

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 31<sup>st</sup> August, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

**Hon. Speaker:** Hon. Mwaura is supposed to be presenting a Petition.

#### RECOGNITION OF PERSONS WITH GENDER IDENTITY DISORDER

**Hon. Mwaura:** Thank you, Hon. Speaker. I have a public Petition by concerned citizens regarding recognition of persons with gender identity disorder conditions.

I, the undersigned, on behalf of citizens of Kenya and, in particular, persons born with Gender Identity Disorder (GID) also referred to as intersex, draw the attention of the house to the following:-

THAT, Article 27(4) and (5) of the Constitution recognizes individual rights with regard to equality and freedom from discrimination on grounds of sex, religion, race, pregnancy, marital status, health status, ethnic or social origin, colour, age and disability, among others.

THAT, the Ministry of Interior and Coordination of National Government, through the Directorate of Immigration and Registration of Persons, has failed to recognise persons living with GID as duly Kenyan citizens and denies them the right to register as Kenyans.

THAT, despite the Ministry of Education, Science and Technology having intersex education covered in the curriculum, there is continued discrimination through issuance of wrong gender certificates to persons living with GID.

THAT, due to lack of proper registration, persons living with GID conditions are denied access to public places and buildings and their right to vote or practising other citizenry roles.

THAT, due to lack of awareness at any level, persons living with GID continually face discrimination and ridicule from not only the public, but also their own family members. This leads to low self-esteem and stigma with dire results being as extreme as committing suicide.

THAT, due to inadequate initiatives by the Ministry of Health, persons living with GID receive inadequate medical check-ups and are not eligible for the National Hospital Insurance Fund (NHIF) cover.

THAT, efforts to resolve this matter with the relevant Government agencies have been futile; and

THAT, the matter in respect of which this Petition is made is not pending before any court of law.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security:-

- i. causes the Ministry of Interior and Co-ordination of National Government to establish mechanism for national registration of persons living with GID;
- ii. enacts legislation to establish GID programmes which will provide for the manner of handling persons living with GID;
- iii. allocates funds in the next and subsequent budgets to cater for special medical care for persons with GID, especially surgeries; and,
- iv. cause the Government to roll out a public awareness programme to sensitise the public on the disorder in order to rid stigma and discrimination.

And your Petitioners will ever pray.

**Hon. Speaker:** Order, Hon. Members! This is the only Petition for today. Given its peculiar nature and the prayers that it seeks; some of which may result in huge public expenditure of public resources, I will allow a few Members to make comments and/or seek clarifications from Hon. Mwaura. This is a unique kind of Petition. One may have thought that it was only applicable in South Africa but now, Hon. Mwaura is bringing it to the attention of the entire country.

I can see the Member to whom it is directed to. He needs to enact this legislation. Hon. Kamama, you have a heavy task. You may need to order for corrective surgery or any other such like thing. Maybe, I should give you the first shot.

**Hon. Abongotum:** Thank you, Hon. Speaker. As the Departmental Committee on Administration and National Security, we welcome this Petition. We are going to give it due justice that it deserves.

However, I want some clarifications from Hon. Mwaura. I want him to tell us - and I think I share the same thought with the Leader of the Majority Party - where those people are residing. That is because I have only heard of Audrey from Kenya and Semenya from South Africa.

**Hon. A.B. Duale:** It has been resolved!

**Hon. Abongotum:** I hear that the issue has been resolved. We also wanted the Member to also clarify to the House whether persons with that kind of disability are recognised in the African, Christian or Islam set ups. I agree that Article 27(4) and (5) recognises that no Kenyan should be discriminated against on the basis of sex, religion, race, pregnancy, marital status, health status, ethnic or social origin, colour, age and disability, among others. Therefore, we welcome the Petition and we will do justice to it.

**Hon. Speaker:** Member for Makueni County.

**Hon. Maanzo:** Thank you, Hon. Speaker. I wish to confirm to this House that, indeed, such people do exist. I grew up in Makueni and I had a friend who had that disorder. As we grew up, I do not know what really happened to him or her.

I think we should have a process through which the Ministry of Interior and Coordination of National Government can identify such people in our society through the chiefs. The chiefs should urge families with such persons to bring them out. That way, in conjunction with the Ministry of Health, efforts could be made to have corrective surgery done. In many parts of the world, corrective surgery has been done successfully on persons with GID, thus transforming them into unisex beings.

I have checked my ID and it clearly states that I am male. Some of the questionnaires emanating from the Ministry of Interior and Coordination of national Government have places

where one is required to state where they belong. I think it is difficult for intersex persons to state where they belong. This Petition is important and should be taken with a lot of seriousness. We do not know the statistics, but I believe they can be established and intersex Kenyans can be assisted. I am sure Kenya will be in the lead and it will encourage other countries to assist persons with GID.

Thank you, Hon. Speaker.

**Hon. Speaker:** Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, this is one kind of a Petition I have never heard of in my entire eight years as a Member of Parliament. This House should not legislate in vain. Hon. Mwaura must tell us and identify physically where this constituency lives in Kenya.

**Hon. Member:** They are all over!

**Hon. A.B. Duale:** Do not say they are all over unless you are one of them!

*(Laughter)*

I am asking Hon. Mwaura and not any other Member. He needs to give us full information for the Departmental Committee on Administration and National Security to be guided. This is because there are people who must appear before this Committee as stakeholders with regard to this Petition. Hon. Mwaura is just conveying this Petition as a Member of Parliament. We expected him to tell us the people who have signed the Petition. I am sure the Chairman of the relevant Departmental Committee will see that.

Secondly, there is the element of budget. If this House passes money for surgery – in this country we know how some people behave when it comes to money issues – some people will even want to do surgeries that do not conform to the demands of this Petition. They might even decide to change their sexuality from man to woman and *vice-versa*.

Finally, I want to agree with Hon. Kamama that whatever we do, it should be within the confines of the Constitution. We should also remember that we believe in God. What is the position of faith in this matter? Let us not bring foreign matters to this august House. I can speak for where I come from because such incidences do not happen there. Hon. Mwaura should give us more clarifications and tell the House the number of such people in the country. We cannot just allocate money for surgeries for people that we do not even know. This could be another National Youth Service (NYS) scandal and money can be stolen. This Petition is like the one which was brought here last week when you were away. It was seeking the scrapping of a number of seats in this House. It was also calling for reduction of a number of constituencies. This is a very unique Petition.

I beg to seek clarification on this issue.

**Hon. Speaker:** Given the issue raised on clarification, I will allow Hon. Mwaura to briefly speak on this matter. I will not allow more comments on this. As you know, the House was scheduled to have a morning sitting today, but it could not because there was no quorum. I am sure, if you have looked at the Order Paper, you have seen some suggestions.

I will allow Hon. Mwaura to make clarifications on the issues that have been raised.

**Hon. Mwaura:** Hon. Speaker, I want to seek your indulgence to make further clarifications on this matter so that the House may understand.

**Hon. Speaker:** Be very brief, please.

**Hon. Mwaura:** Hon. Members, we are not talking about individuals who want to change their gender. We are talking about individuals whose genitalia are poorly formed to the point

that, at birth, you cannot identify whether the person is male or female. It is different from individuals who may have more than one genitalia. Are we together? There is a case of Mr. James Karanja who was brought up as Ms. Mary Waithera. He went to a girls' secondary school and now has a certificate bearing a female name. Presently, he cannot get an identification document (ID) because he is a man.

**Hon. A. B. Duale:** *(Spoke off-record)*

**Hon. Mwaura:** I want to seek the indulgence of the Leader of the Majority Party because I think he is misleading the House. I want him to benefit from this information because he is my friend. It is the same way you can have a malformed arm, but in this case we are talking about the genitalia such that even if that child wants to help itself, if it is a male child, because of the poorly developed male organ, he has to squat like a girl.

There are over 120 of them and they are spread across the country. This is not a matter of conjecture or religion. Those are individuals who are deeply suffering. They need the indulgence and the support of this House so that they can claim their rightful place in this country.

I rise to support.

*(Applause)*

**Hon. Speaker:** Hon. Mwaura, that is a very good explanation. You have sufficiently acquainted yourself.

The Petition stands committed to the Departmental Committee on Administration and National Security to look into the various issues that you have raised in the main body of the Petition, alongside the Prayers sought. I believe this is the kind of Petition that you will obviously invite quite a number of professionals to come and give their reasons and professional input so as to advise the Committee on how best it can address various prayers contained therein.

Hon. Members, before we proceed, allow me to recognize the presence of a visiting delegation from Nyandarua County Assembly seated in the Speaker's Gallery:

- (1) Mr. Ferdinand King'ori, MCA, Deputy Speaker, and leader of the delegation.
- (2) Mr. Kariuki Muchiri, MCA, and Leader of the Majority Party.
- (3) Mr. Githinji Ngumba, MCA and Leader of the Minority Party.
- (4) Ms. Nancy Ng'ang'a, Nominated MCA.
- (5) Mr. Thirikwa Thirikwa, MCA, and Member of the Board.

The delegation is accompanied by staff from the county assembly. They are here to consult with and learn from the National Assembly Christian Fellowship on preparations for the upcoming Nyandarua County Prayer Breakfast Meeting. You are welcome to observe the proceedings of the House.

In the Public Gallery, we have students from the following institutions:-

Limuko Secondary School from Bahati Constituency, Nakuru County; St. Joseph Secondary School from Molo Constituency, Nakuru County; Sokoro Secondary School from Molo Constituency, Nakuru County and Kapsita Secondary School from Molo Constituency, Nakuru County. You too are welcome to observe the proceedings in the National Assembly this afternoon.

## PAPERS LAID

**Hon. Speaker:** Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House, today, Wednesday, 31<sup>st</sup> August 2016:-

The Annual Report of the Regional Center for Mapping of Resources for Development.

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year that ended in 30<sup>th</sup> June 2015, and the certificates therein;

(i) Kenya Veterinary Board, and,

(ii) Kirinyaga University College.

**Hon. Speaker:** Chairperson of the Departmental Committee on Health.

**Hon. (Ms.) R.K. Nyamai:** Hon. Speaker, I beg to lay the following Paper on the Table of the House, today, Wednesday, 31<sup>st</sup> August 2016:-

The Report of the Departmental Committee on Health on its consideration of Senate Amendments to the Health Bill, 2016.

**Hon. Speaker:** Next Order!

## NOTICE OF MOTION

### CONSTRUCTION OF STANDARDIZED STAFFROOMS/STORAGE FACILITIES FOR SCHOOLS

**Hon. Speaker:** Hon. (Ms.) Jessica Mbalu.

**Hon. (Ms.) Mbalu:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that education is an important tool for empowering people to actively engage in national development towards realization of Kenya's Vision 2030 and Sustainable Development Goals (SDGs); noting that conducive working environment for teachers is essential for enhancing efficiency and safety of learning materials; cognizant of the fact that teachers in a number of public schools work from poor staffrooms while others operate in poor makeshift facilities in schools in all levels of Government, including Early Childhood Development (ECDs) some of which are without staffroom facilities, or equipment or books storage facilities; concerned that such poor working conditions constrain optimal service delivery by teachers and expose learning materials, including books purchased under the Free Primary Education (FPE) and subsidized secondary school capitation funds to destruction and theft; this House urges the National Government and the county governments to initiate a comprehensive programme to ensure that all public primary and secondary schools and ECDs have standardized staffrooms for teachers and safe custody of learning equipment and materials.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Next Order!

## STATEMENTS

**Hon. Speaker:** The Chairperson of the Departmental Committee on Labour and Social Welfare, Member for Matungu Constituency.

**Hon. Were:** Hon. Speaker, I have two statements. I will begin with the business pending before the Committee as at 30<sup>th</sup> August, 2016. It is on petitions, legislative proposals and Bills.

First, is on Petitions. We have a Petition by the Member for Kilifi South Constituency, Hon. Mustafa Idd MP. It is on behalf of former employees of Rea Vipingo Plantation. The Committee has visited Rea Vipingo Plantation and met the Member of Parliament. What is remaining is the finalisation and tabling of the Report.

Two, we have a Petition from the Member for Balambala Constituency, Hon. Abdikadir Aden, MP. It is on behalf of the residents of Balambala regarding the change in course of River Tana between Mudey and Buradansa.

The Committee has met the Petitioner, the Ministry of Water and Irrigation, jointly with the Ministry of Public Service, Youth and Gender Affairs. Thereafter, the Committee will conduct a field visit to the affected area and report.

Three, we have a Petition by Hon. Bady Twalib Bady, Member of Parliament for Jomvu Constituency. It is with regard to unlawful termination of employment of over 300 employees at a Hindu firm called Adil Hantex Export and Processing Zone (EPZ) Limited. We have met the Petitioner and visited the firm in Mombasa. We are waiting for the finalisation of the Report.

Four is a Petition by Chege Macharia on affirmative action for youth representation in public offices. The Committee is yet to deliberate on the Petition. We have invited the Petitioner who should be appearing before us during recess.

Five is a Petition by Hon. Alex Mwiru on behalf of the Union of Kenya Civil Servants on non-payment of hardship allowance to public servants. It was tabled on 21<sup>st</sup> July. The Committee has organised to meet the Petitioner to deliberate on the Petition.

Six is a Petition by Prof. Faith Nguru and Jennifer Karina on proposed amendments to the Girl Guide Act Cap. (220) of the Laws of Kenya tabled on 26<sup>th</sup> of July. On this one, the Committee is also in the process of meeting the Petitioners in order to deal with it.

Finally, is Petition No. 7 by Hon. Jakoyo Midiwo on financial and administrative issues in the East African Breweries Limited (EABL). It was tabled on 29<sup>th</sup> August 2016. That is two days ago. The Committee is organising to meet the Petitioner.

On legislative proposals, we have the Legislative Proposal on Persons with Disabilities (Amendment) Bill. The Committee has not met the Proposer of the Legislative Proposal. We are in the process of doing that. The proposal was referred to the Committee on 8<sup>th</sup> August.

We have the Breastfeeding Working Mothers Bill sponsored by Hon. Sabina Chege. It is pending before the Committee. We had tried to have a meeting, but we were unable because the Proposer was away. We are in the process of meeting the said sponsor.

Three is the Presidential Archives and Records Bill, 2016, sponsored by Hon. (Dr.) Patrick Mweu Musimba, MP. We have had a meeting on this and resolved to meet the sponsor and, thereafter, invite the Cabinet Secretary (CS) for Sports, Culture and Arts to discuss the Legislative Proposal.

Four is the Employment Skills Development Legislative Proposal sponsored by Hon. Aghostinho Neto, MP. The Committee met with the sponsor on Thursday, 11<sup>th</sup> August 2016, received submissions from stakeholders and is awaiting the final Report from the Committee.

Five is the Domestic Workers Legislative Proposal sponsored by Hon. Joyce Lay, MP. The Committee met with the sponsor of the Legislative Proposal and received submissions from stakeholders. It is awaiting finalisation of the Report.

Finally, on Legislative Proposals is the Industrial Training (Amendment) Bill sponsored by Hon. Jude Njomo, the Committee has met the sponsor of the Legislative Proposal but is awaiting the final comments and adoption of the Report by the Committee.

On Bills, we have two. They include the Statute Law (Miscellaneous Amendments) Bill which the Committee has considered. We are reliably informed that you have directed that public participation be done before we finalise our Report. The Committee had already worked on the Report.

Two is the County Hall of Fame Bill. This is a Senate Bill. The Committee has also considered this Bill. We are only waiting the finalisation of the Report.

Those are the petitions, pending Bills and legislative proposals that have been referred to the Committee.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. I hope everybody was listening to the update given by the Chairman of the Departmental Committee on Labour and Social Welfare.

Now that there is no sign of intervention, we move to the next Order.

**Hon. Were:** Excuse me?

**Hon. Speaker:** Yes, Hon. Were.

**Hon. Were:** Following your direction yesterday, you indicated that you wanted a brief on---

**Hon. Speaker:** A brief on the now famous "Rio de Janeiro Sojourn".

**Hon. Were:** Thank you, Hon. Speaker. At the outset, I want to confirm that the delegation that went to Rio has not prepared a Report. It is because we came back towards the end of last week. We only met with the Committee yesterday to give a brief. But, we do not have a Report as the Committee that went to Rio. Whatever I will give here is not the Committee Report but an overview of what happened. It will only deal with what happened in Rio and coming backwards. It will not even deal with the preparations.

So, the Departmental Committee on Labour and Social Welfare was represented by four Members - Hon. David Were as the Chairperson and Leader of the Delegation, Hon. Dan Wanyama Sitati MP, Hon. John Kobado MP and Hon. Cornelly Serem MP, and accompanied by the Committee Clerk Eric Nyambati. We travelled to Rio for the purposes of watching the Olympics.

In attendance were others who are members of the Bunge Sports Team which comprised of Hon. Benson Mutura MP, Hon. Charles Mutisya Nyamai, MP, Hon. Athanas Wafula Wamunyinyi, MP and Hon. Christopher Omulele, MP. Those are the four Members of Parliament who are members of Bunge Sports Club. They were accompanied by Parliamentary Staff Mr. Stephen K. Mutungi who was the secretary of the team and coach, Mr. Sylvester Ochola.

Those are the members of the National Assembly who travelled to Rio. I want to confirm that Hon. Chris Wamalwa was not part of the team. I wanted to go on HANSARD that he was not part of the team.

*(Loud consultations)*

Members---

*(Hon. S. S. Ahmed consulted loudly)*

**Hon. Speaker:** Order, Hon. Members! The Member of Kisumu Town East or such like constituencies, you cannot sit there and start making comments. If you want to make a comment, you know how it is done by now. Just press your intervention button.

*(Hon. S.S. Ahmed gestured to Hon. Speaker)*

Not now. You have nothing to say now.

**Hon. Were:** Hon. Speaker, I thought Members had an interest in knowing what happened in Rio, but it seems like their interest was on Hon. Chris Wamalwa who was not in Rio.

Hon. Speaker, while in Rio, an attention was brought to us that we had problems in ticketing. Allegations were made that athletes were mismanaged, especially in travel arrangements that saw some athletes travel without their coaches. They alleged that the National Olympics Committee of Kenya (NOCK) did not procure tickets for them and, hence, they bought the tickets for themselves. That was the first issue.

The second issue was on accreditation. Some officials complained on how accreditation was done, with many alleging of corruption in accreditation. The third was on uniforms. It was alleged that athletes were wearing mismatching uniforms during the opening ceremony and that they were provided with single uniforms, unlike athletes from other nations who had more and yet, most of the athletes were sponsored by Nike. Those were the first three allegations which were brought to the attention of the Committee.

Having heard of those allegations, we arranged for meetings. The first meeting we had was with the members of the Committee who met with the Cabinet Secretary (CS) and Principal Secretary (PS) of the Ministry of Sports, Culture and the Arts, together with other officials. In response to the allegations, the Ministry officials reiterated that they had procured tickets for all participants at the right time and distanced itself from accreditation and uniform issues citing that NOCK was responsible for the same. The Ministry indicated to us that they had procured tickets for all the athletes and whoever was claiming that he did not have tickets was not saying the truth. This is what the CS and his team claimed.

We then had a meeting with NOCK. This happened when the delegation had the opportunity of visiting the Olympic Village, where our athletes were staying. What we realised there was that all the athletes that were participating in the Olympics were all accommodated at the Olympic village. Whatever facilities that were there were shared by all the teams, whether it was the American team, the Kenyan team or the Russian team. All of them were staying in one village, eating in the same dining hall, using the same gym and having the same medical facilities. So, within the village, the treatment of the athletes was the same.

However, after that, we had a meeting with the NOCK officials led by the *chef de mission*, who was Mr. Stephen K. arap Soi. In the meeting, we had the President of NOCK, Mr. Kipchoge Keino. We also had Mr. Paul Tergat among others, together with the Vice-Chair, Mr. Chacha. They gave us information regarding accreditation. They informed the Committee that due to the number of athletes who qualified for the games, the Kenya quota of officials and guests had been reduced drastically. However, it was apparent that when the number of accreditation was reduced, the number of officials was not reduced and, hence, the majority of the accreditations had to be cancelled and an arrangement of rotational or transferable accreditation arrangements had been done. What that meant is that they staggered the accreditation in such a way that one group was accredited from 1<sup>st</sup> to 7<sup>th</sup> July, 2016. The second group was accredited from 8<sup>th</sup> to 15<sup>th</sup> July, 2016 and the third group was from 15<sup>th</sup> to 22<sup>nd</sup> July,

2016. That is the information we got while in Rio, which we did not have when we were leaving here. We raised this information with the Ministry. As the parliamentary team, the invitation we got was from the Ministry and we did not know that NOCK was the one that was doing accreditation. So, there was that problem in terms of coordinating activities with the Ministry and NOCK. That is because NOCK was closed inside the village while the Ministry was operating from outside the village. To access the village, you had to talk to only one man and that was Mr. Soi. He is the only one who could get you accredited and access the village. That is why we had that problem of coordination among the Ministry, NOCK and ourselves. I believe all the other people were complaining.

With regard to uniforms, Mr. Soi, together with other NOCK officials, laid the blame on Nike, a US-based company that is contracted to provide the national team with uniforms, for delayed delivery. They indicated that the uniforms came in late. The only uniforms that came early were those for the rugby team, which came in June. However, the other uniforms came just about the time when the team was supposed to leave. This is what they said. We are not saying that this is the position because while we were there, it was not possible to ascertain whether what they were saying was right or wrong. Otherwise, that is what they indicated. They even indicated that some uniforms came late when the team had already departed. An example was sandals, which never went to Rio. Those were left behind.

Because of this and not knowing the agreement between Nike and NOCK, we demanded to have access to the contract signed by them so that we can really know the conditions that were in the agreement, which they promised to make available. But as we speak today, they have not made that contract available.

While in the village, we were informed that immediately after the Olympics which were ending on Sunday, I think the village was going to be closed on Tuesday. That would necessitate that whoever athlete was still in the village had to leave. They indicated that there were no daily flights on the Angola Airline, which our team was using because they were flying from Rio to Luanda, Angola, and then to Nairobi. They indicated that the day the village was being closed, there were no flights scheduled from Rio to Luanda and then to Nairobi. Because of that, they had made arrangements for the team to relocate to a hotel which they said was of sound standards. That is what happened. The team left the Olympic village and moved to the hotel. Thereafter, we heard from the athletes who moved to that hotel that it was substandard but, as Committee members, we never had an opportunity to visit the alternative accommodation where they had moved. However, from the reports that we got thereafter, the place where they had been moved was actually a ghetto. That is what happened.

On arrival back home, we heard that the CS for the Ministry of Sports, Culture and Arts, Dr. Hassan Wario had disbanded NOCK citing mismanagement of Team Kenya in Rio and transferred their responsibilities to Sports Kenya as the interim custodians, who will ensure the adoption of a new constitution and setting of the election calendar. As members who travelled to Rio, we joined our colleagues yesterday in a meeting which took place in Protection House. We deliberated on the Rio 2016 Olympic Games and gave a brief from the delegation to the Committee. We deemed it necessary that we need to summon the CS for Sports, Dr. Hassan Wario, to shed more light on:

- a) The role of the Ministry in preparations and management of the team that went to Rio.
- b) The allegations of Team Kenya mismanagement by NOCK.
- c) The legitimacy of disbanding NOCK and transferring its roles to Sports Kenya.

- d) The repercussions of the disbandment.
- e) The court cases that have been instituted against the officials.

In this regard, the Committee has summoned the CS to appear before it on Tuesday next week to apprise the members on the above. Thereafter, we will invite all the other stakeholders.

As I finalise, I take this opportunity to thank the members of the Departmental Committee on Labour and Social Welfare and members of this House for passing the Anti-doping Act that enabled our Kenyan team to participate in the Olympics.

Had we not done that, our team would not have been allowed to participate in the Olympics.

Secondly, I thank and congratulate Team Kenya for their spirited effort that made us to top in Africa with 13 medals, and grabbing the 15<sup>th</sup> position worldwide. As I said, the Committee is yet to work it out so that we can have a full Report that will be tabled in the House and debated by Members.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, that was just a preliminary report. There is nothing to debate. We just wanted the House to be apprised. Even if you are a marathoner, once I say “no,” that is the end. Do not even try to open your eyes wider than normal, expecting to catch my eye. Because of the events of this morning, the business before us is such that we must go to the Order Paper. Hon. Were’s Committee is encouraged to meet and hear as many of the persons concerned as possible, bearing in mind that there would be matters that would be *sub judice*. Nevertheless have your meetings, including meeting with the Cabinet Secretary (CS) and all the other officials so as to present to the House a full Report on which debate can happen.

Hon. Were, even if the House proceeds on recess you should, during that time, endeavour to do that so that, as soon as the House resumes, you can table the Report of Committee.

*(Several Hon. Members raised their hands to catch the Speaker’s eye)*

Hon. Members, you are not in a nursery school to start raising your hands. In any event, Early Childhood Development (ECD) is a function of the county government. It is wrong to start raising your hands here, thinking that you can get anybody’s attention. You cannot just walk in and pretend that you want to be heard.

Next Order!

## PROCEDURAL MOTIONS

### RESOLUTION TO HOLD A SITTING ON THURSDAY MORNING

**Hon. A.B. Duale:** Thank you, Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold a Morning Sitting on Thursday, 1<sup>st</sup> September, 2016 commencing from 9.30 a.m. to 1.00 p.m. for purposes of considering urgent business before the House.

Hon. Speaker, the House Business Committee that you Chair in its wisdom decided last night that we have a morning sitting tomorrow. As Members are aware, we are scheduled to proceed on a long recess beginning tomorrow based on the Calendar of the House. This Procedural Motion is to allow the House to create enough time to conclude the important business that we are dealing with this afternoon. The business includes the Election Offences Bill 2016 and the Election Laws (Amendment) Bill, 2016. We must complete all the stages these Bills, at least, by tomorrow evening and have them forwarded, through you, to the Senate before we go on recess. The Senate will be resuming their sittings next week. They can deal with this matter and the Independent Electoral and Boundaries Commission (IEBC) reform agenda will be on course.

Hon. Speaker, this Procedural Motion is on that small matter. Therefore, I beg to move and ask Hon. Mwadeghu, the Minority Whip, to second because he was in the House Business Committee meeting last night.

**Hon. Mwadeghu:** Ahsante. Mhe. Spika. Nami nimesimama kuiunga mkono Hoja hii kwa maana kikao cha Kamati inayohusika na Shughuli za Bunge jana kilijadili utaratibu utakaofuatwa na kuamua kwamba litakuwa jambo la busara tuwe na kikao kesho asubuhi ili tupate nafasi ya kuishughulikia Miswada muhimu ambayo iko mbele yetu, na ambayo tunahitajika tuikamilishe kabla hatujaanza likizo ambayo inatarajiwa kuanza Ijumaa. Kwa hivyo, tunawaomba Waheshimiwa mkubali ombi hili ili tupate kumaliza shughuli hizi.

Naliunga mkono ombi hili, Mheshimiwa Spika.

**Hon. Wakhungu:** Put the Question!

**Hon. Speaker:** Hon. Wamalwa, I cannot put the Question before proposing it. You are jumping the gun.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Speaker:** Next Order!

APPROVAL OF A SITTING AT 6.45 P.M.

**Hon. A.B. Duale:** Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold a second sitting today Wednesday, 31<sup>st</sup> August, 2016 for not more than three hours commencing at 6.45 p.m. for purposes of considering urgent business before the House.

Even though we lacked quorum in the morning, we are seeking to have two sittings this afternoon. I want to urge my colleagues to come and help us start the second afternoon Sitting at 6.45 p.m. This is a precautionary move to ensure that we have enough time to conclude all the urgent business that is pending before the House as we anticipate proceeding on a long recess.

This is to make sure that the Bills in the Order Paper this afternoon do not flow to tomorrow morning, because that is when we are supposed to discuss them in the Committee of the whole House. This will also give the Clerk's Office time to prepare any amendments they may receive and prepare for the Bills. This afternoon the "hopping" is not as intense as it was. I cannot see the Member for Budalang'i. He was the leader of the "hoppers."

*(Laughter)*

I hope he is listening to me wherever he is. We will have another Sitting at 6.45 p.m. I am sure that the Clerk's Office will also provide the necessary facilities and services. Tea and dinner will be available. It will be another Sitting and, therefore, Members will earn additional sitting allowance as we dispose of the business pending before the House. I urge hon. Members that we stay around today and tomorrow. The National Assembly is known for beating deadlines.

We beat the deadline of constitutional Bills. We can be the first ones to ensure that the IEBC Report and the Bills have been concluded on time even as we go for the long recess, during which we intend to deal with the matter of the National Government Constituencies Development Fund (NGCDF) in our constituencies.

With those remarks, I beg to move and ask my friend, Hon. Chris Wamalwa, who has since been officially cleared of the matter of the alleged trip to Rio, to second.

*(Laughter)*

**Hon. Wakhungu:** Thank you, Hon. Speaker. As I second, obviously, I was not in Rio and I do not know where that came from. I was in Rome for spiritual nourishment and now I am back. What Hon. Duale has said is very critical. As whips, we find it very difficult as we try to get quorum, but it is very difficult in the morning. You can imagine.

I request Hon. Members to avail themselves because the business that we have is very important. Particularly, on matters of National Government Constituencies Development Fund (NGCDF) and the Election Laws which we have to pass because we do not have time. My humble request is please, be here on time. Also at 6.45 p.m. be around and even tomorrow morning by 9.00 a.m.

We should develop a mechanism, particularly for morning sittings, where we reward those people who wake up very early. Maybe, there should be some free tea or breakfast to encourage Members to come. It is very frustrating! Like today, we had only about 15 Members of Parliament. I think it is very good and important to support this.

*(Hon. Macharia walked down the aisle)*

**Hon. Speaker:** Member for Molo! Just remain "frozen"!

*(Question proposed)*

*(Question put and agreed to)*

Hon. Members, for avoidance of doubt, what this means is that at the usual time of 6.30 p.m. this evening, the House will rise.

**Hon. Member:** Will you give us dinner?

**Hon. Speaker:** You must be lucky! Is that Hon. Naicca? Hon. Member, whoever you are, remember you are very lucky because I did not quite get you.

What that means is that at 6.30 p.m. the House will rise and at around 6.40 p.m. the Bell will ring for five minutes so that the House will begin the second Sitting at 6.45 p.m. I want to

encourage those Hon. Members who may not be here most of the time. Even if they step outside, they should remain in their senses so that, at 6.45 p.m. wherever you will be, you are able to walk in or stagger into the Chamber, in full control of your faculties, so that we can commence business.

*(Laughter)*

Hon. Members, the later bit was with a light touch. I now know Members will be quite alert at 6.45 p.m. so that we can commence whatever business that will be remaining on the Order Paper. Thank you.

Member for Kiharu.

## STATEMENT

### STATUS OF IMPLEMENTATION OF *BODA BODA* REGULATIONS

**Hon. Kang'ata:** Thank you, Hon. Speaker. There is a state agency called "National Transport and Safety Authority (NTSA)" which is currently enforcing rules which I would call '*Boda Boda rules*'. I have looked at the NTSA (Operation of Motorcycles) Regulations of 2015 and checked all the records of this House. I have ascertained that, indeed, there was a request for those regulations to be looked at by the relevant Committee on Delegated Legislation. It is true that the Committee considered those regulations, but I have not seen any record showing that they were brought to the Floor of this House, approved and debated as per Section 17 of the Statutory Instruments Act No.23 of 2013.

If, indeed, I am correct, I would urge your ruling to find those rules as null and void. NTSA ought not to be harassing the *Boda Boda* people in our respective constituencies. Finally, I raised that issue last week on Thursday, with your very able Deputy Speaker. She directed the relevant Committee to confirm whether, indeed, those regulations were brought before the Plenary. No answer has been given and they were supposed to have done that by last week Tuesday.

I, therefore, ask you to make a ruling that those rules are null and void and NTSA should not be harassing our young people who are just trying to eke out a living.

**Hon. Speaker:** Hon. Irungu Kang'ata, notwithstanding the requirement for tabling of regulations by any regulation-making body or authority within seven days of gazettment, if the NTSA Regulations 2015 were not tabled after gazettment, then in terms of law, that particular Act is null and void.

On the other hand, if it is established that they were tabled here after gazettment within the stipulated period of seven days, the Committee on Delegated Legislation has various ways of dealing with such regulations. One is either to approve them as they are. In this case, they will have to bring a report as we directed recently and communicate with the regulation-making body, the approval of the regulations or bring the report here which may suggest annulment of some of the parts of the regulations or amendments.

The Clerk's Department, before I express myself with finality, should avail all the records relating to the NTSA Regulations 2015, so that we can make that communication tomorrow before we proceed and know whether they are enforcing variedly made regulations or

regulations which could, for all intended purposes, be null and void. That will be done tomorrow. Clerk's Department, make sure you get that.

Next Order!

## BILLS

### *First Readings*

#### THE PUBLIC SERVICE COMMISSION BILL

#### THE NATIONAL AUTHORITY FOR THE CAMPAIGN AGAINST ALCOHOL AND DRUG ABUSE (AMENDMENT) BILL

*(Orders for First Readings read – Read the First Time and  
ordered to be referred to the relevant Departmental Committees)*

### *Third Reading*

#### THE FINANCE BILL

**Hon. Speaker:** Order, Members! Take your seat, Member for Mwingi North. Hon. Members, as you are aware, debate on this Motion was concluded yesterday at Committee of the whole House stage. Therefore, what remains is for me to put the Question.

*(Question put and agreed to)*

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

### *Third Reading*

#### THE WAREHOUSE RECEIPTS SYSTEMS BILL

**Hon. Speaker:** Again, Hon. Members, debate on this Bill was concluded and what remains is for the Question to be put, which I hereby do.

*(Question put and agreed to)*

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

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Members! Those who are leaving the Chamber, please do so quietly. We are now in the Committee of the whole House to consider the Civil Aviation (Amendment) Bill (National Assembly Bill No. 14 of 2016).

*(Loud consultations)*

Hon. Members, we need some sanity in the House. We can now start.

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

*Clause 7*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): There is an amendment by the Mover.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 7 of the Bill be amended by deleting paragraph (f) and substituting therefor the following new paragraph—

(f) five other persons, not being public officers, appointed by the Cabinet Secretary through a competitive process and who shall be independent upon appointment and maintain such independence during their term of service on the Board, and of whom—

- (i) two shall have demonstrable knowledge and experience in the field of civil aviation;
- (ii) one shall have qualification and expertise in financial management or accounting and is a *bona fide* member of a professional body regulating the accountancy or the auditing profession, and in compliance with the requirements thereof;
- (iii) one shall have demonstrable knowledge and experience in aviation law or business; and,
- (iv) one shall have demonstrable knowledge and experience in management.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): You can explain the import of the amendment for Members to know.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, Clause 7 proposes the membership of the Board of Directors of the Kenya Civil Aviation Authority (KCAA). The amendment we propose at paragraph (f) provides for five other persons. The initial members are Principal Secretaries (PSs) from various Ministries. In addition, we need five other persons not being public officers appointed by the Cabinet Secretary (CS) through a competitive process and who shall be independent upon appointment and maintain such independence during their term of service on the Board, and of whom—

- (i) two shall have demonstrable knowledge and experience in the field of civil aviation;

- (ii) one shall have qualification and expertise in financial management or accounting and is a *bona fide* member of a professional body regulating the accountancy or the auditing profession, and in compliance with the requirements thereof;
- (iii) one shall have demonstrable knowledge and experience in aviation law or business; and,
- (iv) one shall have demonstrable knowledge and experience in management.

The number was four initially. We are making them five.

Thank you, Hon. Temporary Deputy Chairlady.

**Hon. Nyamweya:** (*Inaudible*)

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Nyamweya, we have not even proposed the Question. You want to be a governor and---

*(Question of the amendment proposed)*

I give the Floor to Hon. Maanzo to make a comment.

**Hon. Maanzo:** Thank you, Hon. Temporary Deputy Chairlady. I want to support this amendment. The four persons being introduced, though they will be appointed through a competitive process by the CS, have knowledge in different areas, including management, law and civil aviation. Civil aviation is a very important field. You know what has been happening to Kenya Airways (KQ). The management of civil aviation should be commercialised so that we can begin flying to America, among other places, without intermediaries. Our team had to fly through Luanda to go to Rio.

I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Nyamweya.

**Hon. Nyamweya:** Hon. Temporary Deputy Chairlady, I support the amendment the way it is. However, they are talking about a competitive process which they have not defined. Is the recruitment going to be done by the Public Service Commission (PSC)? This is a grey area which, if left open, may not be followed. The CS may appoint people and if they are gazetted, there is nobody who will question them.

I do not know if it is too late to ask for a further amendment on this. Those people should be appointed by the CS, but through the PSC. That is what I would suggest to the Chairman, if he can take my idea, so that it is clear how those people are going to be appointed. If we leave it the way it is, anybody will be given the job and it will be gazetted.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Are you supporting or not?

**Hon. Nyamweya:** I support, but I wish we could have an amendment to define the competitive process of recruitment. Which is the method? Is it through the PSC? We know that there is no other method you can use to recruit people unless you pass through the PSC. That is because it is the only organ we have. I wish the Chair can take up that point.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Point taken. Before I allow the Chair to clarify, let me give the Floor to Hon. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I think the drafting of this clause needs to be re-looked at. When you look at the words "who shall be independent upon appointment and maintain such independence during their term of service", I think this is something you cannot measure. I think the drafting should be re-looked at. Otherwise, we will make a law which we cannot implement.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Are you seeking a clarification from the Chair?

**Hon. Mulu:** While I support, I think the drafting of this clause needs to be re-looked at.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Do you support or not?

**Hon. Mulu:** I am saying while I support, the drafting of that paragraph needs to be re-looked.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): The Chair will clarify that. Let me give the Floor to Hon. Wambugu and then we hear the Chair.

**Hon. Wambugu:** Thank you, Hon. Temporary Deputy Chairlady. I rise to support. This amendment came in so that we can strengthen the Board. If you look at the amendment, it is just including another one person who has got knowledge and experience in the field of aviation. Why did we have to do that? It is because the aviation industry is quite wide. We have got the technical bit of it, especially engineering, the air traffic controllers, briefing officers and weather officers.

The fears that some Members have about the drafting should be defined in the regulations on how the industry will be regulated, especially on recruitment.

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Before I put the Question, let me give this opportunity to the Chairman of the Committee to make some clarifications so that Members can vote from an informed position.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I thank the Members for the support and the request for clarification. The competitive process will be done through the regulations, as my colleague has said. The Public Service Commission (PSC) will have no role here because this is a parastatal and the PSC deals with civil servants. So, it will not be fair to ask the PSC to appoint people.

In terms of drafting, which Hon. Makali has mentioned, this is just to make it clear and ensure that those people are independent. The language used, that is, “maintain such independence during their term”, is only for purposes of emphasis. They should not think that since they are recruited by the Cabinet Secretary, they are not answerable to the Ministry.

That is all, unless there was any other question raised. I thank the Members for the support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): With those clarifications, the Members can vote from an informed position.

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

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

*(Clause 7 as amended agreed to)*

*(Clause 8 agreed to)*

*Clause 9*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to withdraw the amendment in Clause 9.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): So, are you withdrawing?

**Hon. (Eng.) Mahamud:** I am withdrawing that amendment. This clause relates to the qualification of the Director-General of Civil Aviation Authority. It states that he must possess management and technical experience in the field of civil aviation of not less than 10 years. The original requirement was that the candidate should have knowledge and experience in matters relating to civil aviation. This proposal in Clause 9 is adequate. So, I withdraw the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): So, are you on record as withdrawing the amendment to Clause 9?

**Hon. (Eng.) Mahamud:** Yes, I withdraw the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, we are in Committee of the whole House and we need you to pronounce yourselves on it.

*(Proposed amendment by Hon. (Eng.) Mahamud withdrawn)*

*(Clause 9 agreed to)*

*(Clause 10 agreed to)*

#### *Clause 11*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 11 of the Bill be amended in the proposed new paragraph (f) by deleting the words “landing fees”.

This is a very small amendment. We are deleting the phrase “landing fees” because money collected under the Air Passenger Service Act--- Landing Fee is being collected by Kenya Airports Authority (KAA). We are, therefore, deleting that phrase, “landing fees”

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, if you want to contribute, please, press the intervention button.

Member for Nakuru Town, do you want to speak on this?

**Hon. Gikaria:** I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Wambugu, you have something to say on this proposed amendment?

**Hon. Wambugu:** Thank you, Hon. Temporary Deputy Chairlady. I beg to support the proposed amendment on deleting the phrase, “landing fees”. The KCA is left with the Air Service Passenger Tax, which we discussed heavily and approved sometime last year. The KAA will collect the landing fees so that it can develop and maintain our airfields.

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Chairman, Members of your Committee are not attentive, including yourself. This is a House of records and we are on HANSARD!

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

*(Clause 11 as amended agreed to)*

*(Clauses 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 agreed to)*

*Clause 27*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 27 of the Bill be amended by inserting the expression “in  
subsection (1)” immediately after the words “is amended”.

This is a very small amendment. We are only adding the expression, “in Sub-section (1)”  
immediately after the words “is amended”

Section 81 of the principal Act is amended in Sub-section (1) by inserting the word  
“criminal” immediately after the word “compound”. It is a small addition to that phrase.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Captain, do you want to  
contribute on this?

**Hon. Wambugu:** Thank you, Hon. Temporary Deputy Chairlady. I have no problem  
with this one. I support because it is only an addition in Sub-section (1).

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

*(Clause 27 as amended agreed to)*

*(Clause 28, 29, and 30 agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move that the  
Committee doth report to the House its consideration of the Civil Aviation (Amendment) Bill  
(National Assembly Bill No.14 of 2016) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairlady** (Ms.) Mbalu: Hon. Members, we will proceed and consider the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No.34 of 2016).

THE NATIONAL GOVERNMENT CONSTITUENCIES  
DEVELOPMENT FUND (AMENDMENT) BILL.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, we need to be attentive to this Bill because it is very important. I am sure that the Chairman is here.

*Clause 2*

**The Temporary Deputy Chairlady** (Ms.) Mbalu: There is an amendment by Hon. Aghostinho Neto.

**Hon. Oyugi:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 2.

The object of the original Act is to promote national values of human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalised persons to conform with Article 10(2)(b) of the Constitution.

The proposed Clause 2 seeks to remove the word equity---

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Ms.) Mbalu: Order, Hon. Members! Let us give the Mover of the amendment time. This is a very important Bill touching on the interests of most of you. It is important for us to pass amendments we are all in agreement with.

Carry on, Hon. Oyugi.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairlady, for protecting me. Essentially, I am proposing that the House keeps the original objectives as they were. Let us have the word “equity” included as part of the objectives. It is for purposes of equity and equality that we established the National Government Constituencies Development Fund (NGCDF). This must be an erroneous omission.

I have discussed this amendment with the Chair of the NGCDF Committee and he agrees with me. There is no much problem. I request the House to support this amendment.

*(Question of the amendment proposed)*

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Ms.) Mbalu: Hon. Members, I have only proposed the Question. We should know the procedure at this time of the year.

Let us hear the Chair of the NGCDF Committee.

**Hon. Lessonet:** Thank you, Hon. Temporary Deputy Chairlady. I have listened to my colleague, Hon. Neto on this Clause 2. My amendment on the next clause will not be in tandem with what Hon. Neto is proposing. I propose that he withdraws his amendment because we

discussed with him. I wish he withdraws his amendment. Otherwise I will request Hon. Members to reject it.

Thank you.

**The Temporary Deputy Chairlady** (Ms.) Mbalu): This is a House of debate.

Let us hear Hon. David Ochieng.

**Hon. Ochieng:** Hon. Temporary Deputy Chairlady, I support Hon. Neto's amendment. Our laws go together. We know that there are constituencies with 100,000 people and others with 200,000 people in this country.

**The Temporary Deputy Chairlady** (Ms.) Mbalu): Are you in support?

**Hon. Ochieng:** I support Hon. Neto's amendment and request Hon. Members to support it. If you look at the laws we have, you will find that we have allowed constituencies that have 90,000 people and others with 200,000 people to be created. The 10 per cent he is proposing is going to help those constituencies that have more people and poverty than those that do not have. There is also a difference between constituencies in urban areas and those in the rural areas, which Hon. Neto seeks to address. I implore Hon. Members that we cannot apportion equally without taking due account to these small aberrations that need to be taken into account.

I support.

**The Temporary Deputy Chairlady** (Ms.) Mbalu): I give the Floor to the Member for Turkana South.

*(Loud consultations)*

**Hon. Ekomwa:** *(Inaudible)* I want it to go on record. I know that there are Hon. Members who are waiting to oppose, but let me go down on record. Kenya is not the same and we are not the same. Some areas *(inaudible)*.

*(Loud consultations)*

Those areas have all the resources. They have hospitals and health centres, water--- There are some constituencies without water *(inaudible)*.

*(Loud consultations)*

Why should we be equal? Why should we be equalised? *(Inaudible)* it is unfair.

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Ms.) Mbalu): Hon. Member, your points have been heard. Let me hear from the Member for Turkana East.

**Hon. Ngikor:** Thank you, Hon. Temporary Deputy Chairlady. Without contradiction, I support the amendment by Hon. Neto.

*(Loud consultations)*

Hon. Temporary Deputy Chairlady, there is a lot of noise.

**The Temporary Deputy Chairlady** (Ms.) Mbalu): Order, Members! Let the Member on the Floor prosecute the amendment, just like the other Hon. Members did. Let us listen to each other. It is up to the House to make a decision.

Proceed, Member for Turkana East.

**Hon. Ngikor:** Hon. Temporary Deputy Chairlady, the NGCDF is meant to put the country on an equal development platform. We are saying that we should divide this money equally, and yet the Constitution says that we are supposed to have a grace period for affirmative action to enable marginalised areas to catch up with the rest of the country.

*(Loud consultations)*

Hon. Temporary Deputy Chairlady, people are making noise!

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Hon. Members! You will make a decision on this one. Let us respect every Member's opinion.

Let us hear Hon. Abass.

**Hon. Abass:** Thank you, Hon. Temporary Deputy Chairlady. I oppose the amendment. The reason is simple. We have the Equalization Fund---

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

**Hon. Abass:** I am opposing the amendment, Hon. Temporary Deputy Chairlady.

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Hon. Members! I know how important this Bill is for all of you. I will give chance to one more person and thereafter put the Question for you to make a decision.

**Hon. Abass:** Hon. Temporary Deputy Chairlady, I oppose the amendment for two reasons. Firstly, there is the Equalization Fund, which takes care of the inequalities. Secondly, we have the county governments, which also take care of the matter. Therefore, the amount should be shared equally.

With those remarks, I oppose.

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

*(Several Hon. Members stood up in their places)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, you do not have the requisite numbers. Since the amendment has not gone through, the Clause remains as it is.

*(Clause 2 agreed to)*

Hon. Members, I appreciate the anxiety. As you do your consultations, let us make our laws. You may consult a lot and in the process something very special passes you. I feel you.

*Clause 3*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Lessonet, you have already forwarded your amendment to Clause 3, which is not in the Order Paper. We must follow the procedure.

**Hon. Lessonet:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 3—

“3A. Section 6 of the principal Act is amended by deleting the word “Cabinet Secretary” appearing in subsection (1) and substituting therefor the word “Board”-

This will enable us to give Members the ceilings by the end of the day, tomorrow. So, we do not need to wait for the Cabinet Secretary to bring the ceilings.

*(Question of the amendment proposed)*

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

*(Clause 3 as amended agreed to)*

*(Clause 4 agreed to)*

*Clause 5*

**Hon. Lessonet:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 5 and substituting therefor the following new clause—

“5. Section 28 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

(1) The list of the proposed constituency projects shall be submitted to the Board within three months of the official release of the allocation table by the Board or such other time as may be determined by the Board”

This is to make sure that the operationalizing Act is more efficient. The pervious amendment required projects to be brought up by February.

I request Members to support this amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I will give the opportunity to Hon. Kang’ata before I put the Question.

**Hon. Kang’ata:** Thank you, Hon. Temporary Deputy Chairlady. I would like to seek a clarification from the Chair of the Committee why he set out a three months period. He should have shortened the period because it is quite long.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Please get closer to the microphone. You are blessed with height.

**Hon. Kang'ata:** Hon. Temporary Deputy Chairlady, I am inquiring from the Chair of the Committee why he gave such a long period.

**Hon. Lessonet:** It is the maximum period, Hon. Temporary Deputy Chairlady.

**Hon. Kang'ata:** Thank you. The Chair has clarified.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let me request the Chair to clarify why he has set a period of three months.

Hon. Makali Mulu, do you have a take on this?

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I want to support this amendment because it makes sure the timeframe within which proposals should be submitted is clearly specified. This is important because within three months, all Members of Parliament will be expected to submit their proposals. That is by November or October. That will allow them enough time to implement.

I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): The Member for Kibra, have you requested to contribute to this amendment?

**Hon. Okoth:** No, thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I will get back to the Chair. Hon. Chair, the Hon. Member was seeking a clarification why you put the three months to submit proposals.

**Hon. Lessonet:** Hon. Temporary Deputy Chairlady, I have heard what Hon. Kang'ata has asked. We are giving a limit of three months to submit the NGCDF proposals. If some constituencies can submit their proposals within one day, there will be no problem as long as they are within the three months period. The constituencies can submit their proposals within one week, one month or two months, but they cannot exceed three months. I am clarifying to Hon. Kang'ata that three months is the upper limit. However, those who are able to submit within a day, a week, two weeks or a month shall be in order.

I thank you. I hope that is now clarified.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Thank you for clarifying the import of the amendment to Hon. Members.

*(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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, we have three amendments to Clause 6. Some are alike. We have amendments from the Chair, Hon. Lessonet; Hon. Aghostinho Neto and Hon. Katoo ole Metito.

*(Loud consultations)*

**Hon. Lessonet:** Hon. Temporary Deputy Chairlady, I want to request Members to listen to this section carefully.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, you must listen to the Chair. He is moving an amendment.

**Hon. Lessonet:** I want to request Members to listen to this section very carefully because this is the real reason why they are here. This is about the sharing of the NGCDF.

Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new clause —

“ 6. Section 34 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection —

(1) The budget ceiling for each constituency shall be the amount specified in section 4(1) divided equally among all constituencies subject to the provisions of section 23(1) and 8(1)”

(b) Deleting subsection 2.

Subsection 2 requires the Cabinet Secretary to table allocations per constituency in the House. We will go for recess tomorrow. If we do not delete subsection 2, we shall wait for the Cabinet Secretary to table these allocations. If we delete subsection 2, we will allow the NGCDF Board to communicate to us the allocations per constituency which is very easy because we are sharing the funds equally.

I request Members to support this amendment. I know there is a subsequent amendment by Hon. Katoo and I have something to say on the second part. I request Hon. Members to support this amendment. I want to give the new amendment to the Leader of the Majority Party.

We are deleting subsection 2.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Thank you, Chair for the amendment which you have moved in an amended form.

*(Question of the amendment proposed)*

I must go on record on this. If this proposed amendment by the Chair is carried, then Hon. Neto's amendment will be defeated.

Hon. Neto, you can contribute to the Chair's amendment.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Chairlady for giving me this chance to contribute to the Chair's amendment. I agree with Hon. Lessonet to the extent that there have been disparities in disbursement of the NGCDF. However, I disagree with him when he says that if we pass this amendment in this form, we will give the Board a chance to quickly disburse funds. That is not true because the NGCDF Board can still disburse funds with the formula which is truncated.

I appreciate the fact that people have a problem with marginalised communities because they have been getting a lot of money.

Hon. Temporary Deputy Chairlady, let me speak because I need to explain the importance of this amendment to Members of Parliament. You appreciate the fact that on a division of 75 cent and 25 per cent, as it is currently in the Act, it puts the people from

marginalised communities and far-flung North slightly at a better advantage than others. It is true.

Let me explain to you something. I come from Ndhiwa Constituency. Ndhiwa and Mbita Constituencies in Homa Bay County, have different disparities which cannot be compared to the same disparities as Homa Bay Town Constituency. Therefore, whereas you are saying no to the people in the far-flung North, it is also possible---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Neto, for you to go on record, do you support or oppose the amendment?

**Hon. Oyugi:** I oppose the Chair's amendment. It is very unequitable and should not be entertained. It goes and flies on the face of why NGCDF was created.

I oppose the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Yes, Hon. A. B. Duale.

**Hon. A. B. Duale:** Hon. Temporary Deputy Chairlady, Hon. Neto is a member of the human rights caucus and he should not speak for the marginalised people. I am the leader of the marginalised people.

*(Applause)*

I can tell you the billions which this House allocated to the counties for devolution is being stolen. We have not received the Equalisation Fund. There are enough resources in the North. Turkana got Kshs11 billion and Mandera Kshs10 billion and we have not received that money.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us restrict ourselves to the NGCDF.

**Hon. A. B. Duale:** We have not received the Equalisation Fund. Let us share NGCDF equally because that is the only money that is seen.

Thank you. I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us have the Member for Turkana Central.

**Hon. Nakara:** Thank you, Hon. Temporary Deputy Chairlady. I would like to bring to your attention the fact that we are not equal in all aspects namely, infrastructure, education and other things. I am a Member of the Committee on NGCDF. There are some places that developed earlier than others. For us to share resources equitably in this country, we need to see who is suffering and who is capable. Giving an equal share to a constituency in Nairobi, Turkana or Mandera is not fair.

In Nairobi---

*(Loud consultations)*

Leader of the Majority Party, please be silent. Hon. Temporary Deputy Chairlady, please protect me.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): You are a Member of the Committee and this is the Committee's position.

Lastly, let us have Hon. K.K. contributing.

**Hon. K.K. Kinyanjui:** Thank you, Hon. Temporary Deputy Chairlady. When we voted for the Bill on equalisation and marginalised communities, we did that knowing that those

constituencies have been left behind. We had refused to vote on the Bill for the counties but we later agreed to do that. They also know that there are some allowances that people from Nairobi, Kiambu and Machakos do not get. I do not see any harm in the allocation of money being equal.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, I will leave it to 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 6 as amended agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): With the carrying of the Chair's amendment, the amendment by Hon. Neto falls.

*(The proposed amendment to Clause 6 by Hon. Oyugi dropped)*

We will move to the next proposed amendment by Hon. Katoo ole Metito. Let us allow him to consult.

**Hon. Katoo:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be further amended by deleting Clause 6 and substituting therefor the following new clause —

“6. Section 34 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsections —

(1) The budget ceiling for each constituency shall be an amount specified in section 4(1) divided equally among all constituencies;

(1A) Notwithstanding subsection (1) the National Government may, where necessary; facilitate other projects or programmes falling within the purview of the National Government with funds other than the funds specified in subsection 4(1) -

This amendment proposes that should there be other funds, other than the Kshs2.5 billion meant for the NGCDF, for functions that fall under the national Government, the national Government should use the NGCDF Committee as a channel for implementation. I ask the Chair of the Committee on NGCDF to comment. I do not want to go further because Members understand what I am saying.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I will give an opportunity to the Chair of the Committee to pronounce himself on the further amendment.

**Hon. Lessonet:** Thank you very much, Hon. Temporary Deputy Chairlady. This is a very creative amendment. If you are a Member of Parliament and you are not creative, we are very

sorry. You must be creative as a Member of Parliament. I thank Hon. Metito for bringing such creativity.

I support the amendment because it will enable us to sort out all those other issues Members raised.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us have Hon. Midiwo.

**Hon. Midiwo:** Thank you, Hon. Temporary Deputy Chairlady. I support the amendment. From time to time, the national Government visits and when it visits, we do not want it to commit us back to the national Civil Service to develop our constituencies. We want the monies to be channelled through a locally-chosen committee like the NGCDF Committee. This is to ensure that when the national Government says that it will build a fish pond for *sisi watu wa samaki*, the funds are immediately given to my NGCDF Committee without bureaucracy.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us have Hon. Makali.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. It is a very innovative amendment. As a finance person, I support it.

*(Laughter)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Let us have Hon. Joseph M'eruaki and then I will put the Question. We must finish considering the Bill.

**Hon. M'uthari:** Thank you, Hon. Temporary Deputy Chairlady. I support this amendment because it is very important. If the national Government wishes to give us more resources through our Committees, we will appreciate.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Millie, please represent the gender balance. What is your position on this? Have you withdrawn your contribution?

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairlady. I completely support this amendment and urge that you 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 as amended agreed to)*

*(Clauses 7 and 8 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, I now call upon the Mover to move reporting to the House. This is on the National Government Constituencies Development Fund (Amendment) Bill, National Assembly Bill No.34 of 2016.

Let us have the Chairperson.

**Hon. Lessonet:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the National Government Constituency Development Fund (Amendment) Bill, National Assembly Bill No.34 of 2016 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. Omulele) in the Chair]*

*(Applause)*

## REPORTS AND THIRD READINGS

### THE CIVIL AVIATION (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, we will start with the Civil Aviation (Amendment) Bill, National Assembly Bill No.14 of 2016.

**Hon. (Ms.) Mbalu:** Hon. Temporary Deputy Speaker, I beg to report that the Committee of the Whole House has considered the Civil Aviation (Amendment) Bill, National Assembly Bill No.14 of 2016 and approved the same with amendments.

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I want to request Hon. (Eng.) Mahamud, the Vice-Chairman of the Departmental Committee on Transport, Public Works and Housing to second.

**Hon. (Eng.) Mahamud:** I second, Hon. Temporary Deputy Speaker.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, I beg to move that the Civil Aviation (Amendment) Bill, National Assembly No.14 of 2016 be now read the Third Time.

I will request Hon. (Eng.) Mahamud to second.

**Hon. (Eng.) Mahamud:** I second.

*(Question proposed)*

*(Question put and agreed to)*

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

THE NATIONAL GOVERNMENT CONSTITUENCIES  
DEVELOPMENT FUND (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Omulele): We will now move to the National Government Constituencies Development Fund (Amendment) Bill, National Assembly Bill No.34 of 2016).

**Hon. (Ms.) Mbalu:** Hon. Temporary Deputy Speaker, I beg to report that the Committee of the Whole House has considered the National Government Constituencies Development Fund (Amendment) Bill, National Assembly Bill No.34 of 2016 and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have the Mover.

**Hon. Lessonet:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I want to request Hon. Yusuf Chanzu who is a Member of my Committee to second.

**Hon. Chanzu:** I second, Hon. Temporary Deputy Speaker.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Lessonet:** Hon. Temporary Deputy Speaker, I beg to move that the National Government Constituencies Development Fund (Amendment) Bill, National Assembly Bill No.34 of 2016, be now read the Third Time.

I want to request Hon. Chanzu to second.

**Hon. Chanzu:** I second, Hon. Temporary Deputy Speaker.

*(Question proposed)*

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Hon. Omulele): Let us move on to the next Order.

**BILL**

*Second Reading*

THE ELECTION LAWS (AMENDMENT) BILL

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, I beg to move that the Election Laws (Amendment) Bill, National Assembly Bill No.37 of 2016 be now read a Second Time.

Hon. Temporary Deputy Speaker, for the first time in the 11<sup>th</sup> Parliament, this is a Bill that has the signatures of both the Leader of the Majority Party and the Leader of the Minority Party. That signifies that this is a special Bill.

For Hon. Nyenze, Hon. Midiwo and I to sign something together, it is like when Mwai Kibaki and Raila Odinga signed the National Accord. This reminds me about 2008 when Hon. Raila Odinga and Hon. Mwai Kibaki signed the National Accord. During that time, little did I know that one day I would be the Leader of the Majority Party and that together with the Leader of the Minority Party we would have an opportunity to do a similar thing. The opportunity has come now.

I want to go on record that the Communication made by the Speaker concerning amendments to this Bill is very clear. I hope every Member will read that Communication.

Hon. Temporary Deputy Speaker, I hope Members have gone through this Bill. I will now highlight the proposed amendments in this Bill. This Bill proposes to amend the Election Act, 2011; the Independent Electoral and Boundaries Commission (IEBC) Act, 2011; the Political Parties Act, 2011; the Supreme Court Act, 2011; and the Registration of Persons Act Cap 106 in order to address various issues in these pieces of legislation which have been noted by the Committees of both Houses.

The Bill is with regard to the conduct of free and fair elections in 2017. Indeed, that is the genesis of this Bill. This Bill touches, in one way or the other, all those pieces of legislation I have mentioned.

If you look at Clause 2 of this Bill, you will see that it seeks to amend Section 2 of the Elections Act. The function of that amendment is to clarify the fact that there is only one register of voters. It does so by substituting the phrase “principal register”. They now call it “principal register” but it is being referred to as “register of voters” in the Bill. So, it also defines the term “biometric” in Clause 2. It also defines the phrase “integrated electronic electoral system”

Clause 3 seeks to amend Section 5 of the Elections Act, 2011. What does it do? It basically disallows the use of acknowledgement of registration certificate popularly known as “waiting cards” as an identification document for the purpose of an election. So, the waiting card is completely prohibited and banned under Clause 3. In the wisdom of the Joint Select Committee, it cannot be used for any purpose of identification for an electoral system.

Clause 4 seeks to amend Section 6 of the Election Act, 2011. It is giving a requirement to the IEBC to maintain a public web portal to allow online inspection of the register. This is very critical. Kenyans can use a certain portal, send or use a certain platform where it can show you whether you are registered, your voter’s card number, your identity card number, constituency, ward and county. That is what Clause 4 does. You do not need to visit the IEBC offices and go through a voluminous register to look for your name. You just need to use that portal.

Clause 5 seeks to amend the Elections Act, 2011 by inserting a new sub-section called 6A. What does it do? It is supposed to provide a 90 days period for the biometric verification of the register of voters before a general election. So, the biometric voter register must be inspected and be working 90 days before the general election.

Clause 6 seeks to amend the Elections Act, 2011. It is introducing a new sub-section called “8A”. This is providing for an audit of the register of voters. It requires that the IEBC does an audit before the August, 2017 general election. In this clause, the IEBC must engage an independent firm to conduct an audit to verify the accuracy of the register and update it.

Further, they will table that Report to both Houses of Parliament. They will give the implementation matrix and recommendations of how they are going to do it. If the Houses are very happy with that Report, I am sure they will endorse it.

There was something which was not very clear. The oversight role of these Bills and Report will basically be under the Departmental Committee on Justice and Legal Affairs. That is the Committee which, under the Standing Orders of both Houses, has the mandate to oversee the

IEBC both in terms of budget and operations. So, the IEBC is supposed to engage an independent firm to conduct audit, verify the accuracy of the register and submit the Report of the audit to Parliament. Through its Committees, Parliament must do the implementation.

Madam Speaker, Clause 7--- I am sorry, it is Hon. Temporary Deputy Speaker. You know it is mostly madams who sit on the Chair these hours of the day. So, I have just said it. My apologies, Hon. Temporary Deputy Speaker.

Clause 7 seeks to amend Section 10 of the Elections Act, 2011 to provide that a person shall be eligible to vote if his or her name and the biometric voter data are entered in the register of voters, and if that person produces an identification document used at the time of registration. This is very tricky. I warn that when you walk to a voting booth, the first thing you encounter is the biometric gadget. If it captures you, well and good; you will then move to the biometric register which allows the election officer to cancel your name. What happens in a scenario where the biometric machine does not capture your data or does not show it? What happens in rural Kenya where the machine fails because there is no power? It is upon this House to say that we must have both systems concurrently. We will give preference to the biometric register, unless the IEBC tells us otherwise. This happened in the last election. By 11 O'clock, all those machines collapsed. Because there is an amendment in this law where we are saying that those machines must be confirmed to be working 90 days before the general election, it may be better. That is what I am saying.

Clause 8 seeks to amend Section 13 of the Elections Act, 2011. It is dealing with the period for the conducting of party primaries from, at least, 45 days before the general election to, at least, 60 days before the general election. So, party primaries must be conducted 60 days before the elections. This is to give a leeway to check what has been happening. Party primaries are done very close to the election and where there are disputes, parties do not get time to resolve them. This is where we feel one candidate has been given the certificate when he does not deserve it. The 60 days are meant to give parties, through their election boards and leadership, time to make sure they deal with every case that comes up.

Clause 9 seeks to amend Section 28 of the Elections Act, 2011 to alter the date of submission of the party membership list to the commission from, at least, 45 days before the date of the general election to, at least, 90 days before the date of the general election. So, the time in between when you submit the party list to the IEBC and the time of elections is 90 days.

Clause 10 seeks to amend Section 31 of the Elections Act, 2011. This is to require the commission to conduct and supervise party primaries upon request of a political party. The Constitution, under Article 88, has given that mandate to the IEBC. Here, the Joint Select Committee realised that, if party "X" wants that to be done, it has a leeway. However, there is no compulsion on that.

I can speak for the Jubilee coalition. We want to go that way. We want the choice of the people to go to the general election. We do not want quacks, girlfriends or boyfriends of party leaders and party officials. We also do not want those whose wallets are fat and can buy tickets.

*(Hon. Midiwo laughed)*

Hon. Jakoyo is laughing. He and I know this game. This game happens. It happens in all political parties. What the members were raising the other day is very genuine. If you are going to heaven, you cannot know when. That is why God does not tell you when you are going to die.

Imagine if God, in his wisdom, said you are going to die on that day, hour and place. This world could have been very chaotic.

In the games parties play, you can see you are losing just because somebody's girlfriend wants to come to this august House. The girlfriends are many because all the political parties in this country are run by men.

**Hon. Members:** No!

**Hon. A. B. Duale:** They are run by men!

*(Loud consultation)*

I am talking about serious parties. I am talking about Jubilee, the ODM, Wiper and Ford Kenya.

Let me now go back to the Bill. The idea of people dishing out party nomination certificates has been there in the 6<sup>th</sup> Parliament, the 7<sup>th</sup> Parliament, the 8<sup>th</sup> Parliament, the 9<sup>th</sup> Parliament and the 10<sup>th</sup> Parliament, which I served. That is why the framers of the Constitution and the Act said that the names of nominated members must be submitted in advance. Before a party wins or becomes the opposition, people select their girlfriends at Serena. Some of us who fought for the party do not know what is going on. That is why people like Hon. Isaac Mwaura and many others are in this House. If it was the old system, they would not be here. That is why you can see we have people from the disabled groups in this House who are nominated. We have women leaders in this House. If it was the old story, Hon. Isaac Mwaura and many others would today be in the ODM as small people. If he was here he could have testified. I am talking about how he got the nomination. If you have fought for your space in this House, that is a different story.

Clause 11 seeks to amend Section 33 of the Elections Act. What does it do? It requires independent candidates to submit their names to the Commission, at least, 90 days before the general elections. This narrative of party hopping is not in existence. Nobody is compelling you to be in ODM, the Jubilee Party or Wiper Democratic Movement (WDM). Today, you can announce to your voter that come the next general elections, you will stand as an independent candidate. Why do you want to hang on the coat of Hon. Kalonzo Musyoka, Hon. Raila Odinga, Hon. Uhuru Kenyatta or Hon. William Ruto and yet you call yourself a party hopper? You either choose to work with those leaders in their parties or you take my route and subscribe to the clan elders.

*(Laughter)*

You have no choice. You either subscribe to the clan elders, like me, where I do my nominations in a free and fair way or you decide to be with Kalonzo Musyoka and fight for the nomination. You have no choice. Otherwise, if you play some games, you will keep on hopping until the general election and you will not land. There are some who have already started hopping. They are in the air and they will not land because you either subscribe to the clan or to Kalonzo Musyoka, William Ruto, Uhuru Kenyatta and Raila Odinga. There is nothing in between. The Member for Kibra, you have no choice.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Omulele): The Leader of the Majority Party, I do not intend to interrupt you, but do I hear you as suggesting that there are some other ways to achieve a nomination in this country other than those that are in the Constitution and the law?

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, the clan arithmetic from where I come from is in the customary law.

*(Laughter)*

Why did I pick on the Member for Kibra? I am a very worried man. You know who is challenging him. He is being challenged by the daughter of a very powerful party leader, the Rt. Hon. Raila Odinga. She is a very tough lady. So, it is one constituency I am watching.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Omulele): The Leader of the Majority Party, there are some points of order, but I think it is on a light touch.

**Hon. A. B. Duale:** Yes, it is on a light touch.

**The Temporary Deputy Speaker** (Hon. Omulele): I am sure you are not scaring the Member for Kibra from exercising his rights. Let us move on.

**Hon. Opiyo:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): The Leader of the Majority Party, let us hear the Member for Muhoroni.

**Hon. A. B. Duale:** He is a former Kenya African National Union (KANU) member.

**Hon. Opiyo:** Thank you, Hon. Temporary Deputy Speaker. It has gone on record that my colleague, Hon. Ken Okoth, is going to be opposed by the daughter of the prominent leader of ODM who is the party leader, Hon. Raila Amolo Odinga. This will go into the record of this House. Could he have proper substantiation? This is because we do not want to scare the young man.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. K'oyoo, we have heard you. Let us hear the Leader of the Majority Party. I think he said it on a light touch.

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, I have no intention of scaring the Member for Kibra. I am only asking him to prepare himself psychologically for the battle ahead.

Clause 15 seeks to amend Section 40 of the Elections Act to allow the Commission to partner with non-state agencies in the provision of voter education. These include religious groups.

Clause 16 seeks to amend Section 43 of the Act to delete references to election offences which are proposed to be contained in a separate election law on offences. This Bill is trying to remove all election offences. The reason is, after this, we have the Election Offences Bill. So, an amalgamation of all election offences has been put in that Bill. So, Section 43 of the Act is currently about offences. So, it is deleting.

Clause 18 is a consequential provision following the repeal of the election offences from the Elections Act to the proposed Election Offences Bill, 2016. In terms of neatness in legislative

drafting, there is a consequential provision for the repealing of the election offences from the Elections Act, 2011 to the proposed new Election Offences Bill, 2016.

Clause 19 seeks to amend Section 76 of the Elections Act, 2011. Basically, it is supposed to clarify the period for filing of petitions against an election of a Member of Parliament, county governor or a member of county assembly that begins to run from the date of the declaration of the results. This is very interesting. When you win, there are many busy bodies who want to serve you.

In the last Parliament, there are people who used to stay around Parliament for one week to avoid being served and then the petition is thrown out on a technicality. Now senior lawyers are here and things have changed. You can even be served through a newspaper advert. Basically, Clause 19 deals with that matter.

Clause 20 seeks to amend Section 85(A) of the Elections Act, 2011 to provide an appeal against the judgement of an election court and act as an automatic stay of holding of a by-election. For the first time, we are saying that when you lose in a petition in the High Court and you appeal to the Court of Appeal or to the Supreme Court, the law is very clear that the Commission will not carry out a by-election until the matter is concluded. So, the Speaker will not give the writs and the Chairman of the Independent Electoral and Boundaries Commission (IEBC) cannot announce a by-election. That is very good because we had a situation where somebody lost a petition, then a by-election was done, a member came to this House and then the Court of Appeal chased that member again from the House and reinstated the first member. We saw that in the 11<sup>th</sup> Parliament. It happened.

Clause 21 seeks to amend Section 87 of the Elections Act to require that a separate criminal process be pursued by the Director of Public Prosecutions (DPP) in the event an election court makes a finding that an electoral malpractice of a criminal nature may have occurred during an election. So, if you are involved in a criminal matter in that petition after losing the petition, the DPP is under obligation to follow you. These are things that never used to happen during KANU days. Hon. K'oyoo will tell you, life was very easy because once you became a Member of Parliament, there were no petitions. The Judiciary leadership used to report to former President Moi in the evenings. Kenya has changed. Yesterday, I watched Justice Mbogoli on television say "I regret" with regard to a ruling he made in favour of former President Moi and against former President Kibaki – a very humble and decent man who at one point in time ran the Government with former Prime Minister, Raila Odinga.

Yesterday he said that he regrets. He does not know what he did to the supporters of former President Kibaki in that general election. I am sure that with the guidance of the new Constitution, the new Judiciary team that is presiding over the interviews will give us a Chief Justice (CJ) of the calibre of Dr. Willy Mutunga.

Clause 23 seeks to repeal Section 106 of the Elections Act. These are offences under the Act proposed for inclusion in the proposed Elections Offences Act. It is more of a clean-up.

Lastly, Clause 28 seeks to amend Section 25 of the Political Parties Act, 2011 to provide for fiscal incentives to political parties. This is very important. Hon. Jakoyo and his team must listen to me.

Clause 28 seeks to provide for fiscal or monetary incentives to political parties in order to assist them implement the two-thirds gender principle. Fifteen per cent of the Political Parties Fund is supposed to be distributed among political parties based on the number of elected special interest seats. What does this mean in a layman's language? If Hon. Fatuma, the great lady from

my region, vies against me in either Balambala or Garissa Township, she will get preferential monetary support.

**Hon. Member:** And you?

**Hon. A.B. Duale:** I have not yet decided where to vie because I have two constituencies. I will decide on Saturday. If Hon. Fatuma stands against me, she will get preferential monetary support. She will be given money by her party.

*(Loud consultations)*

That is what it means. Money will be given to political parties, which will then use it to finance the campaigns of candidates of the other gender. If you are here and a lady is going to vie against you in your constituency, you must know that you are in trouble.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, it is very important for us to listen carefully.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I am supposed to read the Bill as it is.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): Order, Hon. Members! Let us listen to the Leader of the Majority Party. Let him present the Bill as it is.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, if you read Clause 28, you will appreciate that, that is exactly what it means. Clause 29 seeks to amend Section 3 of the Independent Electoral and Boundaries Commission (IEBC) Act to correct some erroneous reference.

Clause 30 seeks to amend Section 4 of the IEBC Act, 2011 to remove the investigative and prosecutorial powers previously granted to the Commission. The powers of investigation and prosecution that the IEBC used to enjoy are rightly being transferred to the Office of the Director of Public Prosecutions (DPP).

**Hon. (Ms.) Nyasuna:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): The Leader of the Majority Party, there is a point of order. Is it from the Member for Suba?

**Hon. A.B. Duale:** No, it is from Homa Bay by the “Chairlady” of the ODM.

**The Temporary Deputy Speaker** (Hon. Omulele): Yes, Hon. Wanga from Homa Bay County.

**Hon. (Ms.) Nyasuna:** Thank you, Hon. Temporary Deputy Speaker. The Leader of the Majority Party has brought in a very important point. It is actually in the Bill but the way in which he has raised it might create the perception that women who will be contesting for political seats will be given money under this Bill. The correct impression is that political parties that will bring in special interest groups will have an incentive as far as division of the political parties fund is concerned. Eighty five per cent of the Political Parties Fund will be shared out proportionately while 15 per cent will be shared out after the elections according to the number of special interest seats that a party won.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. You will have an opportunity to articulate that issue.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, as a leader, I have to behave like a pastor and preach to the congregation in the language they understand. Whether you are of male or female gender, you are part of my congregation. I do not discriminate against either gender. What Hon. Wanga said is true but I can tell Hon. Members for free that Clause 28 seeks to amend Section 25 of the Political Parties Act. First, look at Section 25 of the Political Parties Act. It is supposed to provide fiscal incentives. Those who have done economics know the meaning of the word “fiscal.”

*(Loud consultations)*

Hon. Temporary Deputy Speaker, the way you pronounce certain words depends on the community you come from. I did not choose to be a Somali. That is my pronunciation.

*(Laughter)*

We were all born in the 47 counties.

I was not lucky to be born in the Nyanza region, where proper English is spoken. Therefore, there is “bias” towards one gender, if I may use that word to describe the way political parties will be required to use the resources that will be allocated to them through the law that we are making. You do not need to plan these things.

Hon. Koyoo, if you have a competitor of the other gender, you are in trouble as she will get more money.

Hon. Temporary Deputy Speaker, I will skip Clause 32 because it is long. Let me raise some legal concerns about this Bill. The IEBC Act is being amended in relation to the selection panel and the Supreme Court’s period within which to dispose of a presidential election petition. However, in so far as Clause 6 binds the IEBC to implement recommendations that will be contained in the Audit Report on the accuracy of the voter register, it affects the independence of the Commission as the body charged with the responsibility of carrying out continuous registration of voters. This is under Article 88 of the Constitution. That is their mandate.

I am sure that every year, the IEBC use independent audit firms to audit the voter register. There is nothing wrong. There are people who raised the issue of whether that provision affects the independence of the IEBC but I did not agree with them.

In so far as Clauses 16, 18, 22, 23 and 25 delete reference to election offences, which are being transferred to the proposed Election Offences Act, 2016 raises the issue of whether the DPP will be in a position to successfully prosecute election offences without the benefit of a proper cross-sectional underpinning of the role of the IEBC. Election offences, one way or the other, touch on the IEBC. Therefore, the DPP will have to work hand-in-hand with the IEBC to gather the necessary evidence to successfully prosecute any election offence.

Hon. Temporary Deputy Speaker, Clause 39 seeks to amend Section 12 of the Supreme Court Act, 2011 to require submission of certified copies of documents used to declare the results of a presidential election to the Supreme Court within 48 hours of service of a petition. There will be a new law. The moment you serve the Supreme Court with a presidential election petition, the IEBC will be obligated to submit all records pertaining to that election to the Supreme Court within 48 hours. It will no longer be for the petitioner to look for such record. It is not for the petitioner to ask for it or look for it and this is very good.

Clause 40 seeks to amend Section 9 of the Registration of Persons Act, which I said is a matter of the waiting cards. Clause 41 seeks to amend Section 16 of the Registration of Persons Act, which requires Kenya Citizens and Foreign Nationals Management Service to prescribe simple guidelines for vetting of applicants prior to issuance or replacement of an identity card. That must also be done very well.

I know this was a negotiated document. As I have said earlier, it is similar to the National Accord of the 10<sup>th</sup> Parliament – Hon. Onyonka is laughing. Unfortunately, for the 10<sup>th</sup> Parliament, history will judge us harshly. We passed some bipartisan Reports which took some of our colleagues to the International Criminal Court (ICC). That is why I do not want to burn my fingers. We passed the Waki and Kriegler Report which are not used today. When we were passing the local tribunal we said, “Do not be vague, go to the Hague”, little did we know that six years down the line we would spend all our entire lives and resources in the Hague.

The problem in this country is that ‘baba’ is a good man but even when your wife runs away, you will blame him and so he has to leave. There are many guys in town who will blame ‘baba’ on anything under the sun. The National Accord which we signed was a good thing because some of us got some small positions. I became the Assistant Minister for Livestock Development. If the National Accord was not there my curriculum vitae today would have a gap that I have never served in Government. But, the National Accord gave me an opportunity to be an Assistant Minister. Of course, I did not sustain that position, as you are aware. I played around with it and lost it. I can remember when they chased me from the Government the only man who gave me one Committee was Hon. Jakoyo. He was a whip together with Hon. Muthama. In my community anybody who does you a favour, you live to remember. So, I remember you Hon. Jakoyo and please tell your children, the day they will need a friend, I will be there for them.

With those many remarks, this is a negotiated document. Let us debate soberly and finish so that today we can do the Committee of the whole House. Please as you go home tonight choose between whether you want to work with Hon. Kalonzo Musyoka, Hon. William Ruto, Hon. Uhuru Kenyatta, Hon. Raila Odinga or the clans. In between you keep on hopping until the election results are announced.

Let us change Kenya and build very strong democratic parties. Let us prepare ourselves to conduct free and fair nominations. We are the players, practitioners and we all come from political parties. Let us not allow people to come and compete with you in your party while in their pocket they have three nomination certificates from other small parties. Or be man enough like Hon. (Dr.) Musimba, who won on an independent ticket. He went to a by-election and won again as an independent candidate. You have a living example of a man who does not believe in the shenanigans of political parties and he said he will go independent.

Please be part of the congregation of Dr. Musimba. If you do not go that route, you have no choice. You either come the route of Hon. Raila Odinga, Hon. Uhuru Kenyatta, Hon. William Ruto and my neighbour, Hon. Kalonzo Musyoka or of course the clans. In between you will hop and hop until you break your leg.

I beg to move and ask my leader, Hon. Nyenze to second.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, we shall have the Leader of the Minority Party.

**Hon. Nyenze:** Thank you, Hon. Temporary Deputy Speaker. I just want to second this very important Motion. As has been said by the Leader of the Majority Party, this Bill is more or less the Report of the Joint Select Committee. The work that was put forth was very important.

We all know that this Bill is a product of extensive negotiations and consultations. There was public participation and there were compromises. It was give and take.

This is a Bill like no other because both the ruling coalition and the Opposition have signed after agreeing to come up with it. We do not have time. Time is not on our side. We have deadlines we have to meet. I want to urge this august House to make sure that we pass, support and endorse this Bill. It should go to the Senate without many amendments because we will save time and we will also have a free, fair and credible election.

As I am speaking now, there was an election in Gabon. The supporters of the Opposition candidate Jean Ping announced that they have won. The Presidency also announced they have won and now there is a stalemate. We know what happens whenever there is a contest which is not very well defined. Where the differences in results is not wide, that could result into a conflict and people may lose their lives, properties, get displaced and so many things.

Considering what we have gone through in this country, the conflict that we have had, no wonder both sides from across the political divide have agreed it should never happen again in Kenya. We have seen this in public pronouncements from both the ruling coalition and the Opposition that never again should we go to war because of contested election results.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): Order, Members! Let us listen to the Leader of the Minority Party.

**Hon. Nyenze:** Thank you, Hon. Temporary Deputy Speaker. This Bill is bi-partisan and shows Kenyans what they can achieve without much ado. This Bill ensures that there is one unified singular register of voters. Before, we had several registers and it confused Kenyans. Many of them could not agree, but now through negotiations we have agreed that there will be only one singular register of voters which we can always refer to so that there is no cheating.

I am very happy because in this Bill, Clause 13 seeks to limit the number of voters per polling station to 500. We have seen in the past voters waking up at 2.00 a.m. to go to polling stations. They stay there until the following day, missing sleep, risking their lives because there are so many voters and there are very few Returning Officers.

Reducing the number of voters to 500 per polling station will do a miracle because every Kenyan will be able to vote without problems. I am also happy that Clause 14 ensures that the results will be transmitted electronically from polling stations, constituencies and counties to the national tallying centre. Therefore, voters will not have to stay at the polling stations once they cast their votes.

Without taking a lot of time, I also want to refer to Clause 23 that requires the Commission to facilitate voting by persons with disabilities. There are people with challenges. They cannot move freely because of disability. This clause ensures that sections of the society that have a right to vote will be able to do so.

Clause 32 will enable non-Kenyans to be members of the IEBC. Before, it was all Kenyans. Now that after elections there are disputes about who won and who lost, when we allow distinguished non-Kenyans who are agreed upon by both sides of the political divide to participate, it will create fairness. It will not be only Kenyans from one place, but also non-Kenyans.

There are 23.6 million eligible voters in this country yet only 14.3 million people are registered. We have to encourage our constituents and adult Kenyans to register and vote so that

democracy is seen to take root. There is voter apathy in Kenya. We have to encourage and educate our people so that they know it is their right. If you do not vote, a wrong person gets elected and you do not get development. It is our duty as legislators.

Last but not least, Clause 39 will require that if there is a Petition concerning presidential election, IEBC must submit certified copies of the documents to the Supreme Court within 48 hours. That time limit because of the anxiety will kill the tension that accompanies this kind of thing. This is a very good clause.

As I finish, Clause 40 makes it mandatory for replacement of ID cards within 14 days and issuance of ID cards within 30 days. People of North Eastern and the Coast have suffered for a long time. There are regions where it is very difficult to get ID cards. There are other areas where ID cards are issued to children who are under 18. There are delays in issuance of ID cards. For elections to be free, fair and credible, the issuance of ID cards must be mandatory, speedy and be done equally in every part of this country. As this Clause proposes, within 30 days after application, every applicant should get their ID card.

With those few remarks, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Omulele): Members, I discern a lot of interest in this matter. This is what we have been waiting for. I will start with the first person on the request list, the Member for Ugunja.

**Hon. Aluoch:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Before you start, the Member for Ugunja, what might be out of order, Hon. Olago Aluoch?

**Hon. Aluoch:** Hon. Temporary Deputy Speaker, this Bill has been properly moved and seconded. It has very brilliant and innovative proposals. I wish to seek your kind direction on two aspects of the Bill which I think are very fundamental before the House debates it.

One, this Bill is grounded on the Report of the Joint Select Committee of Parliament, which came up for adoption last week. During the period for adoption, the House debated an amendment that I sponsored and passed it overwhelmingly. The understanding was that the Bill that was going to come before the House would be based on that Report. There are two issues that I would wish to seek your direction on.

One, in a ruling on an objection raised by the Leader of the Majority Party after the amendment was carried, on whether or not that Report could be amended further, the Deputy Speaker said that it would not be amended unless such amendment was approved in writing personally by the Leader of the Majority Party and the Leader of the Minority Party. The impression that was created, which I want you to let the House know if you agree with my interpretation, is that that order of the Deputy Speaker only related to the Report and not to the Bills arising from that Report. If you agree with me on that, then the House should be told clearly that this Bill can be amended on the Floor as provided by the Standing Orders.

Two, I have looked at the Bill carefully and considering that the House overwhelmingly amended the Report deleting the offensive provision that ordinarily would bar party-hopping, as it is called, I want to ask for your direction if it is in order for this Bill to carry proposals that contradict that amendment. I say so because having gone through this Bill, I notice that a thorough and clear reading of Clauses 8, 9, 10, 11 and 12 makes it very clear that a member who is dissatisfied with the process of nomination of a party or who wishes to stand as an independent

candidate will not have the right to do so. You are locked in. I do not want to take so much time on this.

**Hon. Member:** On a point of order.

**Hon. Aluoch:** I am on a point of order. Know the rules.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): He is on a point of order. You will have your opportunity. Let him finish his point of order.

**Hon. Aluoch:** Hon. Temporary Deputy Speaker, if you closely read clauses 8 to 12 you will see timelines. I want to save the House the inconvenience of having to read all that. I invite Members to go through those clauses carefully. You will notice that the timelines set out in those clauses clearly make it impossible for a party member to exercise the fundamental right which I raised last week. In view of that, I want to seek your direction: Is it proper for this House to continue to debate this amendment Bill in the present form, when it contradicts what the House passed last week? This is very fundamental because I would like a situation where the House moves according to the law and we do not give room for anybody to allow the Judiciary to come into what is obviously our role. If we do not do this, then the process that we want to fast-track will be delayed by the Judiciary.

Hon. Temporary Deputy Speaker, I want you to address your mind to this as you address the House. Thank you for listening to me.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Hon. Members, what the Hon. Olago Aluoch has raised is a fairly weighty matter and I know there was debate on the Report last week. I know that this is the Second Reading of this Bill and we shall have an opportunity at the Committee of the whole House where we will also deal with it. I think and fairly so, that I do not want to deliver myself on the issues that you have raised right now, but there will be a ruling on that before we move to the Third Stage.

Hon. Wandayi.

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, thank you once again.

I would like to support this Amendment Bill in totality. For the first time, I am in agreement with the Leader of the Majority Party.

**Hon. (Ms.) Muia:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wandayi, there is another point of order by the Member for Nyandarua. What might be out of order?

**Hon. (Ms.) Muia:** Hon. Temporary Deputy Speaker, I am not rising on a point of order against him. I am rising under our Standing Orders to seek your indulgence that we limit time for debate by each Member to five minutes so that several Members can speak on this.

**Hon. Wandayi:** It is too late, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): It is a good idea, but I think it is a bit late in the day. It should have been done before we started.

Hon. Wandayi.

**Hon. Wandayi:** I will be very brief, Hon. Temporary Deputy Speaker.

I am supporting the Election Laws (Amendment) Bill 2016 in totality. It must be borne in mind that this particular Bill is independent of the earlier Report we debated last week. That is my interpretation. It must also be understood that this Bill is a product of negotiation. It is a product of negotiations, which came about as a result of serious conflict. The country was

almost at the tipping edge. I want to thank the leadership of both sides for having found it necessary for dialogue to prevail. People may forget that many Kenyans lost their lives, others were maimed and others braved tear gas and water cannons. I personally suffered four months of expulsion from the House so that we can have a reformed electoral process.

*(Loud consultations)*

Therefore, I have to support this Bill in totality. You may want to downplay the matter but it is very serious.

**The Temporary Deputy Speaker** (Hon. Omulele): Order, Members! Member for Muhoroni, Order! Let us hear the Member for Ugunja.

**Hon. Wandayi:** This Bill sets foundation for free and fair elections. Elections are a matter of life and death all over the world. They can either break or make a country. We have chosen the path of a peaceful, cohesive Kenya through fair, democratic and transparent elections. Therefore, it behoves all of us to support this Bill in order to achieve the intended objective.

There is a requirement for use of technology in the electoral process, save for the actual voting and counting. We must also insist that we cannot have an electronic process and a manual process side by side. Therefore, we must do all it takes to ensure that technology does not fail us this time round. The consequences could be too great to imagine or contemplate. We are also happy that for the first time we shall have one voter register. There will be no principal register, green register, black book or pink book, we will have one register that will ensure that there is accountability as to who votes.

Hon. Temporary Deputy Speaker, there is still a missing link in so far as this Bill is concerned. This Bill does not adequately address the matter of ID registration and acquisition even though it puts a timeframe within which an ID card, which has been applied for, can be obtained. It still does not address the fact that many Kenyans have been denied the right to acquire these ID cards because of very flimsy excuses, one of which is that the registration forms and registration materials are lacking. Unless that is addressed, these time limits will not achieve much.

As we pass this Bill, which I urge all of us to do, in the spirit of reconciliation and cohesion in the country, we must ensure that going forward we have a continuous voter registration exercise in all polling stations, including those that are yet to be gazzeted. This will make it possible for all eligible Kenyans to acquire the very vital voters cards, for them to exercise their democratic right to participate in elections.

Hon. Temporary Deputy Speaker, a lot has been said about party hopping. I still maintain what I said during the debate on the Report. Party hopping is an unnecessary headache. If for whatever reason you have problems with your party and you feel that your party is not democratic enough, or is dictatorial, then the laws give you all the freedom and leeway to choose where you belong. We cannot keep on harping about the issue of democracy or lack of it in political parties and continue to mislead Kenyans that our parties are not yet mature. It is about 55 years since we got Independence, and about 25 years since the introduction of multiparty democracy in this country. How long do we need for our political parties to mature? It is our duty and responsibility as political leaders in our own right to contribute to that maturity of political parties. We cannot do that by running away through party hopping.

Hon. Temporary Deputy Speaker, I still maintain that although the idea did not come from us, we need to support it. We should outlaw party-hopping so that people can stay in the

parties they chose to belong to. If they are unhappy with those parties, they should go to other parties or run as independent candidates so that we can instil discipline and sanity in the political arena. It is important and vital for all of us to do so.

I end by urging my colleagues that we debate this particular Bill with an open mind, bearing in mind that we have a historical duty to deliver to the country free, fair, democratic and transparent elections.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Omulele): Well spoken, Member for Ugunja. We shall now hear the Member for Nyandrua.

Since the Member for Nyandarua is not in the Chamber, we shall hear the Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

I start by looking at the ID aspect. It is true that we are not going to have amendments but there are issues we are going to raise with the Leader of the Majority Party and the Leader of the Minority Party so that they can give some guidance because there are contradictions in some of the clauses talking about the same issue.

As it has been pointed out, it is important for us to look at the ID issue critically. More so, we must hold to account the people responsible for registration of persons. If the law says that it should take 30 days upon application to get an ID, then the Registrar of Persons must do that. Thirty days after applying for an ID, one should get it. It should take 15 days for one to get a duplicate ID.

I totally agree with the 48 hours given for submission of nomination papers for a presidential petition. That is something that is very important. The IEBC has a responsibility in law to submit all the relevant documents that are supposed to be used in a petition.

On the nomination of the selection panel, the Bill is not very specific on the number of days they will take. I know it has been said that it should be by 30<sup>th</sup> September. Is it only for the coming election or is it for subsequent elections? We need to know how long the selection panel should take to interview and give us the required team even in subsequent elections---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): Order, Members! The consultations are a bit high. Let us listen to the important points that the Member for Nakuru East is raising.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Speaker. It is important for us in future to have commissioners already interviewed and names sent to the President for onward transmission to the National Assembly by 30<sup>th</sup> of December. It is also important for us to say that elections are not going to be held only in 2017. There are subsequent elections going to be conducted in future. We also need to understand how long a selection panel should take to give us a shortlist of people to be interviewed.

The other day, as the Judicial Service Commission was conducting interviews for the Chief Justice, some people went to court and the court ruled that those people who were not shortlisted must be interviewed. We are also wondering whether a similar thing will happen in this case. Two hundred people may apply and once we shortlist maybe 40 of them, some will go to the same court, which might order us to interview all of them. That is where the Judiciary needs to come in, so that we do not find ourselves in a situation similar to the one that the interviews for the Chief Justice position have taken. If we have a judicial system that is going to

say that anybody who applies has to be interviewed, that is something we need to critically look at. The Judiciary needs to assist this country in understanding the magnitude of some of the issues we face, particularly those related to elections.

Initially, commissioners would be removed from office through a tribunal. The amendment to the elections laws now gives us options. If someone dies or resigns, other recommended ways as used for other public service officers can be used. This law is progressive. We need not wait for a petition since there are other ways that can be used to remove commissioners from office.

I do not understand Section 24, which talks about prisoners because I do not have the parent Act. Are we talking about prisoners in the country or those in foreign countries? This is where we will indulge the Leader of the Majority Party to understand if we are talking about prisoners in the country or those in foreign countries, for purposes of elections.

The IEBC providing special interest groups and people with disability an easier way to vote is a welcome idea.

Regarding judgements when there is an issue between the time nominations have been done and the general elections are held, how long should it take an election tribunal to give a verdict? I remember last time they had a very short period. Some of the cases were determined in a hurry. I do not think some people got justice. It is important for us to say that upon anybody appealing after a nomination, there must be specific date within which the tribunal must give a verdict for somebody to know if he has to go to the High Court. Assuming that you are not satisfied, you can go to the Court of Appeal. Again if you are not satisfied, where will you stop? It is important for us to also look at issues of appeals as indicated.

There are some issues that need to be checked by invoking Section 17 of the IEBC Act regarding involving many stakeholders. New Clause 18 under Clause 55 (a) that is being amended says that the IEBC can postpone an election. If that is not checked, it might be misused. For them to reach a decision as to whether to postpone an election or not, the participating political parties and other stakeholders in that election must be involved in making that decision. If we leave to the IEBC to make that decision, this provision might be misused.

Section 14 says that presidential election results are to be announced at the national tallying centre. It is very important. We were initially scared because some people had suggested that presidential election results must be announced at the polling stations, which would bring a lot of issues. This Bill has clarified that presidential election results will be announced at the national tallying centre.

One of the issues that we also want to engage more is that there is some contradiction. Some say a political party should submit the list of their selected delegates within 45 days. I am a little bit scared because the word that has been used is “selected.” that is worrying. We also want to know whether it is 45 days to the elections that a party should submit its list or 60 days. We welcome the idea of the IEBC to preside over party nominations. That is why we are saying that nobody should be worried about the issue of party-hopping. If the IEBC itself can conduct the nominations, then that is an assurance. Of course there are so many other issues but with those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. We shall now listen to the voice of a lady to my left side, the Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I wish to support the Bill and indicate that this is a negotiated document. A negotiated document is like a two-edged sword – it cuts both ways. That is why you heard Hon. Duale, while moving; making reference to the International Criminal Court (ICC). I remember that at the beginning of that saga, we spoke here and said, “Let us not be vague, let us go to the Hague” and then we came back from The Hague with a crashed egg on our face.

Today we are carrying the wheat and chaff because our role in Parliament is both political and legal. This is one of the times when we are doing both the legal and the political bits. We are doing the political, which is to carry the country forward. That is why you are seeing Hon. Duale and other leaders speaking strongly to non-amendments. However, that does not take away our constitutional right to amend the document, if we want. We are working both as politicians and legislators. That is why you see, for the first time, Hon. Duale being very thankful to Hon. Jakom for helping him and even enabling him to be appointed as Minister, something that he rarely does. It is only Hon. Isaack Mwaura that I have seen exercising a lot of maturity even as he wants to transit from his current political party. I want to congratulate him. We need to move in that direction as politicians. When you have been supported by a party and you get to a point where you want to leave, do not become the devil. It is probably because of his circumstances, which are dictated by the nation and sometimes by the ethnic nature of our country, that have forced him to go the direction he is going but he is thankful. I want to congratulate him for that decision.

I want to speak very quickly to certain issues. One of the proposed amendments is on the issue of a web portal, which is pretty good in theory but we know what Kenya is with technology. I am one of the people who are worried of technology. At the push of a button in technology, you can change the history of the world. In past elections, we believed that the course of this nation was changed at the click of a button. I was very fortunate to very recently, through the Pan African Parliament (PAP), to observe elections in Zambia. One of the things that we have not picked up – which I wish we had picked up from Zambia – is the tedious process they go through. They do name and photo verification when people go to vote. It just means that you have more polling clerks but you do not have dead voters and other people voting. The only challenge when we were leaving Zambia is that many people were saying that they wished we had stayed longer up to the point when people had been elected. Their concern is that many elections are stolen at the point of tallying. A lot of times elections are stolen electronically. We have moved away from hitting people with *pangas* and beating people to more of electronic violence. I am very worried of technology because it is a new way of doing voter rigging.

All I can do even as I sit here, if I want to change the course of many things, is to substitute Mbita with North Mugirango and all the election results of Mbita automatically will be exchanged with those of North Mugirango. I am worry of that sort of thing.

The issue of audit is very good. However, I would wish that we had defined what audit is because in law, the devil is in the detail. What is audit? If we say we shall audit and then we leave it to anybody to define what audit is, somebody can sleep in their house and when they wake up they say they dreamt that they audited and that qualifies as auditing or somebody might just read a document and say that they have audited. So, what exactly is auditing? Can we define “auditing” in this law?

I also want to speak to the issue of party-hopping. The last time I spoke in the House, I said---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, the consultations are a bit high. Let us hear the Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker. I know one of the people consulting is my good friend, Hon. Aghostinho Neto, and I know why. He will have his time.

The last time I spoke I said that the elephant in the room is the issue of party-hopping. I want to reiterate what I said then, which I stand for now. In principle, I do not support party-hopping. I wish we had concurrent laws that also promote internal party democracy. We cannot be talking about democracy on one side and taking it away on the other. Democracy must be all-rounded. It must start with me at an individual level, move to the party and go to the country level. I do not support party-hopping but I am happy that a timeframe has been provided, whether it is 60 or 45 days, within which parties can submit the names of their nominees. I would have wished that within that framework, there was an internal party mechanism to deal with complaints.

If you look at all the Members who are unhappy, they have gone through very unfavourable experiences. I want to disabuse what Hon. Duale said about party leaders. A lot of times, I have been a victim. It is not the party leader. When I was denied my certificate, it was not Hon. Raila Amollo Odinga who denied me my certificate, it was a party official who denied me the certificate. In fact, Hon. Raila called him and told him to give me the certificate because I had won. Somebody else took me on a certificate chasing for four days. We must have party mechanisms for dealing with unruly people like that one in parties. That is why Members of Parliament are very hesitant about the issue of party-hopping.

On the issue of issuance of ids, in Mbita constituency, we are one of the people who are usually affected. What is the penalty? If what we provide in the law is not adhered to, there must be punitive measures for people who do not adhere to it.

The other issue is what my sister, Hon. Gladys Wanga, raised on a point of order; that, Hon. Duale was actually misleading the House. What this amendment seeks is to reward parties after elections. There is not going to be any money given to women or any other special interest groups to campaign. It is not provided for in this Bill. This Bill provides, for instance, right now, if the allocation was to be given to political parties, the ODM would get the least because I am the only elected woman in the whole country in the ODM Party. It would get the least amount. It is encouraging parties to ensure that more women are elected to the House.

I will give an example of what Hon. Duale has spoken about. He said that we will be promoting Rosemary to vie against Ken in Kibra. In Luo land, there is a saying which goes *mwanda ok en diend ng'ato*, meaning that if you want to go hunting, anybody can go hunting, but whoever gets the wild animal takes it home. In this instance, Hon. Kenneth Okoth, Member for Kibra and my friend, is doing excellent work. If I was a voter in Kibra, I would vote for him. However, *mwanda ok en diend ng'ato*. So, if Rosemary wants to vie against him, she cannot be stopped merely because she is Raila's daughter. That is a right as a woman. As a woman, I am feeling lonely. I need more women in Orange Democratic Movement (ODM). I am the only one who was elected in the whole country. Let us not dismiss Rosemary merely because she is Raila's daughter. Hon. Okoth is doing an excellent job, but I am not a voter in Kibra. Kibra people will make their choices, but let us not dismiss a woman merely because of her background.

Hon. Temporary Deputy Speaker, finally, on the Independent Electoral and Boundaries Commission (IEBC) appointment, this is part of the wheat and chaff we are picking. I do not like the process which is being used, but we have agreed to support it. I will support it. For records, the Committee said they did not make positive or negative findings on the IEBC.

Hon. Temporary Deputy Speaker I support the Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall now have Member for Emurua Dikirr.

**Hon. Kipyegon:** Thank you very much, Hon. Temporary Deputy Speaker, for allowing me to ventilate on this Bill. The Bill is very good because it has some parts which will bring some little change to the issues that this country has been suffering from. However, some parts which we argued against the other time have been sneaked in. This one will eat into the question raised by *Mheshimiwa* Olago. There are some parts which we amended in this House, but they have found their way mysteriously back to this Bill.

*(Hon. (Ms.) Odhiambo-Mabona consulted loudly)*

**The Temporary Deputy Speaker** (Hon. Omulele): Member for Mbita, we heard you quietly. Allow the Member for Emurua Dikirr to be heard.

**Hon. Kipyegon:** Hon. Temporary Deputy Speaker, I believe Clause 4 is good for this country. It talks about the public portal where members of the public will be checking whether they are genuinely registered. It is meant to eliminate those people who unfortunately might be dead, so that they may not vote again. That is a good part. You can check yourself in the portal and know whether you are registered or not. If you are not in the register, you can register yourself or appeal.

Clause 6 talks about the audit of voters. I agree with the fact that we need to have an independent body that will audit the registers we are using in this country, so that we can genuinely know the voters and those who are not voters. I agree with that.

I also agree with Clause 13 which talks about the registered voters who are supposed to be in a polling station. The maximum should be 500, so that we cannot make people tire during the voting by queuing, having so many queues and making people travel for long distances to vote. I agree with that.

I agree with the clause which looks into matters of the presentation of nomination papers. However, the part which I vehemently disagree with is clauses 8, 9, 10 and 11. I do not know why people are so much interested in making other people frustrated. We have a Constitution in this country which allows each and every member of this country to join any association, and to be associated with any people or party. Clause 9 says that parties have 90 days to forward the names of the party members to the IEBC. I fail to understand why a party will forward names 90 days to the election.

We have a clause which says nomination must be done 60 days to election. You fail to understand why we have this 30-day period. My understanding is that after the 30 days period, when you go for nomination, the members who will be aggrieved will have nowhere to appeal. They will appeal only to the arbitration in those parties, but we all know who elects those party officials. If they want to rig you out, they will not listen to you because they already have a predetermined mind. We have High Courts, Courts of Appeal and the Supreme Court, so that if you are aggrieved in a particular area, you have another window to appeal to. When you listen carefully when some people talk, they are talk shops. They tell you if you do not want this, you

go there, as if they own this Republic. Even God allows us to worship him in the Catholic Church, Baptist Church, Mosque or as a Seventh Day Adventist. God allows us to church-hop. I believe Satan allows people to pray differently. There are those who worship him while they are naked, and others wear particular items. Who are you to deny people opportunity to party hop?

*(Laughter)*

If God can allow people to move from one church to the other, as long as they are worshipping him, who are you on this earth? You are not God, Jesus Christ or Satan. Who are you to deny people their rights? Mr. Joseph Staling who was a president somewhere said those who cast their votes decide nothing, but the ones who count their votes decide everything. Those who cast their votes in party nominations decide nothing, but those who count their votes somewhere either in Nairobi or in some places decide everything. This is the disease we are trying to cure. Unfortunately, some people matter in this country. Some people are more powerful than others. I pity some of the Members who are whipped and called to some places and they run as if something is chasing them.

*(Laughter)*

We rear cows in our community. Sometimes, we put some salt for them to lick. They run when they see you carrying a sufuria with salt. This is what is happening in this House. When some Members get a phone call or see some text message, they run as if somebody is carrying some salt to place somewhere for them to lick. I do not know the day this House will come to its senses.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): Order, Members!

**Hon. Kipyegon:** We are making these laws for posterity. We are making these laws in this country for those many generations which will come. We would have wished to have a country with only two or three parties like we have in other countries, but we do not have that country. We have a country composed of shenanigans, and people who want to make money out of parties. We have a country where people want to make mincemeat out of parties. I wanted to support this Bill because of the changes in IEBC, and some few changes. However, when somebody puts the section on party-hopping in the Bill and then he comes to preach to us here, you wonder whether you will support it.

I am a Kenyan and I have no problem with joining whichever party. When I look at so many people here, they just look down. These are the people who I speak for. These are the people who when somebody up there speaks, they hide under the tables. These are the people I want to help. Most of them are Members of this House and Members of County Assemblies (MCAs). They cannot talk, I have to talk on their behalf. I pity my friends. Let us use our heads and constitutional mandate as Members of this House to make laws that will help this country and not one person in some place.

The President of this country, his Deputy and *Mheshimiwa* Raila will get direct nominations. You are ones who will hustle and find yourselves voting only to realise that

somebody has taken a party ticket. You will rot in the village. Put yourself in the shoes of somebody who has had problems.

**The Temporary Deputy Speaker** (Hon. Omulele): That was well-spoken, Member for Emurua Dikirr.

*(Loud consultations)*

Order, Members! Just on a light note, did I hear the Member for Emurua Dikirr say that the voices of some Members of this House have been muffled?

**Hon. Members:** Yes!

**The Temporary Deputy Speaker** (Hon. Omulele): Let us now move on. Because of regional and party balancing, let us have the Member for Kitui Central.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Speaker. Let me add my voice to this debate. I appreciate the product of the Joint Select Committee.

Looking at this Bill and the other Bill on Election Offences, you realise that a lot of work has gone into this Bill. There are some progressive clauses in this proposed law. At the same time, there are also clauses which need to be looked at afresh. Let me start with Clause 3.

Clause 3 of the Bill proposes that Kenyans who have waiting cards instead of a national Identification Card cannot vote. This is good because it just confirms that you need an ID card. However, looking at what is happening on the ground, this clause might block many Kenyans from voting and exercising their right. In some regions in this country, it takes so long for people to obtain ID cards when they apply for them. It is because of such situations that this House last month passed a Motion enforcing the requirement that if you have a waiting card you can vote. This law is doing away with that. That is an area which, as Kenyans and as representatives of the people, we might need to look at.

The other area which I want to talk about is technology. It is good that we are talking about online voter registration. The Commission will allow time for people to verify whether their names are in the Register. This will be done online. While technology is good, it is also very tricky. We need to be careful so that even if we encourage use of technology, we do not fall into the trap of technology playing tricks on us as Kenyans. That is my fear. We are really keen to move to the use of technology but at the same time I do not know whether we have taken care of the shortcomings which come with technology. As we talk about this matter, it would be important to make sure that technology does not fail Kenyans as it did in the last election.

In Clause 6, there is the requirement of auditing the Voter Register. This is very important bearing in mind that in the last election, there was talk of about three or four voter registers. In a situation where people do not know which Voter Register is being used, it is important for this country as we move forward, that we audit the Voter Register so that Kenyans are sure that we only have one Voter Register which will be used as we conduct our elections. In that case, it will reduce the issue of people complaining about multiple voter registers.

Clause 10 talks about party nominations. The reason why you hear of so many Members being suspicious of party nominations is because of lack of internal party democracy. It is important that as a country, the parties we have in Kenya try as much as possible to mature our internal party democracy. If our internal party democracy was mature, nobody would care about party-hopping being stopped. Our internal party democracy will continue being an issue of concern to Members. As it has been said, the problem is not with the party leaders. At times, the

issue is with the party secretariat and officials. Kenyans need to be assured that when it comes to party nominations, the issue of party democracy is taken care of.

The other issue is Clause 15. To me this is very important. Clause 15 encourages collaboration between the Government and non-State actors in terms of civic education. Most of the challenges we have in this country in terms of elections is because of lack of civic education for our voters. It is important that non-State actors and the Government can collaborate and make sure that all Kenyans are involved in civic education in terms of what it entails for elections to be held in the best-envisioned manner.

The other issue I want to comment on is on the disabled. Clause 22 of this Bill proposes that there is need to facilitate the disabled in this country to participate in elections. It is very important that these people are facilitated in terms of ensuring that the required infrastructure in all the polling stations is provided so that when they go to vote, they are able to do it without any challenges.

There is another issue which has not been taken care of. If you are disabled and you cannot move from your home to the polling station; and you expect to be moved, that constitutes an election offence. It is proposed that if you move an individual to vote, that is an election offence. I do not know how that matter will be handled. It is important that at times these people are also facilitated in moving from their homes to the polling station to cast their votes. This is an area which we need to seriously consider taking care of as we move forward.

Clause 28 is the issue of disbursement of the Political Parties Fund. The clause states that in parties where more ladies are elected, they should benefit more from this Fund. This is progressive. It is important that parties encourage our dear sisters, mums and daughters to participate in elections. At times, some of them are even better than us men, only that at times we threaten them with violence. At the end of the day, they are not able to compete effectively.

Hon. Temporary Deputy Speaker, we could even increase it from 15 per cent to 20 per cent so that more money is allocated to political parties that promote the participation of the other gender in elections like my party the Wiper Democratic Movement – Kenya (WDM-K). You can see we have very many WDM-K ladies here.

As I conclude, I would like to speak about petitions. I would like to support the timeframe on petitions that has been proposed in this Bill when people lose elections. At times, Members of Parliament have petitions in court which take too long to be concluded. The affected Members are unable to settle down to do their work because they are always running up and down between Parliament and the courts. The timeframe proposed in this Bill will actually deal with this problem because Members of Parliament will now know whether they have been elected or they have lost the elections. In that case, they will settle down quickly to do their work as required by the law.

With those remarks, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): I now give this opportunity to the Member for Nyandarua County.

**Hon. (Ms.) Muhia:** Thank you, Hon. Temporary Deputy Speaker. I want to support this Bill as we enter into the annals of history of this country for guiding it the right way. I am now a history maker in Kenya. I want to urge other Members to think in that direction.

This is a good Bill, but I would like to say something about Clause 14(2) of the Bill. It is all about collecting and announcing results from each polling station in the constituency for the election of the President, Governor, Senator, and County Women Representative. The name “County Women Representative” was a political one that is not even in the Constitution. Last year, the Speaker ruled that we do not have anything called “County Women Representatives”. We normally

translate it in Kiswahili as *mama county* to ask for votes. Article 97(b) of the Constitution clearly states that there shall be 47 women Members elected in each county. The Speaker's ruling referred to them as Women County Members of Parliament.

I want to support this Bill in totality mainly because it is very friendly. The Bill states that the Independent Electoral and Boundaries Commission (IEBC) will conduct elections. Most Members are scared because of the madness and chaos in party nominations. If we have professional and reputable bodies, I am sure those people who are defeated will accept the results honourably.

The issue of disability has been well stipulated in this Bill. In the past, people living with disabilities have not been participating in party nominations especially where we have party mergers. This is because some cannot even walk far.

As a County Member of Parliament, I incurred cost in employing agents in all polling stations. One had to look for mighty agents. In my case, where I needed 2,000 agents, I was unable to get all of them. Having participated in Tanzanians Elections, I want to recommend that we have 500 voters per polling station. However, I need clarification on that. If that be the case, is it that we are going to have 500 voters per polling station or per stream? There are polling stations that have over 3,000 voters and they end up creating many streams. The clarification on this is necessary because in such scenarios where a polling station has over 3000 voters---

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. (Ms.) Muhia, you will have a balance of six minutes when the House resumes.

Hon. Members, the time being 6.30 p.m., this House stands adjourned until today afternoon at 6.45 p.m.

The House rose at 6.30 p.m.