy must be submitted to Parliament for its consideration. That means Parliament has a role in that. Parliament is an oversight organ. When you say "Parliament to consider" it means it can reject or approve with amendments. That is not the role of Parliament to consider a policy which has originated elsewhere. Parliament has a legislative

and oversight role which we are doing now. I really want to tell him that we have never done it. I have never seen a policy like the National Irrigation Policy being considered by Parliament. The words ‘to consider’ is a very serious statement. To consider means either approving or rejecting. We ask Hon. Osotsi to withdraw and just drop it because we want to have consensus.

Hon. Chairman: Even before he withdraws, let us see if he has something. He could be having a gist. Let us hear what Hon. Osotsi has to say. What is it that you intend to achieve?

Hon. Osotsi: Thank you, Hon. Chairman. I stand guided by the Leader of the Majority Party, but my amendment was based on what happens in other jurisdictions where the energy sector is critical and Parliament has an oversight role over key decisions in the energy sector.

My thinking is that this country could benefit from those experiences.

Hon. Chairman: Are you convinced to drop or you want to proceed with it.

Hon. Osotsi: I am convinced.

Hon. Chairman: If it is dropped, that is the end of it. Let us proceed.

(Proposed amendment by Hon. Osotsi withdrawn)

(Clause 4 as amended agreed to)

Clause 5

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 5 of the Bill be amended in sub-clause (1) by deleting the words “shall develop, publish and review energy plans in respect of midstream and downstream petroleum” and substituting therefor the words “shall in consultation with the relevant stakeholders develop, publish and review energy plans in respect of”.

This amendment is like what I had talked about earlier. It is meant to allow the Cabinet Secretary to consult with the relevant stakeholders.

(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 5 as amended agreed to)

Clause 6

Hon. Osotsi: In line with the other amendments in Clause 4, I drop this one too.

(Proposed amendment by Hon. Osotsi withdrawn)

(Clause 6 agreed to)

(Clauses 7 and 8 agreed to)

Part III

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Part III of the Bill be amended in the heading by deleting the words “Energy Regulatory Commission” and substituting therefor the words “Energy and Petroleum Regulatory Authority”

For the benefit of the Members present, from now henceforth, you will find this recurring and this is where we need to concur, so that we do not keep on repeating. We are merging the Energy Regulatory Commission (ERC) and the Upstream Petroleum Regulatory Authority (UPRA). Instead of having a commission, we will be having one Authority. The amendment seeks to recognise the amendment in Clause 9. This will recur many times. When I talk about a single regulator, it will mean that I am moving from the commission to an Authority.

(Question of the amendment proposed)

Hon. Chairman: Anybody who would want to speak to this should press intervention slot so that I know they are not queuing.

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

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

(Part III as amended agreed to)

Clause 9

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “Energy Regulatory Commission hereinafter referred to as the Commission” and substituting therefor the words “Energy and Petroleum Regulatory Authority hereinafter referred to as the Authority”;

(b) in sub-clause (2) by deleting the word “Commission” and substituting therefor the word “Authority”;

(c) in sub-clause (3) by deleting the word “Commission” and substituting therefor the word “Authority”;

(d) in the marginal note by deleting the word “Commission” and substituting therefor the word “Authority”.

Hon. Chairman, that is the amendment I have just been talking to; the single regulator. The justification is the single regulator.

(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

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 10 of the Bill be amended—

- (a) in the opening paragraph by deleting the word “Commission” and substituting therefor the word “Authority”;
- (b) in the marginal note by deleting the word “Commission” and substituting therefor the word “Authority”;
- (c) by inserting the following new paragraphs immediately after paragraph (a)

—
(aa) regulate, monitor and supervise upstream petroleum operations in Kenya in accordance with the law relating to Petroleum, the regulations made thereunder and the relevant petroleum agreement;

(ab) provide such information and statistics in relation to upstream petroleum operations in Kenya to the Cabinet Secretary responsible for matters relating to petroleum as may be required from time to time;

(ac) collect, maintain and manage upstream petroleum data;

(ad) receive, review and grant an application for a non-exclusive exploration;

(ae) co-ordinate the development of upstream petroleum infrastructure and promote capacity building in upstream petroleum operations;

(af) inspect and test any machinery or equipment that has been used, is used or shall be used in upstream petroleum operations.

(ag) assess field development plans and make recommendations to the Cabinet Secretary responsible for matters relating to petroleum for approval, amendment or rejection of the plans;

(ah) assess tail-end production and cessation of upstream petroleum operations and oversee decommissioning by a contractor;

(ai) verify the measurements of petroleum production to allow for estimation and assessment of royalties and profits of oil and gas due to the National Government;

(aj) verify the recoverable cost of oil and gas due to the parties to a petroleum agreement;

(ak) audit contractors for cost recovery;

(al) monitor in consultation with the Competition Authority conditions of contractors’ operations and their trade practices;

(am) provide information to the relevant authority for the collection of taxes and fees from upstream petroleum operations;

(an) set, review and approve contracts, tariffs and charges for common user upstream petroleum facilities;

(ao) make proposals to the Cabinet Secretary responsible for matters relating to petroleum in relation to regulations which may be necessary or expedient for the regulation of the upstream petroleum sector or for carrying out the objects and purposes of this Act;

(ap)work with the relevant statutory authorities to formulate, enforce and review environmental, health, safety and quality standards for the upstream petroleum sector;

(aq)develop guidelines, in consultation with other statutory authorities, in relation to the implementation of treaties, conventions or protocols affecting the upstream petroleum sector that have been ratified by Kenya;

(ar)regulate contracts on upstream petroleum operations not specifically provided for under the law relating to petroleum;

(as)advise the Cabinet Secretary responsible for matters relating to petroleum in the evaluation of the bids and applications made for upstream petroleum blocks;

(at) ensure that contractors uphold the relevant laws, regulations and petroleum agreement terms;

(au) ensure optimal levels of recovery of petroleum resources;

(av) promote well planned, executed and cost-efficient operations;

(aw) ensure optimal utilization of existing and planned facilities;

(ax) ensure the establishment of a central database of persons involved in upstream petroleum operations;

(ay) manage upstream petroleum data and provide periodic updates and publication of the status of upstream petroleum operations;

(az) take such action as is necessary to enforce the requirements in a petroleum agreement or any regulations and to protect the environment, the health and safety of workers and the public;

(ba) ensure and facilitate competition, access and utilization of facilities by third parties;

(bb)prescribe the form and manner in which any application for any authority, consent or approval under the law relating to petroleum shall be made;

(bc) investigate complaints or disputes arising from petroleum operations;

(bd) enforce local content requirements;

(be) issue operational permits and non-exclusive exploration permits in accordance with the law relating to petroleum;

(bf) ensure enforcement and compliance with the national values and principles.

The reason for the amendment is, one, for the same reason and two, to bring all the functions that were in the commission to the Authority.

(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 10 as amended agreed to)

Clause 11

Hon. Chairman: I see two Members who want to propose amendments. Hon. Chair, we will start with you.

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 11 of the Bill be amended—

(a) by inserting the following new paragraphs immediately after paragraph (l)—

(la) enter, inspect and search any premises at which any undertaking relating to petroleum operations is carried out or an offence is being committed or is suspected to have been committed;

(lb) issue orders either requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled in furtherance of its powers under the law relating to petroleum;

(lc) impose such sanctions and civil fines not exceeding five hundred thousand shillings per violation per day to secure compliance with orders issued under the law relating to petroleum;

(ld) take or remove, for analysis, testing or for use in evidence in connection with the commission of an offence under the law relating to petroleum, samples of petroleum or other substances from any area where any upstream petroleum operations are being carried on;

(le) inspect, take extracts from, or make copies of any document relating to any upstream petroleum operations;

(b) by deleting the word “Commission” wherever it appears in the opening paragraph and substituting therefor the word “Authority”.

(c) by deleting the word “Commission” in the marginal note and substituting therefor the word “Authority”.

One of the reasons for this amendment is on the single regulator. Secondly, it is to include the additional powers of the authority relating to the petroleum that we brought to the authority.

(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)

Hon. Osotsi: Hon. Chairman, I beg to move:

THAT, Clause 11 of the Bill be amended by deleting paragraph (i).

This paragraph says, “investigate and determine complaints or disputes between parties over any matter relating to licences and licence conditions under this Act”

This clause is in conflict with Clause 36(3) which says the tribunal shall have the original civil jurisdiction on any dispute between a licensee and a third party or between the licenses. If we allow this paragraph there, there will be a conflict between the commission and the tribunal.

(Question of the amendment proposed)

Hon. Chairman: We should be careful, so that we do not delete even what we have amended. Having proposed the Question, I will give the first shot to the Chair of the Committee.

Hon. Gikaria: I want to beg my colleague. Yesterday, I agreed with him, but upon consulting with the Legal Department, we thought that the tribunal... The first instance of a complaint or a customer and a licensee should be dealt at the Authority level. Taking everything to the tribunal will be cumbersome. We will be taking almost everything even disputes or complaints that can be dealt by the Authority. If somebody is not satisfied, either the customer or the licensee, they can then proceed to the tribunal. I am saying this in light of what we had at the CDF. Before, a complainant would just go to court and receive orders. So, we suggested that one goes to the board first, finish with the board and if you are not satisfied, you can move to the tribunal. I understood him yesterday, but upon getting more information, we thought that those little complaints can be dealt with by the Authority. I am pleading with him to drop his amendment.

Hon. Chairman: Let me first give Hon. (Dr.) Nyikal.

Hon. (Dr.) Nyikal: Hon. Chairman, if we do not delete it, then there has to be a relationship between what happens when the Authority does investigations and when the matter goes to the tribunal. So, we do not want a situation where people insist, “I have gone through the Authority and we are done.” There has to be a sequence of referral. Is that taken care of anywhere in the Bill?

Hon. Chairman: Are you suggesting to the Chairman of the Committee to create some nexus somewhere? He has the power to propose any amendment.

Hon. (Dr.) Nyikal: Yes, because then they will be two standing jurisdictions.

Hon. Chairman: So that I am clear, if for example this particular proposal to delete fails, then, what effect does it have? Are you suggesting that he raises some other proposal thereafter?

Hon. (Dr.) Nyikal: I expect that if this is maintained, then they would come up with some way of referral. It is so that what has failed before the Authority can be referred to the tribunal.

Hon. Chairman: Why can we not dispense with this and whatever the circumstances that we will get out of the vote, you could consult with him on whatever issue you want him to proceed with? Members, you have to be clear in your voting so that I am able to make a decision.

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

Hon. Osotsi, what happened?

(Laughter)

(Clause 11 as amended agreed to)

Clause 12

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 12 of the Bill be amended—

(a) in sub-clause (1)—

(i) by deleting the words “and Petroleum” appearing in paragraph (b);

(ii) by inserting the following new paragraphs immediately after paragraph (b)—

(ba) the Principal Secretary responsible for Petroleum or his representative;

(bb) the Principal Secretary in the National Treasury or his or her authorized representative;

(iii) by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”;

(b) by deleting the word “Commission” in the marginal note and substituting therefor the word “Authority”;

(c) in sub-clause (2) by deleting the words “in the fields of engineering, physical sciences, law, finance, environmental studies, economics, social sciences or energy” appearing in paragraph (b).

This is for the same reason of having a single regulator.

(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 12 as amended agreed to)

Clause 13

Hon. Chairman: There are two proposed amendments. We will start with the one by the Chairperson and next we will go to Hon. Osotsi's.

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended—

- (a) by deleting the word “Commission” wherever it appears in sub-clause (1) and substituting therefor the word “Authority”;
- (b) by deleting the word “Commission” wherever it appears in sub-clause (5) and substituting therefor the word “Authority”.

Again, it is for the same reason of having a single regulator.

(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)

Now, Hon. Osotsi, you have the Floor to prosecute your amendment.

Hon. Osotsi: Thank you, Hon. Chairman. I intend to drop Part (a) of my amendment because at a closer look, I realise that the amendment is not necessary because the word “senior” has been repeated twice. However, I intend to retain Part (b).

(Proposed amendment to part (a) by Hon. Osotsi withdrawn)

I beg to move:

THAT, Clause 13 of the Bill be amended in sub-clause (3)-

- (b) by inserting the following new paragraph immediately after paragraph (c)—
 - (ca) has at least two years of experience in petroleum and energy.

The reason behind this is that the Energy Regulatory Commission is a very technical organisation.

Hon. (Dr.) Pukose: *(Off record)*

Hon. Chairman: Order, Vice-Chairman of the Departmental Committee on Energy. That is my business.

Hon. Osotsi: The Energy Regulatory Commission is a very technical organisation and it requires a Director-General who has experience in the sector. It is for that purpose that I have proposed that apart from the other qualifications which are listed there, it is important for the DG to have at least two years' experience in the petroleum and energy sector.

Thank you, Hon. Chairman.

(Question of the amendment proposed)

Hon. Chairman: Hon. Gikaria.

Hon. Gikaria: Hon. Chairman, I agree with him. Much as he is trying to ring-fence that, it is important to have some experience in the petroleum and energy sector. We have no problem with that.

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

Hon. Chairman: Before I even put the other Question, it should be clear and it is good it is on record that Hon. Osotsi is proposing an amendment to a specific part which he indicated, not the two which were proposed before.

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Clause 15

Hon. Chairman: Hon. Gikaria.

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended by deleting the word "Commission" and substituting therefor the word "Authority".

Can we move amendments to Clause 15 to Clause 21 because they are just the same or we have to go step by step?

Hon. Chairman: Let us go step by step.

Hon. Gikaria: Okay. The justification is for a single regulator.

(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 15 as amended agreed to)

Clause 16

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 16 of the Bill be amended—

- (a) by deleting the words “The Commission” and substituting therefor the word “the Authority”;
- (b) in the marginal note by deleting the word “Commission” and substituting therefor the word “Authority”.

This is for the same reason of a single regulator.

(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 16 as amended agreed to)

Clause 17

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 17 of the Bill be amended by deleting the words “The Commission” and substituting therefor the word “the Authority”.

It is for the same reason of a single regulator.

(Question of the amendment proposed)

Hon. Chairman: I take it that when I do not see any request at the intervention slot, there is no major interest.

*(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

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The justification is for a single regulator.

(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 18 as amended agreed to)

Clause 19

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended—

- (a) by deleting the word “Commission” and substituting therefor the word “Authority”;
- (b) in the marginal note by deleting the word “Commission” and substituting therefor the word “Authority”.

This is for the same reason of a single regulator

(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 19 as amended agreed to)

Clause 20

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 20 of the Bill be amended—

(a) in sub-clause (1) —

(i) by inserting the following new paragraphs immediately after paragraph (c) —

(ca) any revenues generated from any proprietary interest held by the Authority whether movable or immovable;

(cb) interest from bank deposits;

(ii) by deleting the words “as fines” appearing in the proviso and substituting therefor the words “including levies, fines”.

(b) by inserting the following new sub-clauses immediately after sub-clause (1)

—

(1A) any funds retained by the Authority shall make part of the funds of the Authority by way of appropriation.

(1B) The Cabinet Secretary responsible for matters relating to petroleum may make Regulations to provide for a levy prescribing—

(a) the amount in Kenya Shillings payable per cubic meter of crude oil;

(b) the amount of Kenya Shillings payable per one thousand cubic meter of marketable natural gas;

(c) when the relevant levy may be applied; and

(d) any other requirements for implementation of the levy.

(c) by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

There are three justifications: There are funds which belong to the upstream Petroleum Regulatory Authority which is now going to the Energy and Petroleum; to bring some clarity to that clause; and, finally, for the same reason that it is also the single regulator.

Thank you.

(Question of the amendment proposed)

Hon. Chairman: I see Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Chairman, here we will need a little more explanation because there are several components of this. If you look at any revenues from proprietary interest, one may want to know what that exactly means. The interest from banks is understood. There are parts (1A) and (1B) that are being inserted. We need to have more information.

Hon. Chairman: Okay, I see Hon. Pukose first, who is also a Vice-Chair of that Committee. Do you have anything to say on that particular one?

Hon. (Dr.) Pukose: Hon. Chairman, I support the amendment. In its first part we have created an authority instead of a commission. This authority is responsible for both energy and petroleum regulations. Therefore, in the part that you are talking about the Cabinet Secretary responsible for petroleum, this is how he is going to make regulations to provide for levies. This is being provided. So, it is both for the authority because the authority covers both the energy and the petroleum sector. So, I support it.

Hon. Chairman: I do not see anyone wishing to speak to this particular one. I am not sure whether Hon. Nyikal is convinced but if he is not, let us have the Chair of the Committee have the last word and the rest will be up to you to make your decision.

Hon. Gikaria: Thank you, Hon. Chairman. As Dr. Nyikal is saying, it is true. There are funds and we are bringing in an authority and a commission. These revenues with any interest held by the authority or banks ought to be taken only to one place. Further, the amendment seeks to create clarity that revenue collected by the authority including fines and levies shall be paid into the Consolidated Fund and provide for the regulatory making powers of the CS responsible for petroleum. That is what we are saying; that there will be funds.

Hon. Chairman: The rest will be up to you to make your decision, Hon. (Dr.) Nyikal. If you are not convinced, you will have to vote otherwise.

*(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 20 as amended agreed to)

Clause 21

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 21 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(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 21 as amended agreed to)

Clause 22

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 22 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “Subject to any other written law” immediately before the words “A committee member”.
- (b) in sub-clause (4) by deleting the word “Commission” and substituting therefor the word “Authority”.

The first one seeks to ensure that the committees, employees, officers and agents of the Energy and Petroleum Regulatory Authority shall exercise their powers subject to the existing laws including the Constitution. That is the justification for the first one. The second one is for the single regulator.

(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 22 as amended agreed to)

Clause 23

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 23 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

This is for the reason of having a single regulator

(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 23 as amended agreed to)

Clause 24

Hon. (Dr.) Pukose: Put the Question.

Hon. Chairman: No, that is not going to be the direction my friend.

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 24 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The justification is single regulator.

(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 24 as amended agreed to)

(Clause 25 agreed to)

Clause 26

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 26 of the Bill be amended—

(a) in sub-clause (1) —

- (i) by deleting paragraph (a) and substituting therefor the following new paragraph-
 - (a) a chairperson who shall be appointed by the President from among persons qualified to be judges of the High Court and who have at least five years' experience in energy and petroleum matters.
- (ii) by deleting the word "five" and substituting therefor the word "six" in paragraph (b);
- (iii) by deleting the word "Commission" and substituting therefor the word "Authority" in paragraph (b);
- (iv) by inserting the word "law," immediately before the word "petroleum" in paragraph (b);
- (b) by inserting the following new sub-clause immediately after sub-clause (1)
—
 - (1A) The members of the Tribunal shall at the first meeting of the Tribunal elect a vice-chairperson who shall be a person qualified to be a judge of the High Court possessing at least five years' experience in energy and petroleum matters.

One of the reasons is the single regulator. Secondly, we want the President to appoint the Chairperson of the Tribunal. Currently the Chairperson is appointed by the President in line with other relevant Acts.

The Act says that if a chair is of a certain gender then the vice-chair should be of the opposite gender. But that vice-chair must be elected on the first meeting by the members of the authority. Those are the two justifications. The vice-chair must have the qualities of a Judge of the High Court.

(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 26 as amended agreed to)

(Clauses 27, 28, 29, 30 and 31 agreed to)

Clause 32

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 32 of the Bill be amended in sub-clause (4) by inserting the words “by the chairperson” immediately after the words “in the Gazette”.

This is meant to seek clarity that the rules and procedures of the Tribunal shall be published in the Gazette by the Chairperson of the Tribunal.

(Question of the amendment proposed)

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

(Clause 32 as amended agreed to)

(Clauses 33 and 34 agreed to)

Clause 35

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 35 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) —

(3) The members of the Tribunal shall serve on part-time basis.

Hon. Chairman, we are also saying the Tribunal members should be working on part time instead of having them full time.

(Question of the amendment proposed)

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

(Clause 35 as amended agreed to)

Clause 36

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 36 of the Bill be amended —

(a) by deleting sub-clause (4);

(b) in sub-clause (5) by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

One is for the sole reason of having a single regulator. The amendment also seeks to delete the reference of jurisdiction of the Tribunal in matters relating to upstream laws as it will be inserted in the Petroleum Bill.

(Question of the amendment proposed)

*(Question, that the words 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 36 as amended agreed to)

(Clause 37 agreed to)

Clause 38

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 38 of the Bill be amended in sub-clause (3) by inserting the words “and rules of evidence of a similar nature” immediately after the words “natural justice”.

The justification is that the Bill seeks to provide that the Tribunal shall conduct its proceedings without undue regard to technicalities.

(Question of the amendment proposed)

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

(Clause 38 as amended agreed to)

(Clause 39 agreed to)

Clause 40

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 40 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The justification is single regulator.

(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 40 as amended agreed to)

Clause 41

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 41 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority” .
The justification is single regulator.

(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 41 as amended agreed to)

(Clause 42 agreed to)

Clause 43

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 43 of the Bill be amended in sub-clause (1) —

(a) by deleting paragraph (j) and substituting therefor the following new paragraph—

“(j) develop, promote and manage in collaboration with other agencies, the use of renewable energy and technologies, including but not limited to biomass (biodiesel, bio-ethanol, charcoal, fuel-wood, bio-gas) municipal waste, solar, wind, tidal waves, small hydropower and co-generation but excluding geothermal;”

(b) by deleting the word “Institute” and substituting therefor the word “Agency” in paragraph (k);

(c) by deleting the word “Institute” and substituting therefor the word “Agency” in paragraph (l).

Here, it is another issue. From now henceforth, the word “Institute” has been replaced by the word “Agency”. It is an agency and not an institute.

(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 43 as amended agreed to)

Clause 44

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 44 of the Bill be amended in sub-clause (1) by deleting the words “and petroleum” appearing in paragraph (b).

This is just to realign. We now have two Ministries – Energy; and Petroleum and Mining.

(Question of the amendment proposed)

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

(Clause 44 as amended agreed to)

Clause 45

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 45 of the Bill be amended in sub-clause (2) by deleting the word “selection” and substituting therefor the word “recruitment”.

Normally, the word used is “selection” but now we have brought “competitive recruitment”. It is recruitment and not selection for the Chief Executive Officer (CEO) of the Board.

(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 45 as amended agreed to)

Clauses 46, 47, 48 and 49 agreed to)

Clause 50

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 50 of the Bill be amended by inserting the word “liable” immediately after the words “directions personally”.

This is just a typo.

(Question of the amendment proposed)

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

(Clause 50 as amended agreed to)

(Clauses 51, 52, 53, 54, 55 and 56 agreed to)

Clause 57

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 57 of the Bill be amended by deleting paragraph (e)(i) and substituting therefor the following new paragraph—

“(i) one person shall be a registered nuclear energy engineer with experience of five years.”

The justification is that there is need to have in the Board a director of nuclear power and energy. We need to have someone with experience in this sector. We will propose a further amendment for the person to have experience of some years.

(Question of the amendment proposed)

Hon. Chairman: Let me give an opportunity to Hon. Nyikal.

Hon. (Dr.) Nyikal: Are there people who are actually registered as nuclear engineers? I know we love registering people, but do we have registered nuclear engineers that exist in the country? Which institution are they registered by? Sometimes we might include something that probably has no meaning. I know of registered engineers, but I do not know of registered nuclear engineers.

Hon. Chairman: Let me give an opportunity to Hon. Maanzo. If you have a problem with this having very little meaning, you vote against it.

Hon. Maanzo: Hon. Chairman, I support that amendment. Nuclear energy needs people with specific qualifications. The word “registered” is good because it makes sure that the person is “sieved”. I am sure that within the engineers’ network and their professional body, this sort of registration exists.

Hon. Chairman: Let us have Hon. Elisha of Gem.

Hon. Odhiambo: Hon. Chairman, I want to wade into the definition of a registered nuclear engineer. As a Member of the Departmental Committee on Energy, while making the amendments, the wisdom that was used was that the country has trained a lot of nuclear engineers. Having gone through it and sought advice from engineers, I am informed that there is no association of registered nuclear engineers. What exists is an association for registered engineers of the Republic of Kenya. I am just making a contribution which will be informative.

Hon. Chairman: I am just wondering aloud. If we have the engineers’ association and among them there are nuclear engineers, does that contradict anything? As you think aloud about that one, I will give an opportunity to Hon. Manje, then I will come to Hon. Pukose.

Hon. Manje: Hon. Chairman, the main idea behind this is to make sure that somebody who becomes a nuclear engineer through the internet and is not a qualified engineer should not participate on this Board. The word “registered” is just the way you would have a registered doctors’ union.

Hon. Chairman: You have your vote, Hon. Nyikal. You have contributed and so, I will give an opportunity to the other Members who have not contributed. I do not see your card here. It is not indicated at all. Let me just give an opportunity to Hon. Pukose, so that we do not waste time.

Hon. (Dr.) Pukose: Hon. Chairman, I support the amendment. When we say ‘registered nuclear engineers’, we are making this law for posterity, Dr. Nyikal. We have trained nuclear engineers in this country. Once we have made this provision, nuclear engineers will have to form their association and get registered. Once registered, they can now qualify to be on this Board. We are making this law for posterity. Those nuclear engineers exist in this country. They are trained. Our universities are producing nuclear engineers. There are people with master’s degrees and PhDs in nuclear engineering. We want them to now be registered and become members of this Board.

Hon. Chairman: Let us have the Hon. Member there.

Hon. Ngugi: Thank you very much, Hon. Chairman.

Hon. Chairman: That is an engineer speaking.

Hon. Ngugi: I am a contractor. I am the one who constructed the Prime Minister’s office and so, I also participated in a way.

Hon. Chairman: In the golden handshake.

Hon. Ngugi: All engineers in Kenya are registered by the Engineers Board of Kenya (EBK). We do not have a chapter for nuclear engineers. In this country, we do not have registered nuclear engineers. You can train as an engineer and even work for 20 years, but you are not registered. There are very many cases such as those in this country. You qualify from university as an engineer, but you practise and are not registered. We have to distinguish.

Hon. Chairman: This is why I was asking a simple question: If you are registered as an engineer and your specialty is in nuclear engineering...

Hon. Ngugi: We do not have anybody who is registered as a nuclear engineer.

Hon. Chairman: Registration is not the issue. For me, it is the qualifications.

Hon. Ngugi: All engineers are registered by the EBK. We do not have a chapter for nuclear engineers.

Hon. Chairman: Let us hear from the Chair. I can see a lot of interest in this nuclear issue. Hon. Chair, let me give an opportunity to Hon. Omulele first and then you can have the last word. It will be tidier that way.

Hon. Omulele: Hon. Chairman, the Committee was trying to make sure that whoever gets into this position has training as a nuclear engineer. They could stipulate that the person should be a registered engineer, but with training in nuclear energy. That would make sense.

Hon. Chairman: That makes a lot of sense, in my opinion. We can dispose of this amendment.

Hon. Gikaria: Hon. Chairman, I want to amend my amendment.

Hon. Chairman, I beg to move:

THAT, Clause 57 of the Bill be amended by deleting paragraph (e)(i) and substituting therefor the following new paragraph—

“(i) one person shall be a registered engineer with experience of five years in nuclear energy.”

That would have sorted out the issue.

Hon. Chairman: That makes it perfect in my opinion.

(Question of the further amendment proposed)

Hon. Chairman: If everybody supports the amendment, then I will proceed to put the Question. Then, you can support it through voting.

(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)

I am surprised that Hon. Gikaria did not support his further amendment.

Hon. Gikaria: I did. I was reading it.

Hon. Chairman: You were reading it rather than supporting it. But it is taken anyway.

(Clause 57 as amended agreed to)

(Clauses 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73 and 74 agreed to)

Clause 75

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 75 of the Bill be amended in sub-clause (2) by deleting the words “and petroleum” appearing in paragraph (a).

This amendment will align the Bill with the Petroleum (Exploration, Development and Production) Bill.

(Question of the amendment proposed)

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

(Clause 75 as amended agreed to)

(Clauses 76 and 77 agreed to)

Clause 78

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 78 of the Bill be amended—

(a) in sub-clause (4) by deleting the words “one year from the date of issue” and substituting therefor the words “two years from the date of issue”;

(b) in sub-clause (5) by inserting the following new paragraph immediately after paragraph (b)—

(ba) the authorised person has not commenced a search of geothermal resources for a continuous period of five years;

The amendment seeks to increase the period that the licence will be given, from one year to two years. It is reasonable that one year might end even before you bring some of the items you need to start working.

(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 78 as amended agreed to)

Clause 79

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 79 of the Bill be amended in sub-clause (1) by deleting the words “The Cabinet Secretary on receiving an application for the extraction of geothermal resources in respect of any land, may, on the advice of the Commission” and substituting therefor the words “The Cabinet Secretary may, on receiving an application for the extraction of geothermal resources in respect of any land, and in consultation with the Renewable Energy Resource Advisory Committee”.

The proposed amendment seeks to ask the Cabinet Secretary to consult the Renewable Energy Resource Advisory Committee when he is granting geothermal licenses.

(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 79 as amended agreed to)

Clause 80

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 80 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “and other relevant laws” immediately after the words “subject to this Act”.

(b) in sub-clause (2) by deleting the words “without requiring an additional licence notwithstanding the provisions of any other written law” and substituting therefor the words “after obtaining a licence under the law relating to mining”.

This amendment brings the aspect of the relevant written laws.

(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 80 as amended agreed to)

Clause 81

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 81 of the Bill be amended by deleting the word “Commission” appearing on the opening paragraph and substituting therefor the word “Authority”.

As I had earlier said, this amendment seeks to bring a single regulator.

(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 81 as amended agreed to)

(Clauses 82 and 83 agreed to)

Clause 84

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 84 of the Bill be amended—

(a) in sub-clause (3) by deleting the word “twice” appearing in the provision;

(b) in sub-clause (4) by deleting the words “concerned based on the extent of the investment in each county”.

This amendment seeks to clean up the word “twice”

(Question of the amendment proposed)

Hon. Chairman: What is out of order Hon. Nyikal? It is belated. Proceed.

Hon. (Dr.) Nyikal: *(Off record)*.

Hon. A.B. Duale: You are not on HANSARD, my friend. Provided that the amount allocated in accordance to this sub-section shall not exceed twice the amount allocated to the County Government by Parliament in the financial year under consideration.

Hon. (Dr.) Nyikal: Hon. Chairman, Clause 3 (a) of the Bill says that the amount allocated in accordance to this sub section shall not exceed twice the amount allocated to the County Government by Parliament in the financial year under consideration. If you remove the word “twice”, then it shall not exceed the amount allocated to the County Government. That is a significant difference. You are reducing the allocation by twice.

Hon. Chairman: Explain this significant difference which you are talking about, so that the Members can understand.

Hon. (Dr.) Nyikal: If you were supposed to give me 10 royalties and the law says that you are not supposed to give me over twice of what I get, it means you do not give over 20. If you remove then over 10, it is a significant difference. I would like to get a better explanation.

Hon. Chairman: I wish the Chair will give an explanation because the removal of the word “twice” makes a significant difference.

Hon. (Dr.) Pukose: Put the Question.

Hon. Chairman: I will not put the Question.

Hon. Gikaria: Put the Question.

Hon. Chairman: I want you to justify or respond to what Hon. Nyikal has said.

Hon. Gikaria: Hon. Chairman, I will take the example of Hon. Nyikal. If you get 10 royalties and then you say that you should get twice of it, then it means you get 20 in the national revenue and royalties. If you put the word “twice”, then it means you get 30 royalties instead of 20. Those are some of the issues that he was saying. We did some calculations. Instead of a county to get Kshs20billion, it will get 30 billion which is twice.

Hon. Chairman: Let us see if the Leader of the Majority Party has something to say on that amendment and then I will dispose it.

Hon. A.B. Duale: Hon. Chairman, I said yesterday in the Roads Bill that Hon. Nyikal is a medic. So, he wants to know the details of amendments. This amendment deals with royalties from geothermal energy. Twenty per cent of the royalties shall not exceed the amount allocated to the counties. The threshold of this amendment is that the Commission for Revenue Allocation (CRA) will be involved when it comes to counties. Read that amendment very clearly Hon. Nyikal. As the Chair said, we must live to the fact that whatever the county gets in terms of royalties should not exceed the revenue that Parliament allocates through the Division of Revenue Bill and the County Allocation Revenue Bill. Hon. Nyikal, this is a very clear thing.

Clause 84(4) of the Bill says the Cabinet Secretary shall, in consultation with the CRA, determine the rate of apportionment of the county share between the counties concerned based on the extent of the investment in each county.

Put the Question.

Hon. (Dr.) Nyikal: We are reducing the amount of royalties which we had said we would give the counties. That is what we are doing. We are putting a limit. We are saying that we cannot give them more than what they have been allocated by Parliament. Initially, we said that we cannot give them more than twice of what they have been allocated.

We are reducing the highest possible by half. I know and the question should be clear that those who are saying yes mean that counties should not get more than twice. They are reducing what a county can get. I assure you that it will come up in the Senate because it is against counties.

Hon. Chairman: The Senate having a say in this is perfectly constitutional. If we legislate something and the Senate feels otherwise, they have a right and have mechanisms to deal with it. The better way is for us to convince ourselves rather than wonder what the other House will do.

I will put the Question so that you make your decision whichever way. Hon. Nyikal, if you have convinced your colleagues or you have been convinced by the Chair, that will be evident.

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

(Clause 84 as amended agreed to)

(Clauses 85, 86 and 87 agreed to)

Clause 88

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 88 of the Bill be amended in sub-clause (1) by deleting the word “Commission” and substituting therefor the word “Authority”.

The justification is to have a single regulator.

(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 88 as amended agreed to)

(Clauses 89 and 90 agreed to)

Clause 91

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 91 of the Bill be amended in sub-clause (1) by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The reason for this amendment is to have a single regulator.

Hon. Chairman: This is going to be the last clause we are dealing with this afternoon.

(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 91 as amended agreed to)

Hon. Chairman: We will do two more clauses. We have run short of time.

Clause 92

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, Clause 92 of the Bill be amended in sub-clause (1) by deleting the word “Commission” and substituting therefor the word “Authority”.

The reason for this amendment is to have a single regulator.

(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 92 as amended agreed to)

Clause 93

Hon. Gikaria: Hon. Chairman, I need some guidance here. Clause 93 all the way to Clause 121 are Part V of the Energy Bill. We are moving these clauses to the Petroleum Bill. Do we need to go clause by clause or do we amend them collectively?

Hon. Chairman: We will still go clause by clause.

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 93.

It is to align it to the

Hon. Chairman: Is it an amendment or is it a deletion?

Hon. Gikaria: It is a deletion.

Hon. Chairman: Hon. Nyikal, the Committee is proposing to move all these clauses to the Petroleum Bill.

(Question of the amendment proposed)

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

(Clause 93 deleted)

Hon. (Dr.) Pukose: On a point of order, Hon. Chairman.

Hon. Chairman: What is your point of order?

Hon. (Dr.) Pukose: Hon. Chairman, since we are deleting clauses 93 all the way to Clause 121, and moving them to the Petroleum (Exploration, Development and Production) Bill. Can you allow us to delete all of them at once?

Hon. Chairman: You will have to be patient. What is it, Hon. Whip of the Majority Party?

Hon. Washiali: Hon. Chairman, I know Dr. Pukose wants us to finish the Committee of the whole House but procedures must be followed. Clause 93 has completely different wordings from Clause 94. Therefore, we cannot purport to delete ...

Hon. Chairman: Hon. Washiali, you are perfectly right. I will give a good example. Suppose Members decide not to accept the deletion? It will be an issue. We are moving on very well. We have covered a huge chunk this afternoon. Some patience will be fine.

Clause 94

Hon. Gikaria: Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 94.

Hon. Chairman: That is for the purpose of moving it to the other Bill.

(Question of the amendment proposed)

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

(Clause 93 deleted)

Clause 95

Hon. Gikaria: Hon. Chairman, i beg to move:

THAT, the Bill be amended by deleting Clause 95.

The reason is that we are moving it to the Petroleum (Exploration, Development and Production) Bill.

(Question of the amendment proposed)

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

(Clause 95 deleted)

Hon. Chairman: Hon. Members, I call the Mover to move reporting.

Hon. A.B. Duale: Hon. Chairman, I beg to move that the Committee reports to the House its consideration of the Energy Bill, National Assembly Bill No.50 of 2017 to Clause 95 and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE ENERGY BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Energy Bill (National Assembly Bill No. 50 of 2017) up to Clause 95 and approved the same with amendments and seek leave to sit again tomorrow.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that House does agree with the Committee in the said Report.

I request Hon. Gikaria to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Gikaria: I second.

(Question proposed)

(Question put and agreed to)

REPORT

THE IRRIGATION BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Irrigation Bill (National Assembly Bill No. 46 of 2017) and approved the same with amendments.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that House does agree with the Committee in the said Report. I request Cecily Mbarire to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Ms.) Mbarire: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, the time being 7.00p.m., the House stands adjourned until Tuesday, 23rd April 2018 at 2.30 p.m.

The House rose at 7.00 p.m.