

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 19th December, 2012

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

REPATRIATION OF MS. LILIAN NYAMBURA FROM SAUDI ARABIA

Mr. Wambugu: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that the remains of Ms. Esther Muthoni Ngarega (Passport No. A1746327) who died in Saudi Arabia three months ago have not been transported back to the country for burial?

(b) Is the Minister also aware that Ms. Lilian Nyambura, a sister to the deceased and working in Saudi Arabia is not allowed to communicate with her parents by her employer?

(c) What urgent measures is the Minister taking to ensure that Ms. Lilian is repatriated to the country and postmortem on the deceased is carried out and her remains brought back to the country?

Mr. Deputy Speaker, Sir, I would like to note that this Question has been on the Order Paper for over six months now.

Mr. Deputy Speaker: This is a Question by Private Notice. How can it be on the Order Paper for over six months? Where is the Minister for Foreign Affairs?

Mr. Bett, much as we are almost coming to the end of the term of this Parliament, you still have the collective responsibility. Could you tell us where the Minister is now? Why is he not here?

Clerks-at-the-Table, could you give the Minister the microphone?

(The Assistant Minister for Foreign Affairs entered Chamber)

Mr. Assistant Minister for Foreign Affairs, you realize that your Question is the first on the Order Paper.

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, I want to seek your indulgence. I was turning on this set here and the line was coming on this other one. Is there something wrong with our network? I should go to where the---

Mr. Deputy Speaker: Mr. Assistant Minister for Foreign Affairs, proceed and answer Question No.1 by Private Notice.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Deputy Speaker, Sir, I beg to reply.

I would like to inform the House that Madam Esther Muthoni Ngarege (Passport No.A1746327) who died in Saudi Arabia will be brought to Kenya tomorrow. The Kenyan Ambassador to Saudi Arabia confirmed the same. They are bringing back the remains by tomorrow. By tomorrow, I should be able to inform the House the time the body will arrive.

Mr. Deputy Speaker: Fair enough! Mr. Wambugu, are you satisfied with that?

Mr. Wambugu: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for giving that short answer. If you can very well remember, this has been a case which has been on for almost six months now. The body has stayed out of the country for the last six months. Therefore, it requires positive identification to avoid issues which we normally see around. Has the family been involved in the identification of the body before it is brought to Kenya?

Mr. Onyonka: Mr. Deputy Speaker, Sir, to be honest with you I am not able to give that answer in the affirmative, but I can assure you that the information that Kenya's Ambassador to Saudi Arabia gave to the Ministry of Foreign Affairs this morning was that they had verified with the police in Jeddah and confirmed that the body was of Ms. Esther Muthoni Ngarega. Maybe the only request I would expect the hon. Member to make is that when the body arrives tomorrow at the Jomo Kenyatta International Airport (JKIA) the family members be there to ascertain that it is a member of their family. But the truth is that our Ambassador in Saudi Arabia has confirmed that Ms. Ngarega is being repatriated back home and she will arrive tomorrow afternoon.

Mr. Deputy Speaker: Mr. Wambugu, do you really want to pursue this matter at this stage, or it will be more prudent for this Question to be deferred to tomorrow when you will, probably, feel that there will be sufficient information for you to prosecute it in the event that any of your fears are confirmed?

Mr. Wambugu: Mr. Deputy Speaker, Sir, though I would still request that we get the family to identify the body tomorrow when it arrives, I do not know whether the family has been advised of the arrival of the body. The parents of the deceased are in the village. We would also like to know what assistance this family is being given by the Government---

Mr. Deputy Speaker: Mr. Wambugu, the Question does not talk about any assistance. We are talking about the body being brought back. Parts (b) and (c) of the Question are consequential. It is only fair that you deal with it in a more comprehensive manner once the issues you have raised here are confirmed, either in the affirmative or in the negative. Would it be fair for me to direct this Question to be listed on the Order Paper tomorrow in the afternoon? Given the fact that this is a matter that has been going back and forth for six months, we do not want to get into a situation in which this Question is disposed of and tomorrow morning the family realizes the body is actually not the body of the late Esther Muthoni Ngarega. Is it fair for the Chair to proceed and give that direction or you have a different opinion?

Mr. Wambugu: Mr. Deputy Speaker, Sir, I think it would be in order for the Assistant Minister to tell the House if the family has been advised---

Mr. Deputy Speaker: If the Question is disposed of and you have a situation different from the information given by the Assistant Minister, it will take much longer before this Question comes back on the Floor of the House. The Chair is trying to help you. Nonetheless, if you insist, let the Assistant Minister proceed.

Mr. Onyonka: Mr. Deputy Speaker, Sir, I actually would like to confirm that a parent of Ms. Ngarega was at the Ministry of Foreign Affairs yesterday. He had come to ascertain and

discuss the issues affecting the other daughter. I can confirm without fear that he will be at the airport tomorrow. We have agreed with officers of the Ministry of Foreign Affairs and Mr. Ngarega that they will be with him at the airport to confirm the same. I agree with the Chair that it makes sense that after we have received the body it will be okay for me to bring a report to the House to confirm what will have happened.

Mr. Wambugu: Mr. Deputy Speaker, Sir, I will then accept that offer by the Assistant Minister. But in case there is anything contrary to the report, he has given, then we will bring the matter back to the House. But just for the interest of the members of the family, as the Chair said, this bit is not covered in the Question, but because of the delay that has been occasioned, what assistance will the Government offer the family to assist them take the family from the airport to the burial place?

Mr. Onyonka: Mr. Deputy Speaker, Sir, unfortunately, it has taken a period of six months for the body to be brought back home; there have been tiresome and involving formalities. The truth is that it is Kenya's Ambassador to Saudi Arabia who has worked tirelessly to make sure that he raised the funds for expenses related to the body, to buy the coffin and pay the airfreight, so as to bring the body back home.

I am sure the hon. Member is aware that at various times we have requested that this House looks at this issue seriously, so that some funds can be allocated to the Ministry of Foreign Affairs, so that when such events take place then we do not have to go through the motions of conducting fundraisings to bring bodies home. Otherwise, the best the Ministry of Foreign Affairs could do was to buy a coffin, pay for the freight and make sure that this body was brought back home.

FAILURE TO REGISTER DIPLOMA GRADUATES FROM KENYAN UNIVERSITIES BY TSC

Mr. Lessonet: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

a) Is the Minister aware that the Teachers Service Commission (TSC) has refused to register graduates with Diploma in Education (Arts) from Egerton, Moi, Methodist and Mt. Kenya Universities, rendering them unemployable by the TSC?

(b) What action will the Minister take to ensure that graduates are not frustrated in pursuit of their career?

Mr. Deputy Speaker: Is the Minister for Education here? Mr. Bett, where is your colleague?

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, I admit I do not know where he is, but I would want to seek your indulgence that the Question be called out again during the second.

Mr. Deputy Speaker: We have a lot of business to transact. So, the Minister must be here tomorrow in the afternoon to answer this Question. This Question is deferred to tomorrow afternoon.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1777

AVERTING CONFLICTS BETWEEN RANCHERS/
PASTORALISTS IN LAMU COUNTY

Mrs. Noor, on behalf of **Ms. S. Abdalla**, asked the Minister for Lands:-

- (a) whether he could provide a list of names of owners of all ranches, indicating the size of land they own in Lamu County;
- (b) why the Ministry failed to provide grazing corridors for pastoralists when allocating vast portions of land to the ranchers, and;
- (c) whether he is aware that lack of grazing corridors for pastoralists in the area has caused conflicts between the ranchers and pastoralists which have led to several pastoralists being injured, loss of their livestock and harassment.

Mr. Deputy Speaker: Is the Minister for Lands not here? What happened to the Government today? Mr. Bett, where is your colleague?

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, I would want to seek your indulgence that the Question be called out again during the second round.

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir. I just stand on a point of order in respect of the Question by Private Notice. This Question came up yesterday, but the Minister was not there. It was deferred to today morning and the Minister is still not there. I am rising on a point of order to request that you apply some sanctions against the Executive, and specifically against the Minister, so that they can be here tomorrow.

Mr. Deputy Speaker: Mr. Lessonet, we are now on Ordinary Question No.1777. The Chair had given a direction that your Question be listed on the Order Paper tomorrow. If the Minister concerned fails to come, clearly the Chair will take some firm action against him.

The Minister for Lands is also not around. So, what happens, Mr. Bett?

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, I had made my plea that the Question be held back and called out for the second time.

Mr. Deputy Speaker: There is no second chance because of the many Bills that have to be passed here. There is a lot of business to be transacted by this House and you realize that the House has just a few more weeks of life.

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, can I request that the Question be deferred?

Mr. Deputy Speaker: I direct that this Question be deferred to tomorrow afternoon.

(Question deferred)

Question No.1842

LIST OF PROJECTS FUNDED BY LATF
MONEY IN KEIYO COUNTY COUNCIL

Mr. Kiptanui asked the Minister for Local Government:-

(a) how much money has been allocated to Keiyo County Council through Local Authority Transfer Fund (LATF) and other sources from 2008 to date; and,

(b) whether he could provide a list of all projects funded by LATF in the constituency indicating their locations and status.

Mr. Deputy Speaker: Is the Minister for Local Government not here? Where is he? Where is the Government? What happened to the Government, hon. Bett?

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, we are here. We are the Government. There are various reasons that could be holding Ministers and Members of Parliament not to arrive in time. Again, I want to plead that this Question be deferred to tomorrow.

Mr. Deputy Speaker: I direct that this Question be deferred to tomorrow afternoon.

(Question deferred)

Question No.1843

FUNDING OF ROAD PROJECTS IN KITUI COUNTY
UNDER ROADS 2000 PROGRAMME

Mr. Deputy Speaker: Is hon. Nyamai not here? Does anybody have any information about his whereabouts? Is he out of the House today on any official Parliamentary business? The Question is dropped.

(Question dropped)

Question No.1865

DELAYED DISTRIBUTION OF
SUNSCREEN LOTION TO ALBINOS

Mr. Deputy Speaker: Hon. Shakeel! Is he also out of the House today on any Parliamentary business either in or outside the country? The Question is dropped.

(Question dropped)

Question No.1786

FINANCING OF CONSTRUCTION/
REFINING OF TOILET SYSTEM IN WAJIR

Mr. Deputy Speaker: Is the Chairman of the Departmental Committee on Defence and Foreign Relations, hon. Keynan, out? You have information that he is in a Committee meeting? Fair enough! The Chair directs that this Question be listed on the Order Paper tomorrow afternoon.

(Question deferred)

Question No.1864

DELAYED COMPENSATION TO MR. ABDIRAHMAN
ABDULLAHI BY KWS

Mr. Deputy Speaker: Dr. Nuh has, indeed, communicated to the Chair that he is not able to ask this Question today. It is deferred to Tuesday, next week.

(Question deferred)

Question 1724

NON-EXPENDITURE OF DEVELOPMENT FUNDS DUE
TO BUREAUCRACY IN PUBLIC PROCUREMENT LAW

Dr. Otichilo asked the Minister for Finance:-

(a) whether he is aware that the bureaucracy embedded within the public procurement law is the main cause of non-expenditure of development funds in our National Annual Budgets;

(b) whether he is also aware that the law remains rigid and is made up of all paper-based systems and has not embraced the use of ICT or e-procurement; and,

(c) when the Government will amend the law to make it open, transparent, simple and ICT compliant.

Mr. Deputy Speaker, Sir, I have not received a written answer. I can see that the Minister is in the House.

Mr. Deputy Speaker: Dr. Otichilo, do you wish to proceed and prosecute this Question without a written answer?

Dr. Otichilo: Yes, Mr. Deputy Speaker, Sir. I wish to proceed because it has been pending for a long time.

Mr. Deputy Speaker: Minister for Finance, where are you?

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, my Assistant Minister was actually supposed to answer this Question. He is on the way and he has the answer. So, let us allow him to come and answer it. We were doing consultations there and I am sorry about that.

Mr. Deputy Speaker: It clearly does not look like you were doing consultations on this Question, which is the business that brings you here, among other businesses, of course.

(Dr. Oburu entered into the Chamber)

Hon. Assistant Minister, proceed and answer this Question!

The Assistant Minister for Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any embedded bureaucracy in the public procurement law that has caused non-expenditure of development funds in our national Budget. However, I am aware that some procurement entities have occasionally been unable to complete the procurement process

for development projects in good time as required by the Public Procurement and Disposal Act, 2005, due to other factors that are within the concerned Ministries.

(b) I am also not aware that the law remains rigid because of the paper-based system or lack of e-procurement. I wish to inform that House that e-procurement is an ongoing process and some aspects of Information Technology have been introduced and are already been used. For instance, tender documents can be accessed from the website and procurement related financial commitments are done through the Integrated Procurement System or the Integrated Financial Management System.

(c) The Government is currently undertaking a review of the Public Procurement and Disposal Act for purposes of realigning it with the provisions of the new Constitution. In addition, the Government is in the process of introducing the e-procurement system, which is an Information Communications Technology (ICT) based system that will help to ensure that all procurement is, not only consistent with the law, but also operationally efficient.

Dr. Otichilo: Mr. Deputy Speaker, Sir, I appreciate the answer by the Assistant Minister that procurement procedure is not an impediment in having projects implemented. When will the e-procurement procedures be put in place? When will this law be brought here for amendment, so that we can amend it to make the procurement process simpler and have projects implemented?

Dr. Oburu: Mr. Deputy Speaker, Sir, as I stated, the e-procurement is an ongoing process. Some aspects of IT have already been implemented. We are trying to introduce the e-procurement, but it is a system which must be carefully introduced. You will realize that we have some suppliers who are not quite conversant with the e-systems. Therefore, the introduction of those procurement systems must be reciprocal. There must be compliance by the suppliers and ourselves. We are trying our best to introduce and use it for improvement of efficiency in procurement, but it is a gradual process which will take a little bit of time.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am extremely surprised that the Assistant Minister for Finance does not live in the Republic of Kenya. Neither does he live in Siaya County. I can give two examples of the Constituencies Development Fund (CDF). Where we have partnered with Government agencies in terms of financing a project, for example, Tana River and the fence in the forest in Malindi, the CDF component would be completed many months before the Government has even started its procurement process. So, obviously, he cannot claim that he is not aware.

He has demonstrated that he does not know these things yet his young brother, the Prime Minister, is on record - we went to a conference at the Intercontinental Hotel as a House - saying that the procurement law is an impediment to the implementation of projects, including the roads projects by the Minister, hon. Bett. The Minister has been frustrated to the extent that he has decided that he is no longer going to run for any elective office. It may be because of this procurement law.

(Laughter)

Mr. Deputy Speaker: Could you, please, ask your question? It is Question and answer time!

Mr. Ethuro: Mr. Deputy Speaker, Sir, now that, that is the case, could he give us a timeframe within which he is going to bring the necessary law to this House, so that we can make progress in terms of the development projects that we have passed as a country?

Dr. Oburu: Mr. Deputy Speaker, Sir, we are in the process of making amendments to the Procurement Act. This is not to say that the Act itself is an impediment as such, but there are some aspects on the Act which need to be realigned with the new Constitution. We are already making proposals to do that, so that this Act can comply with the new Constitution and we welcome any suggestions from hon. Members where they think that there are some aspects of the law which are an impediment to the procurement process. Their comments and suggestions are welcome. We are actually almost completing the amendments to this law to comply with the new Constitution.

Dr. Khalwale: Mr. Deputy Speaker, Sir, we at the Public Accounts Committee (PAC) year in, year out, have established that there is always the audit query of under expenditure. Every time we ask the Accounting Officer at the Ministry of Finance, he always tells us that the real culprit is the procurement process. We have repeatedly recommended as a committee of this House that this law needs to be given a relook. Could the Assistant Minister tell us why he has refused to comply with the recommendations of the PAC in respect of the need to amend this law and why in spite of the five recommendations I have made in the five audit reports that we have brought here, he is still talking about “we shall do; we shall do”? Is this not impunity?

Dr. Oburu: Mr. Deputy Speaker, Sir, I have said that very soon we are going to table in Parliament the recommendations for amendment of this Act.

Dr. Khalwale: When?

Dr. Oburu: Mr. Deputy Speaker, Sir, it is ready. Maybe by next week we might table them here in Parliament. However, the impediments of the delays which the Chairman of the PAC is talking about are sometimes not necessarily caused by the procedures, but by the implementation. That is the way it is implemented and the way the Act has introduced a lot of liberal aspects which allow people to litigate and those litigations take a very long time. Sometimes the procurement process is locked in court.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I asked about when. The hon. Chairman of the PAC also asked about when. Could the Assistant Minister confirm to this House when he will be bringing the amended procurement law?

Mr. Deputy Speaker: Assistant Minister, when will you bring that piece of legislation here?

Dr. Oburu: Mr. Deputy Speaker, Sir, we shall bring it next week.

Dr. Otichilo: Mr. Deputy Speaker, Sir, realizing that next year we shall be going to county governments and there is a danger that unless this law is amended and made simpler, this bureaucracy is going to be transferred to the County Government, could the Assistant Minister inform the House what action his Ministry is taking to ensure that as we go to the County Government the procurement procedures are made much simpler and more people friendly, so that the people at the county will be able to transact business in a very fast way?

Dr. Oburu: Mr. Deputy Speaker, Sir, I have said that the amendments we are proposing are to revise the law to comply with the provisions of the new Constitution and the cornerstone of the new Constitution is the devolved unit. So, that is the core of the amendments we are bringing to the House.

Mr. Deputy Speaker: Next Order!

COMMUNICATION FROM THE CHAIR

INVITATION TO SPEAKER'S KAMUKUNJI

Mr. Deputy Speaker: Hon. Members, the Parliamentary Pensions Management Committee takes this opportunity to invite all hon. Members of Parliament to a Speaker's *Kamukunji* where hon. Members will be briefed of all matters relating to their pensions. The briefing will be undertaken by a team of experts from the Directorate of Pensions of the Treasury which is under the Ministry of Finance, essentially scheduled for Thursday 20th December, 2012 at 11 a.m. in the Main Chamber. Please, plan to attend and participate in this very important session.

Mr. Deputy Speaker: Next Order!

POINTS OF ORDER

STATUS OF UNDERTAKING BY HON. NGUYAI

Dr. Khalwale: On a point of order, Mr. Deputy Speaker Sir. I rise to request for a Ministerial Statement from the Minister for Local Government. On Thursday, 2nd August 2012, the Assistant Minister for Local Government, hon. Lewis Nguyai in replying to my Question by Private Notice on illegal structures that have been erected on Land LR No. Nairobi Block 93/1418 between Plainsview Estate and Shell Petrol Station along Mombasa Road, undertook to ensure that the residents of Plainsview are allowed to plant flowers and have a temporary fence along this land in order to secure the land from land grabbers.

Mr. Deputy Speaker, Sir, could the Assistant Minister inform the House what became of his undertaking and whether the residents of this estate can go ahead and plant the flowers? Could he also confirm whether he is aware that the residents also went ahead following his Ministerial Statement on the Floor of the House and wrote to the Town Clerk a letter to give him the process to enable them effect the request beyond his Ministerial Statement in Parliament?

Mr. Deputy Speaker: Where is the Minister for Local Government? I can see some senior Ministers like hon. Obure and hon. Bett. Could you give an undertaking on behalf of the Government?

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, yes, I undertake to inform the Minister accordingly.

Mr. Deputy Speaker: When will he have the Ministerial Statement in place?

The Minister for Roads (Mr. Bett): Next week, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: On which day next week?

The Minister for Roads (Mr. Bett): Next week on Wednesday.

Mr. Deputy Speaker: Morning or afternoon?

The Minister for Roads (Mr. Bett): Morning, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! It is so directed. Dr. Khalwale, are you comfortable with that or you will be out campaigning?

Dr. Khalwale: Mr. Deputy Speaker, Sir, we are very apprehensive as the residents of this area because every time this matter has come before the House five times and people either put up petrol stations or car wash units or they make it a dump site and because we are likely to go on the long Christmas recess, this is just a question of reporting to the House and it does not require any investigations. May I request that this matter be responded to tomorrow afternoon?

DISBURSEMENT OF CDF FUNDS

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Yesterday the Minister for Finance assured the House that we should be getting a Ministerial Statement on the disbursement of Constituencies Development Fund (CDF) funds this morning.

Mr. Deputy Speaker: No! That is not consequential to the Ministerial Statement sought by hon. Khalwale.

Mr. Imanyara: No, Mr. Deputy Speaker, Sir. I am seeking something different.

Mr. Deputy Speaker: Then let me dispose of hon. Khalwale's.

Mr. Ethuro: Mr. Deputy Speaker, Sir, the answer to the Question means that these people have been denied the correct answer for a long time. But even the dates the Minister for Roads is giving us, Tuesday, is Christmas Day and Wednesday is Boxing Day. Unless he is telling us that there is going to be a special Christmas session, then we will be available for him to come and answer, which I do not think will be the case.

Mr. Deputy Speaker: Mr. Bett, the dates you mentioned in December which is 26th, is a holiday. In any case, this is a very simple matter. It was a Question by Private Notice. Ideally, a Question by Private Notice must have a satisfactory answer within 48 hours. This particular Question has taken, God knows over how long.

Dr. Khalwale: Mr. Deputy Speaker, Sir, over six months.

Mr. Deputy Speaker: It has taken over six months. Could you ask your colleague to be here tomorrow afternoon to answer this Question?

The Minister for Roads (Mr. Bett): Yes I will, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! The Chair directs that this matter be disposed of tomorrow afternoon. Failure to which, very stern sanctions will be taken against the Minister concerned. Is there any other Ministerial Statement?

DELAYED DISBURSEMENT OF CDF FUNDS

Mr. Imanyara: Mr. Deputy Speaker, Sir, yesterday, the Minister for Finance undertook to issue the Statement on the disbursement of the Constituencies Development Fund (CDF) funds this morning. I do not see him making any sign.

Mr. Deputy Speaker: Mr. Githae, you made an undertaking.

The Minister for Finance (Mr. Githae): Yes, Mr. Deputy Speaker, Sir, I did and it is being prepared. If I may just explain why it has taken longer than I expected, we spent the whole of last night at the Treasury trying to prepare four Bills. They have just started this morning on the CDF Statement.

Mr. Deputy Speaker: How soon could you have that Statement?

The Minister for Finance (Mr. Githae): This afternoon, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: We cannot transact much business this afternoon because of the nature of business. It is not possible. Could you have it tomorrow afternoon, hon. Imanyara? Will that be fair with you?

Mr. Imanyara: It is fine, Mr. Deputy Speaker, Sir.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. This House gave me a responsibility which is embedded in law as the Chair of Constituencies Fund Committee (CFC). The same law gave the Minister responsibility to disburse funds to the CDF on a quarterly basis. What is there for him to prepare and to lose his sleep? If he did so, it is because he has been sleeping on the job for too long. This is a straightforward matter. He made a commitment to this

House that by 30th September, he would have released all the money. He has failed even to do what is the basic requirement. He has released less than 50 per cent and yet, we are going to an election. At least, he owes us a small favour that for the remaining period, he gets all our money, so that we can complete the projects that we have started.

(Applause)

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, if we follow the law, it says that the disbursement should be done every quarter. We have actually disbursed all the amounts due as at 31st December. So, let us not follow the law because this was another agreement. If we follow the law, we have fulfilled it. We have disbursed all the required CDF funds as at 31st December. I have those facts and I will come with them this afternoon.

Mr. Ethuro: Where are the facts?

The Minister for Finance (Mr. Githae): I will come with them!

Mr. Deputy Speaker: Order, hon. Members! You cannot engage in exchanges. You engage in this through the Chair. Mr. Githae, you said much as the law is. Is that the way hon. Ethuro is interpreting it? You gave an undertaking on the Floor of the House which essentially you can be held to. So, could you explain why the undertaking you gave is not coming out quite as you gave?

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, it is because he quoted the law and I said that if we follow the law---

Mr. Deputy Speaker: The law aside!

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, that is exactly the point I was making that if we follow the law, then we have fulfilled the law. But as you have explained, I will issue the Statement tomorrow afternoon. It will have all those details.

Mr. Ethuro: On a point of order!

Mr. Deputy Speaker: Hon. Ethuro, I can see you are on the ICT. So, you do not have to shout.

Mr. Ethuro: Mr. Deputy Speaker, Sir, we are responsible for the accuracy of the statements we make in this House. That is in our Standing Orders. I am saying that the CDF allocation for this financial year by the Minister himself is Kshs21,763,000,000. As per now, unless he has sneaked something this morning, one hour ago when I communicated with the Board, he had only released Kshs10 billion. Surely, Kshs10 billion is less than 50 per cent of Kshs21.76 billion. So, even on account of the law, he is dead wrong.

Secondly, you have picked even the more fundamental precept that he has made a commitment on the Floor of this House on a timeline that we agreed. We agreed that given this is an election year, by 30th September, he releases all the money. He has not released the money. He is still preparing for it and he still wants to buy time to tomorrow afternoon when he might do another disappearing act. This House should not act in vain. I am here to prevent Ministers from behaving badly.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I would request you to prevail upon the good Minister to give this issue of CDF priority. This is primarily because he came here, went with the Members to a *kamukunji*, which you chaired, and promised, unless he was lying knowing that he does not want to give this country the CDF money---

Mr. Deputy Speaker: Order, hon. Midiwo! Withdraw the word "lying". That is not parliamentary.

Mr. Midiwo: Mr. Deputy Speaker, Sir, unless he was misleading the House. I withdraw and apologize. But in all fairness to this nation, the Treasury is not a personal property to anybody. The law must be followed to the letter. The Minister's word must be good because our people depend on that funding. The reason we fought so much for change is to stop this kind of behavior by Ministers. I want to ask you to compel this Minister to come back here this afternoon or send him to his office now to with the Statement. Only two weeks ago, his Assistant Minister was here with the figures and told us that they did not have the money. Why can he not be candid enough and tell us the truth if there is no money?

Mr. Imanyara: Mr. Deputy Speaker, Sir, the Minister clearly said he has been working overnight together with the staff at the Ministry and he has prepared the papers. He is prepared to give this information to the House tomorrow. Could he circulate these figures sometime today, so that by the time he gives the Statement tomorrow, we could interrogate them?

NON-GAZETTEMET OF BILLS

More importantly, the reason I stood on a point of order is that yesterday, in the presence of the Minister, the Attorney-General indicated that this morning he would tell us the status of the IDPS Bill which was passed by this House on 4th October, 2012. It has never been gazetted. Under Article 115 of the Constitution of Kenya, it ought to have become law and gazetted. So far, he has not given us the status. I do not see him in the House. It is the same with respect to The Opinion Polls Bill. The law was passed in this House, but it has not been gazetted up to today. It is the same with The Statutory Instruments Bill. The law was again passed in this House way back in September, but it has not been gazetted. What is this Government doing? Is it sleeping when laws are being made and they are not gazetting them? Could the Minister tell us where the Attorney-General is after undertaking before this House yesterday that this Statement would be issued this morning?

Mr. Deputy Speaker: Order! On the CDF matter, the Chair has already given a direction. It is the presumption of the Chair that the Minister will have a Ministerial Statement that will be comprehensive enough to put to rest all the fears of the Members.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is your point of order, Dr. Khalwale?

Dr. Khalwale: Mr. Deputy Speaker, Sir, regarding the Constituencies Development Fund (CDF) the significance of this pressure that we are putting on the Minister is because as we transit from the Tenth to the Eleventh Parliament, there will, obviously, be in some constituencies change from one Member of Parliament to the other. There is a very big risk that some projects might stall because of lack of good will and co-operation from the person who will be succeeding the current Member of Parliament. We would like him when responding to this pressure, to appreciate that there is need for him to consult with the Ministry of Planning, National Development and Vision 2030. This is because there is even another bigger disaster; even the little funds that he has been able to release, is skewed. For example, Ikolomani Constituency has so far received only 15 per cent of the disbursement. When I follow up from colleagues, I hear that they have gone into the second tranche. Why would there be skewed release of funds by the Ministry of Planning, National Development and Vision 2030? He has to tell us unless he wants the people of Ikolomani to come and demonstrate outside Treasury and

outside the office of the Minister for Planning, National Development and Vision 2030. We do not want to demonstrate---

Mr. Deputy Speaker: Order! You have made your point. There is no need of you addressing the House for 15 or 20 minutes on a matter that has already been disposed of. The Minister has taken note of all those concerns and I trust that he will cover them comprehensively.

The Attorney-General is not in and I understand nobody holds brief for the Attorney-General. However, any Minister could tell us when he will be here to respond on the undertaking he made.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I understand that he was preparing the statement on those four Bills that Mr. Imanyara talked about. I will send a message that this afternoon or tomorrow, he must be prepared to issue a Ministerial Statement. I know he was preparing it.

Mr. Deputy Speaker: It can only be tomorrow because this afternoon we have big load of business to dispose of plus the function that Parliament will undertake in the afternoon.

I will call on the Minister for Medical Services, Prof. Peter Anyang'-Nyong'o, to give a Ministerial Statement on the nurses' strike. Please, make it as concise as possible. You are a Minister so you can only address the House from the Front Bench.

MINISTERIAL STATEMENT

ON-GOING NURSES' STRIKE

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I would like to make a very brief Statement to this august House on the so-called strike by nurses that is currently going on.

Mr. Deputy Speaker, Sir, on the 25th November, 2012, the unregistered Kenya National Union of Nurses (KNUN), the National Nurses Association of Kenya (NAK) and the Kenya Progressive Nurses Association (KPNA) wrote to my Ministry giving seven days strike notice to take effect from the 3rd December, 2012. The letter reached my office on 26th November, 2012, giving several demands one of which was of the immediate registration of the Kenya National Union of Nurses. The other demands related to the Ministry. All of them had been dealt with and the Ministry was under discussion with the nurses' fraternity. So, there was no cause for alarm on those issues.

On the same day, my Ministry invited officials of the said groups to a meeting with me in my Ministry on 27th November, 2012 at 2.30 p.m. given the urgency of the matter. The Ministry of Labour was also invited. The meeting took place in Afya House that same day. Of all the unions and associations of the nurses, the only body that attended that meeting was the KPNA, which after a whole afternoon's meeting we all came to the conclusion that a strike was not just illegal, but unnecessary and the KPNA said that they were not part of the strike and would call upon their colleagues to do the same.

After that, I even went ahead to call Mr. Panyako on my mobile phone to seek audience with the interim officials of the union, but he did not respond to my calls. I even sent him a text message telling him that it is important that we meet, but he did not respond. Instead he sent me a text message saying that only Mr. Munyes could solve their case and only when Mr. Munyes registers the union would they call off the strike. You understand that the Ministry of Medical

Services does not register unions and that the nurses are actually striking against the wrong Ministry and punishing Kenyans unnecessarily.

Mr. Deputy Speaker, Sir, as of now, the hospitals that first suffered were the Kakamega Provincial General Hospital, Nyanza Provincial General Hospital, Mombasa Provincial General Hospital, Machakos General Hospital and Kajiado District Hospital. Since then, however, nurses have been going back gradually to these hospitals. As of now, the situation has improved in both Nyanza Provincial Government and the Mombasa Coast General Hospital. To date, the worst affected areas are Western, Coast and Central Provinces. Only few hospitals in Nyanza and Eastern Provinces are affected. In Nairobi, two hospitals were affected, but they have all come back to normal operations. In North Eastern, not even a single hospital has been affected. In Rift Valley, only three hospitals remain affected to date.

It is important to note that these nurses' leaders have used very illegal measures to compel nurses who are working to join the strike. On Friday 7th December, 2012, a group of over 100 people led by Jeremiah Maina, Josephinas Musundi, Seth Panyako and Julius Mwema invaded Mbagathi District Hospital disrupting all activities and services and destroyed Government property of unknown value, including breaking of the door to the office of the Director of Medical Services at Afya House. The matter was reported to Kenyatta National Hospital Police Post on the same day, statements were recorded and police visited the scene. But to date, no arrests have been made.

On Saturday, 8th December, 2012, the four top officials mentioned above were arrested in Meru while trying to disrupt services of the hospital. They were later released in unclear circumstances and have not been arraigned in court to date.

On 11th December, 2012, vigilant police at Kisii broke an imminent invasion of Kisii District Hospital where services are being rendered normally. The hospital is still working peacefully and the workers there have not joined the strike.

Police have also acted swiftly to stop disruption of services in several hospitals, including Siaya, Nakuru, Nanyuki and others. Other hospitals have security in place.

Mr. Deputy Speaker, Sir, on 14th December, 2012, this year, I issued a press statement to all nurses to report back to work since all hospitals have vigilant security. By yesterday, a total of 3,745 nurses had not reported to work compared to a total nursing force of 13,200 in the Ministry of Medical Services, including Kenyatta National Hospital (KNH) and Moi Teaching and Referral both of which are working well without disruption.

My Ministry, therefore, plans to replace these absent and defiant nurses who have deserted duty. I want to note that there are over 7,000 trained and unemployed nurses in the country who can take their places immediately.

This country has a Constitution and rule of law and, indeed, there are procedures to register any union. Until and unless an organization has exhausted those processes there is no need to go on strike. A strike action in the labour movement has a very specific role that should not be abused by anybody.

Finally, the organizers of the strike seem to be operating in total disregard to the law. We have witnessed damage to property, threats to individuals and forceful removal of nurses peacefully conducting their daily work in our hospitals. While the police have protected hospitals no one has been arrested and arraigned in court despite the crimes already committed by these individuals.

The registration of the union and issues related thereto, have been comprehensively dealt with by the Ministry of Labour, in the letter to the Office of the Prime Minister dated 11th December, 2012.

However, due process of the law continues to be ignored by the strike organizers who have chosen to paralyze health services instead of seeking redress from the courts as provided for in law, by the Ministry of Labour and other labour unions.

Mr. Deputy Speaker, Sir, I would like to recommend the following.

1. The activities of the strike leaders have, so far, demonstrated that they have ceased to conduct peaceful demonstration. They should, therefore, be arrested and arraigned in court.

2. They should be stopped forthwith from interfering with health service delivery which is the people's fundamental right and which the Government is fully prepared to deliver. Unless something is done specifically to these leaders, they will continue endangering the lives of the workers and patients.

As such, they should not be seen and taken as people rightfully demonstrating and asking for their rights, but officers turned criminals that have no respect for other people's right.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Ochieng': Mr. Deputy Speaker, Sir, maybe the Minister could tell us how many deaths they have registered, so far, and whether those nurses on strike could be charged with murder. This is because we saw it on television many bodies being wheeled from wards to the mortuary after patients had died. This is a very sad affair.

Dr. Kones: Mr. Deputy Speaker, Sir, the Minister says the registration of unions lies with the Ministry of Labour. However, what has he done, now that the nurses fall under his Ministry, to liaise with the Ministry of Labour, so that the nurses' union is registered?

Mr. Kathuri: Mr. Deputy Speaker, Sir, let me start by reminding the Minister that he is, of course, very eloquent, forceful and very clear when representing the Executive. However, he should also remember that we are also in the Government and this is not what we believe in. I have to make it very clear that I blame the Executive. This is not a problem that can be tossed from the Ministry of Medical Services to the Ministry of Labour. The other day, it was the doctors' strike and now it is the nurses' strike. These people are pushing for their rights. So, they should not be considered as criminals.

Mr. Deputy Speaker: Order, Mr. Kathuri! Much as we are more or less coming to the end of the Tenth Parliament, we are still bound by the provisions of the Standing Orders. The hon. Minister has given a Ministerial Statement. You can only seek clarification on the content of the Statement he has given. What are the clarifications that you are seeking?

Mr. Kathuri: Mr. Deputy Speaker, Sir, could the Minister confirm when he intends to hold a meeting with the Ministry of Labour to resolve this crisis? They should not waste time because they need to avert deaths.

Mr. Ruteere: Mr. Deputy Speaker, Sir, I heard the Minister say that the nurses should be arrested because the strike is illegal and that they are violent. What is the role of the Ministry of Labour which should mediate between the Ministry of Medical Services and the trade union to see that there is an amicable solution to this problem? Strikes do not just happen. There must be a reason for them to happen.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, Kenyans continue to suffer and die as a result of the strike by nurses and doctors. Before these things happen, I believe that these good workers give notices to the Government. Why are these issues not addressed early enough,

so that we avert these crises? These things have been happening year in, year out. Most times they happen shortly before the elections. Why do they happen?

Mr. Deputy Speaker: I will take the last two clarifications and then the Minister can respond to all of them.

Yes, hon. Gaichuhie, the Member for Subukia!

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, could the Minister clarify why they removed the extraneous allowances from the nurses' remuneration? Maybe that could be the reason for the strike.

Dr. Khalwale: Mr. Deputy Speaker, Sir, it is amazing what happens to Members of Parliament when they become Ministers. I remember Prof. Anyang'-Nyong'o, when he was a young turk took on the Moi Government when it attempted to recruit doctors from Egypt, so as to dismantle a strike that was being waged by the doctors. To demonstrate this, he has repeatedly said that the nurses's strike is unnecessary and that they are striking against a wrong Ministry. He has also said that the nurses should be arrested and that there is no cause of alarm and yet we know that people are dying. He has even been supported by a Member from his party that they should charge nurses for murder.

Could he clarify what he is doing to address those real grievances that led to this industrial action? Is he aware that part of those grievances, include the ESP Nurses who from the time they were employed up to now do not know whether they are employees of the Government or employees of the management committees of the health institutions where they work?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I will answer these questions very systematically. How many deaths? The DMS is still compiling the figures.

On whether the Ministry of Labour has done something to register the union, yes, it has done that. When I was giving my Statement I said that when I called a meeting in my office, officers from the Ministry of Labour were there. However, only members of the Progressive Nurses Association (PNA) attended. The others refused to attend. I even attempted to contact them through my phone, but they declined to come. If I showed you the text messages that they send to me, you will realize that these people just wanted to strike and they did not want to reason. When we were demonstrating against Moi, we reasoned and we were not zombies just demonstrating!

The Executive cannot be blamed because it is set up by the Constitution. The Executive has laws to implement in this country. When anything is done it is you who say, "As by law established." That means that with the registration of unions, there is a law guiding that process. The Executive cannot disobey the law that it has made. I have seen unions which have had conflicts with the Ministry of Labour, but they go to court and they have been registered through that process. When the officers from the Ministry of Labour came to my office they explained this and the PNA agreed with what they were doing. That is why I wanted other leaders to come, sit with us and listen to reason.

Why are we saying that those nurses should be arrested? If you were in my office the day before yesterday, you could understand this. I went to my office when those people were in the parking lot. When their leaders came to meet me, rather than wait for the leaders to meet me they forced their way into the offices. They went to the DMS's office and broke the door. They came to my office and they were just about to break the door when the police arrived.

This is not how to demonstrate. We never broke anybody's door when we were demonstrating against Moi regime. There is some order and civility in demonstrating.

Mr. Deputy Speaker, Sir, on notices to the Government, we received a seven day notice and I stated after receiving that notice, that within a few days, I will call for a meeting.

In that meeting, all Government agencies plus the PNA attended, but the others refused to attend. According to the text message, they sent to me, they said that they will pursue their rights in the streets until hon. Munyes registers them. They said they will not listen to me, Prof. Anyang'-Nyong'o, the Minister for Medical Services. I have no police force to compel them to meet me when they have refused to do so.

With regard to extraneous allowance, this has been given. The other day, I was at the Moi Teaching and Referral Hospital and I announced its reinstatement. That issue has been dealt with by my colleague, the Minister for Finance. There is no outstanding issue about extraneous allowance.

The issue that Dr. Khalwale has raised about the ESP nurses, I dealt with it extensively when we had that meeting. If the nurses union cared to listen and see the documents that were sent to them about the ESP nurses, obviously, they would understand that the Government has taken action on that. The Minister for Finance is here to lay testimony to the fact that the issue has been dealt with. We must understand that money spent in Government must be budgeted.

Thank you, Mr. Deputy Speaker, Sir.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I very well understand the tone and body language of the Minister on this very important matter of life and death. I am a doctor of medicine. The nurses who work for me and under me are qualified and competent professionals. The Minister has called them "zombies". Could he be given the earliest opportunity to apologize to nurses after withdrawing the description of professionals as zombies?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, as long as somebody refuses to listen to reason and to know that there is law and order in this country, even if that person is hon. Dr. Khalwale, he is a zombie!

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Surely, the Minister cannot be allowed to get away with this. His definition of a "zombie" is somebody who refuses to reason and obey orders. The National Assembly, on many occasions, has recommended the sacking of Ministers, but the Government has refused to do so. Does it, therefore, mean that what we have is a zombie Government? This is going by the description of a zombie by the Minister.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, hon. Charles Kilonzo, obviously, has the right to interpret events the way he does. However, I was talking about nurses on the streets who have refused to listen to reason and who come zombie-like to break into buildings. I do not think that they are in any way capable of running a Government.

Mr. Deputy Speaker: I think it is not fair both for the nurses and the country for Members to engage in semantics of an English word which I am not quite sure whether it parliamentary or not.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Hon. Dr. Khalwale, why do you make an assumption that you are the only one in this House who has an interest in this matter? I have a scheme here which is full.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. My description of a zombie is:-

“An animated corpse that is arrested my mystical means such as witchcraft. The term is also figuratively applied to describe a hypnotized person bereft of consciousness and self awareness yet ambulant and able to respond to surrounding stimuli.”

Is the Minister in order to use an inappropriate terminology to describe the nurses?

Mr. Deputy Speaker: Hon. Minister, you used a very strong word to describe fellow humans. As I said from the beginning, I do not know whether it is parliamentary or unparliamentary, but it is clearly a very strong word that does not take us far when we are deliberating on a very important matter like this.

So, hon. Minister, proceed.

The Minister for Medical Services (Prof. Anyang’-Nyong’o): Mr. Deputy Speaker, Sir, exactly! Since hon. Millie has described a zombie, she even emphasized what I mean. You have been given the responsibility to save lives, but rather than save lives, you go on a strike on an issue that is very different from the Ministry, you are serving and roam around the streets not understanding that people are dying. That means that you are unconscious of what you are doing and, perhaps, worse than a corpse!

Mr. Deputy Speaker: I think we have given sufficient ventilation, humour aside. Let us put this matter to rest and move on to the next order.

Where is the Leader of Government Business or the Deputy Leader of Government Business who are supposed to move this Procedural Motion?

(Mr. Githae stood up in his place)

Proceed and move the Procedural Motion.

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF S.O.38

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I am doing this on behalf of the Leader of Government Business who is tied up. He is supposed to be here, but he is on the way.

Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, this House orders that the Business appearing in today’s Order Paper under Order Nos.11, 12, 13, 16, 17, 18, 21 and 22 be exempted from the provisions of Standing Order No.38(1), being a Wednesday Morning, a day allocated for Private Members’ Motions.

I will be very brief. The gist of this Procedural Motion is to enable us to debate Motions No.11, 12, 13, 16, 17, 18, 21 and 22. This will allow us to move on to Motion No.9 which will reduce the period on some Bills from 14 to 12 day and others from 14 to six days. We do not have a lot of time. Therefore, we are trying to utilize the few days that Parliament is supposed to meet.

This House has risen to the occasion whenever called upon and it has not let down the country. You will recall that we sat a number of times up to midnight at the beginning of this year. We even had Specialittings on Fridays, days that Parliament does not meet.

Mr. Deputy Speaker: Mr. Minister, are you sure you are prosecuting Order No.8? You cannot dispose of two orders at the same time. Order No.8 is primarily concerned with Wednesday being a day reserved for Private Members' Motions and you want to transact Government Bills. That is all!

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, we want to transact Government business because of the other Bills that are required. The purpose of this submission is that this day is reserved for Private Members' Motions, but the Government wants its Bills to be handled. I will ask my friend, Ekwe Ethuro to second the Motion.

Mr. Ethuro: Thank you, Mr. Deputy Speaker, Sir. I rise to second this Motion and to thank the Minister for Finance for bringing it. We agreed as a House Business Committee yesterday, that for purposes of expediting the business, given the tight calendar that is remaining for this House before the General Election, it is important that we allow, as a Back Bench or bend over as usual to accommodate the Government.

I beg to second.

(Question proposed)

(Question put and agreed to)

PROCEDURAL MOTIONS

REDUCTION OF PUBLICATION PERIOD OF BILLS

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the publication period of the Statute Law (Miscellaneous Amendments) (No. 2), Bill (Bill No. 82 of 2012), County Governments Public Finance Management Transition Bill (Bill No. 84 of 2012) be reduced from 14 to 6 days and the Civil Aviation Bill (Bill No. 81 of 2012) from 14 to 12 days.

First of all, I am really grateful to the Members of this august House going out of their way to accommodate Government. Let me also pay special tribute to you for the way in which you have handled today's Question Time, which normally takes up to 11.00 a.m. Today, you have managed to handle the Questions in less than one hour in an effort to accommodate the Government business.

I am, therefore, asking Members to approve this Motion so that we will be able to discuss these three very important Bills, which are necessary for purposes of elections; some of them are required by the Constitution.

As it is self explanatory, I ask my friend, Ethuro, to second.

Mr. Ethuro: Mr. Deputy Speaker, Sir, again, I rise to second this particular procedural Motion. In doing so, I want to appreciate the members of this House for always coming to the rescue of Government. There are three Bills before us. We are more interested in the first two: The Statue Law (Miscellaneous Amendments (No. 2), Bill, (Bill No. 82 of 2012), and The County Governments Public Finance Management Transition Bill (Bill No. 84 of 2012). These two Bills are critical in terms of facilitating the transition to the devolved system.

Mr. Deputy Speaker, Sir, for the third Bill, we have no specific recommendation. It is for the House to decide what it wants to decide.

With those remarks, I beg to second.

(Question proposed)
(Question put and agreed to)

WAIVER OF REFERRAL PERIOD OF BILLS

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 111, this House resolves to waive the referral period of the Constituencies Development Fund Bill (Bill No. 77 of 2012), The Statute Law (Miscellaneous Amendments) (No.2) Bill (Bill No. 82 of 2012) and the County Governments Public Finance Management Transition Bill (Bill No. 84 of 2012) to the relevant Departmental Committees.

Mr. Deputy Speaker, Sir, it is our practice for Bills to be referred to Departmental Committees. But again, bearing in mind of the limited time that we have, if this were to happen, then we would not be able to debate these two Bills.

I, therefore, beg to move and request hon. Ethuro to second.

Mr. Ethuro: Mr. Deputy Speaker, Sir, again, I want to second this particular Procedural Motion on the understanding given that the Standing Order requires referral period of at least ten days for the Committees to look at the Bills. I want to confirm to the House that most of the Committees have already looked at the Bills in anticipation of the time that was to be available to us. So, we are ready to go.

I wish to second.

(Question proposed)
(Question put and agreed to)

BILLS

First Readings

THE STATUTE LAW
(MISCELLANEOUS AMENDMENTS) BILL

THE COUNTY GOVERNMENTS
PUBLIC FINANCE MANAGEMENT TRANSITION BILL

THE CIVIL AVIATION BILL

THE CONSTITUENCIES DEVELOPMENT

FUND BILL

THE VICTIM PROTECTION

THE COMPANIES BILL

THE KENYA NATIONAL COMMISSION
FOR UNESCO BILL

THE INSOLVENCY BILL

*(Orders for First Readings read – Read
the First Time and ordered to be read
the Second Time tomorrow)*

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Ethuro) took the Chair]*

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we are on Order No.19. Because of the next business, we will bring the Bill by hon. Laboso forward, so that she can assist the Chair. We will then revert to the original order.

Hon. Members, please, note that under item (iv), we should have The Customs and Excise (Amendment) Bill (Bill No.15 of 2011). So, there is a minor correction.

THE SOCIAL ASSISTANCE BILL

Clause 2

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Sofia, you have an amendment to Clause 2.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended by deleting the definition of the word “youth” and substituting therefor the following new definition –

“youth” means the collectivity of all individuals in the Republic who-

(a) have attained the age of eighteen years; but

(b) have not attained the age of thirty-five years.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Laboso, you have a further amendment to Clause 2.

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, are we not going to dispose of hon. Sofia's amendment first?

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

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

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Laboso, the problem with your amendment is that it is not indicated on the list of amendments to be made to the Bill.

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, that is correct, but I think we had sought your indulgence to allow me, as the Mover of the Bill, to move the amendments.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Laboso, we need a copy of the amendments. Since you still have some work to do, I will give you time to circulate those amendments. Let us have copies and look at them. We will, therefore, go to The Pyrethrum Bill and then come back to yours. I know that I am punishing myself, but it is for the good of the House.

Hon. Kioni, are you around?

Mr. Kioni: Yes, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): We will proceed to your Bill because there are additional amendments to this other Bill, which are yet to be circulated.

So, hon. Members, we will consider The Pyrethrum Bill (Bill No.57 of 2011)

THE PYRETHRUM BILL

(Clause 2 agreed to)

Mr. Kioni:---(off-record)

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Kioni, the Chair is not aware of your proposed amendments. On which clause is your amendment?

Mr. Kioni:---(off-record)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, we now move to Clause 3.

Clause 3

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 (2) of the Bill be deleted

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

Clause 4

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 4 (1) and (2) of the Bill be deleted

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

Clause 5

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 5 (a) of the Bill be amended by deleting the word
“regulate” and clause 5 (c) and (L).

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

(Clause 6 agreed to)

Clause 7

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 7 be amended as follows:-
Clause 7 (1) (d) be deleted;
Clause 7 (2) (a) be amended by deleting the word “Minister” wherever it
appears and substituting there the words “Cabinet Secretary”;
Clause 7 (b) be amended by deleting the word “permanent” wherever it
appears and substituting therefore the word, “Principal”;
Clause 7 (c) be amended by deleting the word, “Minister” wherever it
appears and substituting there the words, “Cabinet Secretary”;
Clause 7 (d) be deleted;
Clause 7 (e) be amended by deleting the word, “Minister” whenever it
appears and substituting there the words, “Cabinet Secretary”;
Clause 7 (f) (iv) be amended by deleting the word, “Minister” whenever it
appears and substituting there the words, “Cabinet Secretary”;

Clause 7 (4) be deleted.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

*(Clauses 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18 and 19 agreed to)*

Clause 20

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 (1) of the Bill be amended by inserting the word, “commercial” immediately after “or”.

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

(Clauses 21, 22 and 23 agreed to)

Clause 24

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 24 of the Bill be deleted.

The Temporary Deputy Chairman (Mr. Ethuro): Order, Mr. Kioni!

Since you seem to be deleting most of them, is there some explanation?

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, Clause 24 is best contained in the regulations and not in the statutes. It is the way the Board will be operating and that can keep on changing from time to time. It is best if it is within the regulations of the Board.

(Question of the amendment proposed)

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

(Clause 24 deleted)

(Clauses 25, 26, 27, 28 and 29 agreed to)

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mr. Kioni: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Pyrethrum Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Members, you know the practice; we will report progress to all of them. Therefore, we move to the next Bill which is the Social Assistance Bill (Bill No.10 of 2012).

THE SOCIAL ASSISTANCE BILL

Clause 2

The Temporary Deputy Chairman (Mr. Ethuro): Mrs. Noor, we had actually carried your amendment. The other amendment was by Dr. Laboso.

Dr. Laboso: Mine is a further amendment to Clause 2. The import of my amendment is for the definition of youth to be in line with the Constitution. We have put it at 30 years but the Constitution stipulates that it is 35 years.

(Question of the further amendment proposed)

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

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

(Clause 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

Clause 5

Mrs. Noor: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT the Bill be amended-

(a) in paragraph (a) by inserting the words “through a competitive and transparent process” immediately after the word “appointed”

(b) by deleting the paragraph (d).

(Question of the amendment proposed)

Dr. Laboso: I have a further amendment to Clause 5(1)(a) which is quite similar to what Mrs. Noor has brought. So, I will drop it, but I will retain what I have for Clause to 5(2), which is really to add representation of the Gender Commission as one of the organizations.

*(Proposed amendment to Clause 5 (1)(a)
by Dr. Laboso withdrawn)*

I have an amendment to Clause 5(2)(f). After the Law Society of Kenya, I am inserting that the Gender Commission be represented.

The Temporary Deputy Chairman (Mr. Ethuro): Then we will just continue with Clause 5. Let us put Mrs. Noor’s amendment first.

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

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

Dr. Laboso, you can proceed with the other amendment to Clause 5.

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I wish to propose a further amendment to Clause 5(2)(f). I am inserting sub-clause (6) after “the Law Society of Kenya” to include representation of the Gender Commission of Kenya.

(Question of the further amendment proposed)

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

(Clause 5 as amended agreed to)

*(Clauses 6, 7, 8, 9, 10, 11, 12, 13,
14, 15 and 16 agreed to)*

Clause 17

Mrs. Noor: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in paragraph (f) by inserting the words “in consultation with the Board” immediately after the word “Minister.”

(Question of the amendment proposed)

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

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I had indicated that I have a further amendment.

The Temporary Deputy Chairman (Mr. Ethuro): You are right. I had asked my Clerks to indicate it on my table. That is why I hesitated for a while to allow you to act, my apologies.

Dr. Laboso, you have a further amendment?

Dr. Laboso: Yes, I have a further amendment on Clause 17(3). I am adding another category of people that could benefit from social assistance. These are widows and widowers; after (d), or the words, “persons disabled by chronic illness”, insert the words “widows and widowers”.

(Question of the further amendment proposed)

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

(Clause 17 as amended agreed to)
(Clauses 18 and 19 agreed to)

Clause 20

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in Clause 20(d) by inserting the words “or guardians” after the words “under the care of parents”.

This provides for parents or guardians who are unable to provide for a child’s basic needs.

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

(Clause 21 agreed to)

Clause 22

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I wish to drop the amendment to Clause 22.

(Proposed amendment by Dr. Laboso withdrawn)

(Clause 22 agreed to)

Clause 23

Mrs. Noor: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in sub-clause (1) by deleting the words “A disabled person” and substituting thereof the words “A person with disability”

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

(Clauses 24, 25, 26, 27 and 28 agreed to)

Clause 29

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in Clause 29(a) by inserting the word “information”, after the words “any material”.

(Question of the amendment proposed)

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

(Clause 29 as amended agreed to)

(Clauses 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 agreed to)

Clause 41

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I wish the drop the amendment.

(Proposed amendment by Dr. Laboso withdrawn)
(Clause 41 agreed to)

(Clause 42 agreed to)

(Schedule agreed to)

Long Title

Ms. Noor: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the long title be amended by inserting the words “to give effect to Article 43 (1) (e) of the Constitution” immediately after the words “Parliament”

(Question of the amendment proposed)

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

(Long Title as amended agreed to)

(Short Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Dr. Laboso, the Mover!

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Social Assistance Bill (Bill No.10 of 2012) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): We will report progress together with the rest. So, we will move to the next Bill and I would ask hon. Joyce Laboso to come and take the Chair. Okay, let us clear the one of hon. Kones. That is the Customs and Excise (Amendment) Bill (Bill No.15 of 2011). It is Item No.4

THE CUSTOMS AND EXCISE (AMENDMENT) BILL

(Clauses 2 and 3 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Customs and Excise (Amendment) Bill and its approval thereof without amendments.

The Temporary Deputy Chairman (Mr. Ethuro): Again, we will report it together with the rest of the Bills. So, hon. Joyce Laboso, you may come to the Chair now.

*[The Temporary Deputy Chairman
(Mr. Ethuro) left the Chair]*

*[The Temporary Deputy Chairlady
(Dr. Laboso) took the Chair]*

THE PUBLIC BENEFIT ORGANIZATIONS BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we will now move to the Public Benefit Organizations Bill (Bill No.15 of 2012). Let us go to Clause 2. Assistant Minister, your amendments to Clause 2!

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, we have amendments to the preamble.

The Temporary Deputy Chairlady (Dr. Laboso): Is that before Clause 2?

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Yes, Madam Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Dr. Laboso): According to our records, the first amendment is on Clause 2. Okay. I have been guided. Hon. Noor, can you move your amendments first?

Clause 2

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, clause 2 be amended—

(a) in the definition of “civil society”, by deleting paragraphs (e), (f), (g) and (h);

(b) by deleting the definition of “Commission”;

(c) by deleting the definition of “public benefit organization”, and substituting therefor the following new definition—

“public benefit organisation” means a voluntary membership or non-membership grouping of individuals or organizations, which is autonomous, non-partisan, non-profit making, and which is—

(d) organized and operated locally, nationally or internationally;

(e) engages in public benefit activities; and

(f) registered as such by the Commission, but does not include—

(j) a trade union within the meaning of the Labour Relations Act, 2007;

(k) a political party within the meaning of the Political Parties Act, 2011;

(l) a co-operative society within the meaning of the Co-operative Societies Act;

(m) a Sacco society within the meaning of the Sacco Societies Act, 2008;

No. 14 of (n) a microfinance institution within the meaning of the

2007 Microfinance Act, 2006; or

No. 11 of (o) a religious organization which is primarily devoted to
2011 religious worship.

No. 14 of (d) in the definition of “register”, by deleting the word “Commission” 2008
and substituting therefor the word “Authority”;

No. 19 of (e) by inserting the following new definition in its proper alphabetical 2006
sequence—

“Authority” means the Public Benefit Organisations Regulatory Authority
established under section 27”.

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

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

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Assistant Minister, do you have
an amendment?

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr.
Ombui): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 2 be amended-

(a) by deleting the definition of “civil society” in its entirety;

(b) by deleting the definition of “Commission” by” and substituting
therefor the following new definition;

Authority means the Public Benefits Organisations Authority established
under section 27;

(c) by deleting the definition of “international organization” and
substituting therefor the following new definition—

“international non-governmental organization means a non-governmental
organization with its original registration being in a country other than Kenya and
operating in Kenya under a certificate of registration issued under section 9 of this
Act”;

(d) in the definition of “public benefit activity” by deleting the word
“legitimate” appearing immediately before the word “economic” and by deleting
the word “group” appearing immediately after the words “public or a” and
substituting therefor the word “category”;

(e) by deleting the definition of “public benefit organization”;

(f) by inserting the following new definition of “Federation” in the proper
alphabetical order—

“Federation” means the National Federation of Public Benefit
Organisations established under section 17B.

DELETION OF HEADING OF PART II

THAT, the heading of Part II be deleted so that Parts I and II are merged.
We had agreed on Clause 2.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Clause 3

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 3 be amended—

(a) in sub-clause (1)—

(i) paragraph (a), by deleting subparagraph (i) thereof and substituting therefor the following new item—

(i) creating a conducive environment for the growth of the public benefit organisations sector and for the operations of the registered public benefit organisations;

(ii) by deleting paragraph (g) thereof and substituting therefor the following new paragraph—

(g) facilitate mechanisms for government collaboration with public benefit organizations, including funding of public benefit organizations activities and involvement of public benefit organizations in the implementation of government projects;

(b) by deleting sub-clause (2).

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

The Temporary Deputy Chair (Dr. Laboso): When you can, try to give a very brief explanation of the import of your amendment.

Clause 4

The Assistant Minister, Ministry of State for National Heritage (Mr. Ombui): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 4 be amended—

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

(1) Consistent with its obligation to respect the freedoms of association and assembly, it is the duty of the Government to provide an enabling environment for public benefit organisations to be established and to operate.

(b) in clause (2) by deleting the expression “organ of Government” appearing immediately after the word “Every” and substituting therefor the words “State organs” and by deleting the expression “enhance the capacity of” and substituting therefor the expression “provide an enabling environment for”.

The Temporary Deputy Chair (Dr. Laboso): As I said, if you could, just explain in a sentence the import of your amendment. What are you amending? It helps.

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chair, we have indicated that we need to delete some sections and then insert a new section to make it clear, as far as that clause is concerned.

(Question of the amendment proposed)

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

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

(Clause 4 as amended agreed to)

Clause 5

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 5 be amended by deleting sub-clauses (2) and (3) and substituting therefor the following new sub clauses—

(2) No organisation that is registered under any other law in Kenya shall be registered under this Act while its registration under that other law subsists.

(3) Without prejudice to subsection (1), registration of an organisation under this Act supersedes any prior registration of that organisation under any other law in Kenya.

(4) Where an organisation is registered under this Act and under any other law, that organization shall be deemed registered under this Act and that other registration shall be deemed invalid.

(5) Organisations shall be deemed to be similar under this section if the name, objects and the officials, taken together, are similar whether wholly or partially.

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

Clause 6

The Assistant Minister, Ministry of State for National Heritage (Mr. Ombui): Madam Temporary Deputy Chair, I beg to move:-

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

Bestowing of organization status. **6.** No organization shall purport to be a public benefit organization unless that organisation is—
(a) registered under this Act; or
(b) where registered under any other written law in Kenya or not registered under any other written law in Kenya;
(c) the Authority has bestowed on that organization the status of a public benefit organization.

This is to make it very clear and at the same time make it brief in terms of restricting borrowing funds.

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

Clause 7

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chair, after discussing the proposal, we agreed that we drop our amendment and the clause remains as it is.

The Temporary Deputy Chair (Dr. Laboso): Are you deleting Clause 7 or you are withdrawing the amendment?

(Proposed amendment by Mr. Ombui withdrawn)

Mrs. Noor: Madam Temporary Deputy Chair, we have agreed with the Assistant Minister to drop his amendment, but I have an amendment to Clause 7. We have changed the Bill from “Commission” to ‘Authority’.

I beg to move-

THAT, the Bill be amended in Clause 7 be deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The Temporary Deputy Chair (Dr. Laboso): You have agreed with the Assistant Minister?

The Assistant Minister, Ministry of State for National Heritage (Mr. Ombui): Madam Temporary Deputy Chair, we have agreed.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

Clause 8

Mrs. Noor: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 8 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”. This has the same issue of the Commission.

(Question of the amendment proposed)

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

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

(Clause 8 as amended agreed to)

Clause 9

Mrs. Noor: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 9(1) be amended by deleting the word “Commission” and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

Clause 10

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 10 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “shall be deemed to have been automatically registered under this Act and” appearing between the words “organisation” and “may”; and by inserting the following words “immediately at the end of the sub clause “or communicate to the organization that the registration has been refused, together with the reasons therefor”;

(b) by deleting sub-clause (2).

(Question of the amendment proposed)

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

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

Mrs. Noor: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 10 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the further amendment proposed)

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

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

(Clause 10 as amended agreed to)

Clause 11

Mrs. Noor: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 11 be amended by deleting the word “Commission” and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

Clause 13

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chair, I beg to move:-

THAT, the Bill be amended in Clause 13—

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

(1) The Authority shall maintain a register of all registered Public Benefit Organizations and such register shall include the following information—

- (a) the area of the activities of the organisation;
- (b) the registered officials for the time being in charge of the organisation;
- (c) any information presented to the Authority by the organisation pursuant to this Act or regulations;
- (d) a detailed inventory of the assets of the organisation;
- (e) any other information that the Authority may deem necessary to include or as may be provided in regulation.

(b) by inserting the following new sub clauses immediately after subclause (2) —

(2A) Any person may, upon payment of the prescribed fee –

(a) inspect the register or any documents filed with the Authority;

(b) require to be supplied with a certificate, duly certified by the Authority, showing the subsisting entries in the register relating to any organization registered under this Act; or

(c) require to be supplied with a copy of, or an extract from, any document filed with the Authority duly certified by the Authority to be a true copy or extract, as the case may be.

(2B) Despite subsection (2), the Authority may refuse to issue a copy of a certificate of registration to an applicant unless that applicant satisfies such conditions as the Authority may determine, including satisfying the Authority as to the intention of the use of the copy.

(Question of the amendment proposed)

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

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

Mrs. Noor: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 13 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the further amendment proposed)

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

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

(Clause 13 as amended agreed to)

Clause 14

Mrs. Noor: Madam Temporary Deputy Chair, I beg to move:-

THAT, Clause 14 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 14 as amended agreed to)

Clause 15

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT Clause 15 be amended by deleting the word “Commission”
wherever it appears and substituting therefor the word “Authority”

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT Clause 16 be amended by deleting the word “Commission”
wherever it appears and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

Clause 17

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in clause 17 by —

(a) deleting the words “there is substantial and credible evidence that”
appearing in the main paragraph thereof;

(b) in paragraph (a) by deleting the word “repeated” appearing
immediately after the word “committed”;

(c) in paragraph (b) by deleting the word “materially” appearing
immediately before the word “contrary”.

(Question of the amendment proposed)

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

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, clause 17 be amended by deleting the word “Commission”
wherever it appears and substituting therefor the word “Authority”.

(Question of the further amendment proposed)

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

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

(Clause 17 as amended agreed to)

Clause 18

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Bill be amended by deleting Clause 18

Madam Temporary Deputy Chairlady, in this specific clause, we have introduced new clauses which also try to explain clearly what it is in Clause 17. That is why we are proposing Clause 17 (a), (b) and (c). We are introducing them as new clauses.

(Question of the amendment proposed)

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

(Clause 18 deleted)

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Ombui, you have new clauses but they will be called out later. They are not being called now because they are new clauses but Mrs. Noor has some amendments to the same clause.

Mrs. Noor: Madam Temporary Deputy Chairlady, since it has been deleted, I do not think mine will be carried.

The Temporary Deputy Chairlady (Dr. Laboso): That is okay. Then we will wait for the new clauses at the end.

(Clause 19 agreed to)

(Clause 20 agreed to)

Clause 21

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

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

(Question of the amendment proposed)

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

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

(Clause 21 as amended agreed to)

Clause 22

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 22 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 22 as amended agreed to)

(Clause 23 agreed to)

Clause 24

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 24 be amended in sub-clause (2), by deleting the phrase “with annual income or expenditure in excess of nine million shillings, or its equivalent in foreign currency” appearing immediately after the words “public benefit organization”.

(Question of the amendment proposed)

(Question, that the words to be left

out be left out, put and agreed to)

(Clause 24 as amended agreed to)

Clause 25

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 25 be amended by deleting the word “Commission” and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 25 as amended agreed to)

Part V

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the heading to Part V be amended by deleting the word “COMMISSION” and substituting therefor the word “AUTHORITY”.

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

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

(Part V as amended agreed to)

(Clause 26 agreed to)

Clause 27

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Bill be amended in Clause 27 by —

(a) deleting the word “Registration” appearing in sub-clause(1) and substituting therefor the word “Regulatory”;

(b) deleting sub-clause (3) and substitution therefor the following new sub-clause—

(3) The Authority shall establish mechanisms to ensure that its services are available in all parts of the Republic.

(Question of the amendment proposed)

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

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

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 27 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the further amendment proposed)

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

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

(Clause 27 as amended agreed to)

Clause 28

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Bill be amended by deleting clause 28 and substituting therefor the following new clause—

Composition
of Board28.

of the Authority etc.

28(1) There shall be a board of the Authority which shall consist of –

- (a) a chairperson appointed by the President;
- (b) three members, at least one of whom shall be of a different gender from the other two, who have rendered distinguished service in the civil society, appointed by the Cabinet Secretary;
- (c) the Principal Secretary in the ministry responsible for matters relating to public benefit organizations;
- (d) the Principal Secretary in the Ministry responsible for matters relating to finance;
- (e) the Principal Secretary in the Ministry responsible for matters relating to foreign affairs;

- (f) the Attorney-General;
- (g) one public officer representing the Principal Secretary responsible for such department as the Authority shall determine;
- (h) the chairperson of the governing board of the Federation;
- (i) two members of the governing board of the Federation, being one woman and one man, nominated by the members of the governing board of the Federation and appointed by the Cabinet Secretary;
- (j) the director-general.

(2) No person may be appointed as chairperson of the Board unless that person possesses at least ten years' experience, in matters relating to civil society.

(3) No person shall be eligible for appointment under subsection (1) (b) or nomination under subsection (1)(g) unless such person has at least ten years' experience in the public benefit organizations sector.

(4) A person appointed as chairperson or member of the Board shall before taking office relinquish any directorship or employment in a public benefit organization that that person may have held before the appointment.

(5) The members of the Board, other than ex-officio members, shall hold office for a period of three years, but shall be eligible for reappointment for one more term.

(6) A member of the Board, other than an ex-officio member, may resign from office by a letter addressed to the Cabinet Secretary.

(7) The Board may co-opt such number of persons not exceeding three to bring such expertise to the Board as the Board may require for the better discharge of its functions.

(8) Persons co-opted under subsection (7) shall have no right to vote on any matter at a meeting of the Board.

(9) The Cabinet Secretary shall prescribe rules for the nomination of the members contemplated under subsection (1)(g).

Madam Temporary Deputy Chairlady, I wish to move further amendments.

The Temporary Deputy Chairlady (Dr. Laboso): To the same?

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, to Clause 28(1)(a). It should read that instead of "the chairperson appointed by the President", we say, "the Chairperson appointed by the Cabinet Secretary."

Madam Temporary Deputy Chairlady, this is a parastatal and in this case, the appointment by the Cabinet Secretary will almost be final because it is a department within a Ministry.

(Question of the amendment proposed)

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

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

thereof be inserted, put and agreed to)

Mrs. Noor: Madam Temporary Deputy Chairlady, most of the amendments I had on this clause have been taken care of by the Assistant Minister's amendments. The only amendment I have is on bullet one that is about re-numbering of the paragraphs so that they can fit.

The Temporary Deputy Chairlady (Dr. Laboso): So, that is a typo. We will move on.

(Proposed amendment by Mrs. Noor withdrawn)

(Clause 28 as amended agreed to)

Clause 29

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in clause 29 in sub-clause (1) by—

(a) inserting the words “at least ten years post qualification” immediately before the word

“experience” appearing in paragraph (c);

(b) inserting the following new paragraph immediately after paragraph (c);

(d) has at least one degree from a recognized University;

(e) has no subsisting office or membership in a public benefit organization.

(Question of the amendment proposed)

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

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, clause 29 be amended—

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

(b) in subclause (1) by—

(i) deleting the word “and” appearing at the end of paragraph (b);

(ii) deleting paragraph (c) and substituting therefor the following new paragraphs—

“(c) is a holder of at least an undergraduate degree from a university recognised in Kenya; and

(d) has knowledge and at least five years experience in matters relating to public benefit organisations, finance or management.”

(Question of the further amendment proposed)

Mr. Njuguna: Madam Temporary Deputy Chairlady, could hon. Sophia Noor give the import of this amendment?

Mrs. Noor: Madam Temporary Deputy Chairlady, the Assistant Minister has moved very good amendments. What I am bringing on board is the issue of the Commission and the Authority which the Assistant Minister has left out. We want to change the whole thing from a Commission to an Authority.

*(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 29 as amended agreed to)

Clause 30

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:

THAT, Clause 30 be amended by deleting the word “Commission” and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

Clause 31

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 31 be amended by deleting the word “Commission” and substituting therefor the word “Authority”.

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

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

(Clause 31 as amended agreed to)

Clause 32

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 32(1) be amended by deleting the word “Commission”
wherever it appears and substituting therefor the word “Authority”.

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

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

(Clause 32 as amended agreed to)

Clause 33

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I dropped the amendments after discussing with the proposer. We found that the sub clause we were to delete is important to the Bill. We agreed to retain it as it is. So, I drop the amendments.

(Proposed amendment by Mr. Ombui withdrawn)

The Temporary Deputy Chairlady (Dr. Laboso): I will now ask Mrs. Noor to move her amendment since there is none from the Assistant Minister.

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 33 be amended by deleting the word “Commission”
wherever it appears and substituting therefor the word “Authority”.

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

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

(Clause 33 as amended agreed to)

Clause 34

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 34 be amended by deleting the word “Commission”
wherever it appears and substituting therefor the word “Authority”.
This is the same issue with regard to the words “Commission” and “Authority”.

(Question of the amendment proposed)

(Question, that the word to be left out be left out,

put and agreed to)

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

(Clause 34 as amended agreed to)

Clause 35

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 35 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

Clause 36

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 36 be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

(Question of the amendment proposed)

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

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

(Clause 36 as amended agreed to)

Mrs. Noor: Madam Temporary Deputy Chairlady, since we have carried this throughout could I just drop these things because we have already carried them? That will be with your direction. The rest are on “Commission” and “Authority” except two or three. This will enable us save time.

The Temporary Deputy Chairlady (Dr. Laboso): I want to agree with you, Sophia because in all these amendments, it is one word being changed.

I will give direction. I think that is in order so that we can save on the little time that we have.

Mrs. Noor: Madam Temporary Deputy Chairlady, can I drop the amendment so that it is carried administratively?

Mr. Njuguna: Thank you, Madam Temporary Deputy Chairlady. According to the ruling that was given by the Temporary Deputy Speaker, hon. Gitobu Imanyara yesterday who happens to be in the House, when we are carrying out these amendments, they have to follow one after the other. Does the new request go against the ruling given yesterday?

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Njuguna, Madam Sophia Noor is saying that the amendment of that change from “Commission” to “Authority” has already been carried in earlier clauses. So, repeating this will be done administratively throughout the Bill so that we do not move each one of them.

I think I will agree with you hon. Sophia. We are making progress. Which are the affected clauses?

(Clause 37 agreed to)

Clause 38

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 38 be amended by—

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

(b) deleting subclause (1) and substituting therefor the following new subclauses—

“(1) There shall be a director of the Authority who shall be appointed by the Authority.

(1A) The Director shall hold office for a period of five years, on such terms and conditions of employment as the Authority may determine, and shall be eligible for re-appointment for a further and final term of five years.”

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

(Clauses 39, 40, 41 and 42 agreed to)

Clause 43

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 43 of the Bill be amended—

- (a) in sub-clause (1) by deleting the expression “Attorney General” wherever it appears and substituting therefor the words “Chief Justice”;
- (b) in sub-clause (3) by inserting the words “or staff” immediately after the “member”;
- (c) by deleting sub-clause (5).

(Question of the amendment proposed)

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

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

(Clause 43 as amended agreed to)

(Clauses 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 and 62 agreed to)

New Clause 4A

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause 4A—

4A. (1) In this Act, “public benefit organization” means a voluntary membership or non-membership grouping of individuals or organizations, which is autonomous, non-partisan, non-profit making and which is—

- (a) organized and operated locally, nationally or internationally;
- (b) engages in public benefit activities in any of the areas set out in the Sixth Schedule; and
- (c) is registered as such by the Authority.

(2) For greater certainty a public benefit organisation does not include—

No. 14 of

2007. (a) a trade union within the meaning of the Labour Relations Act, 2007;

No. 10 of 2007 (b) a public body established by or under any written law;

(c) a political party within the meaning of the Political Parties Act, 2007;

Cap 108. (d) a religious organisation which is primarily devoted to religious teaching or worship;

Cap 469. (e) a society within the meaning of the Societies Act;

No.14 of 2008 (f) a co-operative society within the meaning of the Co-operative Societies Act;

(g) a Sacco society within the meaning of the Sacco Societies Act;

No.19 of 2006. (h) a micro-finance institution within the meaning of the Micro-Finance Institutions Act;

(i) a community based organisation whose objective include the direct benefit of its members.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 9A

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Bill be amended by inserting the following new clause immediately after clause 9—

International organisations.

9A. (1) An organization which is registered outside Kenya and which intends to operate in Kenya shall apply to the Authority for a certificate to operate in Kenya.

(2) The Authority shall take any of the following actions on an application made under subsection (1)—

(a) exempt the organization from registration, and instead grant that organisation a permit to operate in Kenya, if that organization does not intend to directly implement any activities or programmes in Kenya or operate from Kenya to implement any activities or programmes in another country;

(b) require the organisation to apply for registration as an international organisation, if that organization intends to directly implement any activities or programs in Kenya or operate from Kenya to implement any activities or programs in another country.

(3) The Authority shall not exempt an organization from registration under subsection (2)(a) if that organisation intends to

—

(a) engage in direct implementation of any activity or program in Kenya or operate from Kenya to implement any activities or programs in another country;

(b) raise any subscriptions or engage in any other form of raising of funds in Kenya.

(4) The Authority shall require an organization that applies for registration pursuant to subsection (2)(b) to undergo the same registration procedures, and satisfy such application requirements, as may be provided for in the regulations.

(5) An organization registered pursuant to an application made under subsection (2)(b) shall be required by the Authority to—

(a) have at least one third of its directors who are Kenyan citizens and who are resident in Kenya; and

(b) maintain an office in Kenya.

(6) Regulations shall provide for the regulation of organisations issued with a permit to operate in Kenya under subsection (2)(a).

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clauses 17A, 17B, 17C, 17D and 17E

The Assistant Minister, Ministry of State for National Heritage and Culture

(Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by—

(a) deleting Clause 18;

(b) inserting the following new clauses immediately after the heading to

Part IV—

Freedom of
association

17A(1) Every organisation has the freedom to –

(a) join in association with other organization or organisations as it may desire and to participate in forming a forum of public benefit organisations under this Act;

(b) join a forum of public benefit organisations;

(c) exit a forum of public benefit organisations.

(2) Every organisation which is a member of a forum of public benefit organisations has the right, subject to the constitution of that forum, to—

(a) participate in its lawful activities;

(b) participate in the election of its officials and representatives.

Establishment of the
National Federation
of Public Benefits
Organizations, etc.

17B(1) There is established a federation of registered public benefit organisations to be known as the National Federation of Public Benefits Organizations, which shall be an umbrella organisation of all public benefit organizations registered under this Act and the self regulation forums of public benefit organizations recognized by the Authority.

(2) Every registered organisation shall be eligible for membership of the Federation.

(3) The Federation shall be a body co-operate with perpetual succession capable in its name of—

(a) suing and being sued;

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

(c) entering into contracts; and

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

(4) The Federation shall—

(a) be managed by a governing board consisting of not more than nine members;

(b) have a secretariat under the supervision of the chief executive officer of the Federation who shall also be the secretary to the governing board of the Federation;

(c) subject to paragraphs (a) and (b), adopt its own structure, rules and procedures for the efficient administration of its activities;

(5) the elections to an office in the governing board of the Federation shall be supervised by the Independent Electoral and Boundaries Commission;

(6) the rules on the conduct of the elections to an office in the governing board of the Federation shall ensure that every member organisation is able to vote in the election and shall include the quorum required for the purposes of the election;

(7) the Cabinet Secretary shall have powers to ensure the compliance with the rules and procedures of the Federation at all times including during its elections;

(8) Notwithstanding anything contained in the rules of the Federation, a member of the governing board of the Federation shall hold office for five years but shall be eligible for election for one more term;

(9) the objectives and functions of the Federation shall be to—

(a) provide leadership on matters of interest to the sector and for the promotion of the sector generally;

(b) promote self-regulation by the forums for self regulation of public benefit organizations;

(c) co-ordinate the self-regulation forums registered under this part;

(d) monitor the performance of the self-regulation forums and advise the Authority in the monitoring and enforcement of compliance by these forums and their respective public benefit organizations members with the provisions of this Act, the regulations and the general code of conduct and the codes of conduct adopted by the self-regulation forums;

(e) advise the Authority generally on the development of the public benefit organizations sector;

(f) facilitate the building of the capacity of non-governmental organisations for the enhancement of the effectiveness of these organisations;

(g) render such advice to donors and the Authority on any issue relating to the sector.

(10) The Cabinet Secretary, the Authority and the Federation shall have regular consultations for the purpose of harmonising their policies and for the co-ordination of the sector.

(11) The Tribunal shall have jurisdiction in respect of disputes mentioned in subsection (12).

(12) The disputes referred to in subsection (11) shall be disputes—

(a) between any member of the Federation and the Federation;

(b) between the members of the Federation;

(c) between the Federation and the Authority.

(13) The Tribunal shall also determine any appeals from—

(a) a decision of the Cabinet secretary or the Authority concerning the Federation;

(b) a decision of the Federation.

Appointment to statutory bodies, etc

17C. where, under any written law, the Federation is required to nominate or appoint a person to membership in any public body, such nomination or appointment shall be made by the governing body of the Federation and the federation shall observe the following in the nomination or appointment—

(a) the provisions of the Constitution and any other written law on leadership and integrity;

(b) the principles of equality, equity and non-discrimination;

(c) consultations and public participation;

(d) subject to section 28(1)(h) and (d), not to nominate or appoint members of the Federation's governing body; and

(e) the need to ensure appropriate expertise in the respective appointments or nominations and fair representation of the various thematic areas of public benefit activities.

Organisation may join self regulation

17D (1) Each organisation registered under this Act may voluntarily join and maintain membership in a self-regulation forum of registered public benefit organisations.

(2) Each forum shall enter into a recognition agreement with the Authority upon proof to the satisfaction of the Authority that the forum represents a significant number of organisations registered by the Authority as prescribed by the Cabinet Secretary.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Noor, you had it as New Clause 17A but you are now moving it as New Clause 17E; the Minister had several others before you.

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the following new clause be inserted-

17E (1) Each forum of public benefit organisations shall establish and maintain a code and standards by its members shall be bound.

(2) The forums of public benefit organisations may, for purposes of enhancing self-regulation, organise themselves in such federation of forums as may be expedient for that purpose.

(3) The forums shall ensure that each code of conduct adopted by them is consistent with the national and foreign policies and the laws of Kenya, and that such codes of conduct contain, as a minimum, the provisions of the general conduct of conduct.

(Question of the new clauses proposed)

(New clauses read the First Time)

(Question, that the new clauses be read a Second time proposed)

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

(The new clauses were read a Second Time)

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

New Clause 26A

Ms. Noor: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, no Member of any governing body of a Public Benefit Organization shall be held personally liable for any act done in good faith on behalf of the organization, or by virtue of the office held in the governing body.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 54A

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Mr. Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after clause 54—

Safety of
assets on
deregistration.

54A.(1) Where the Authority has cancelled a certificate of registration of an organisation under this Act, the Authority may require any officials or members of the organisation, who can by reasonable effort be found in Kenya, to provide the Authority with an inventory, and the whereabouts of the assets of the organisation.

(2) The Cabinet Secretary may by regulations prescribe the procedure for the tracing and safeguarding of assets under this section.

(3) A person who fails to provide an inventory under subsection (1) when required to do so by the Authority commits an offence.

(4) It shall be the responsibility of the Authority to prove that the inventory could by reasonable means be provided by a person accused under this section.

(5) An organisation that desires to dissolve voluntarily shall have the right to determine the organisations registered under this Act to which it shall distribute its assets provided that such organizations are certified by the Authority to be in good standing.

(Question of the new clause proposed)

(New clause read the First Time)

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

Mr. Njuguna: Madam Temporary Deputy Chairlady, could the Assistant give the import of this huge amendment.

The Temporary Deputy Chairlady (Dr. Laboso): Assistant Minister, could you explain in brief the import of this amendment.

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, once organizations wound up, it would be

important that we have a regulation that would regulate the assets of such institutions. We must have regulations and at the same time we must clearly indicate whether they have been misused, and if they have what kind of discipline must be taken against these people and subsequently what will be done with the proceeds of the assets, if they will be sold or given to individuals. In this case, it must be very clear how the distribution will be done because the lives of the institutions have come to an end.

Mr. Mututho: Madam Temporary Deputy Chairlady, my problem has been sorted out by the Chief Whip. Thank you for the interruption.

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

(The new clause was read a Second Time)

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

Ms. Noor: Madam Temporary Deputy Chairlady, I had a further new clause to Clause 54
The Temporary Deputy Chairlady (Dr. Laboso): We are going to call it
New clause 54B.

New Clause 54B

Ms. Noor: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, the following new clause be inserted immediately after Clause 54-
54B. The Authority may, where it deems it necessary, institute an inquiry with regard to a
public benefit organisation in accordance with Section 35(1)(h).

- (2) The Authority may-
- (a) conduct an inquiry under subsection (1) on its own; or
 - (b) appoint a person to conduct the inquiry, and make a report to the Authority.
- (3) For purposes of an inquiry under subsection (1), the Authority, or a person appointed by the Authority to conduct the inquiry, may direct any person-
- (a) if a matter in question at the inquiry is one on which the person has or can reasonably obtain information, to-
 - (i) provide accounts and statements in writing with respect to the matter, or to provide answers in writing to any question or inquiry addressed to the person on the matter; and,
 - (ii) verify any such accounts, statements or answers by statutory declaration;
 - (b) to provide copies of documents which are in the custody or under the control of the person, and which relate to any matter at the inquiry, and to verify any such copies by statutory declaration;
 - (c) to attend at a specified time and place and give evidence or produce such document as the Authority or person conducting the inquiry may require.
- (4) The Authority may reimburse to any person attending to give evidence or produce documents for the purpose of an inquiry the reasonable expenses of doing so.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

First Schedule

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the First Schedule be amended by inserting the following new paragraphs:-

(1) A person, other than a public officer, who was a member of the former board immediately before the commencement of this Act shall be deemed to be a member of the board of the Authority and shall continue in office as if appointed under this Act for the remainder of the three-year term as provided for under this Act and shall be eligible for re-appointment once.

(2) The Executive Director appointed under the former Act and in office immediately before the commencement of this Act shall continue in office as the Director-General under this Act for his or her unexpired term and shall continue in office as if appointed under this Act for the remainder of a five-year term as provided for under this Act, and shall be eligible for re-appointment once.

(3) Provided that the person referred to in subparagraph (1) shall be eligible for re-appointment as Director-General.

(4) A non-governmental organization registered under the repealed Act shall be deemed registered under this Act and any obligations including duty to submit reports or returns pending or in the process shall be deemed as obligations under this Act in so far as such are consistent with this Act.

(5) A non-governmental organization that was exempted from registration under the provisions of the former Act shall within three months of the commencement of this Act, apply for registration.

(6) The staff or any agent of the former board shall be deemed to be members of staff or agents of the Authority.

(7) Members of the governing board of the Non-Governmental Organizations Council in office immediately and in office immediately before the commencement of this Act shall continue in office as members of the governing board of the Federation under this Act as if elected to office under this Act, but

only for the remainder of his or her term but shall be eligible for election to the governing board of the Federation under this Act.

Provided that cessation of membership in the governing board of the Council under this paragraph shall not affect the membership of a Member of the Board of the Authority, who shall, despite that cessation, continue in office as provided for in paragraph (1).

Madam Temporary Chairlady, I wish to move further amendment to subclause 1; where it is indicated three years term, we just put four months.

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

(First Schedule as amended agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Fourth Schedule agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, is there an amendment by the Minister to the Fifth Schedule?

Hon. Members: No!

(Fifth Scheduled agreed to)

Sixth Schedule

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new Schedule-

SIXTH SCHEDULE

DESCRIPTION OF AREAS FOR WHICH AN ORGANIZATION MAY BE REGISTERED

An organization that has as its objective the promotion of public benefit in any of, but not limited to the areas set out below may be registered by the Authority—

- (a) legal aid;
- (b) agriculture;
- (c) children;
- (d) culture;
- (e) disability;
- (f) energy;
- (g) education;

- (h) environment and conservation generally;
- (i) gender;
- (j) governance;
- (k) poverty eradication;
- (l) health;
- (m) housing and settlement;
- (n) human rights;
- (o) HIV/AIDS;
- (p) information;
- (q) informal sector;
- (r) old age;
- (s) peace building;
- (t) population and reproductive health;
- (u) refugees;
- (v) disaster prevention, preparedness and mitigation;
- (w) relief;
- (x) pastoralism and the marginalized communities;
- (y) sports;
- (z) water and sanitation;
- (aa) animal welfare; and,
- (bb) youth.

(Question of the new schedule proposed)

(New schedule read the First Time)

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

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

(The new schedule was read a Second Time)

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

Preamble

The Temporary Deputy Chairlady (Dr. Laboso): Assistant Minister, I would like you to move your amendment to the Preamble.

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended in the Preamble by—

(a) deleting the third paragraph thereof and substituting therefor the following new paragraph—

Cognizant that the public benefit organisations are increasingly involved in complementing the county and national government in all spheres of public service delivery and of the primary role of Government of Kenya as the duty bearer;

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

Perceptive that the realization of Kenya's development goals depend on the contribution of not only the public and private sectors, but public benefit organizations as well;

(c) in the fifth paragraph, by deleting the words "civil society sector" and substituting therefor the words "public benefit organisations".

(Question of the amendment proposed)

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

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

(The Preamble as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

Mrs. Noor: Madam Temporary Deputy Chairlady, I beg to move that the House doth report to the House its consideration of The Public Benefit Organisations Bill (Bill No.15 of 2012) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Mr. Imanyara) in the Chair]*

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, we will go in accordance with the order in which the Bills are set up under Order No.19. So, we will start with the Pyrethrum Bill and end with the Customs and Excise (Amendment) Bill.

What is your point of order, hon. Midiwo?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I beg your indulgence. I rise to move that this morning's sitting time of the House be extended to 1.00 p.m. so that we can handle most of the Bills on the Order Paper.

I beg to move.

The Temporary Deputy Speaker (Mr. Imanyara): Who is seconding you?

Mrs. Noor seconded.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Imanyara): Proceed, hon. Joyce Laboso.

THE PYRETHRUM BILL

Dr. Laboso: Mr. Temporary Deputy Chairman, Sir, I beg to report that the Committee of the whole House has considered The Pyrethrum Bill (Bill No.57 of 2011) and approved the same with amendments.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Mr. Ethuro seconded.

(Question proposed)

(Question put and agreed to)

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Pyrethrum Bill (Bill No.57 of 2011) be now read the Third Time.

Mr. Ethuro seconded.

(Question proposed)

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. David Njuguna.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I take the opportunity to briefly thank the Mover of this Bill, hon. Kioni, because this is credit work.

I support.

(Question put and agreed with)

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

THE PUBLIC BENEFIT ORGANISATIONS BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Public Benefit Organisations Bill (Bill No.15 of 2012) and approved the same with amendments.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Mr. Ethuro seconded.

(Question proposed)

(Question put and agreed to)

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Public Benefits Organization Bill be now read the Third Time.

The Minister for Youth Affairs and Sports (Mr. Namwamba) seconded.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, again, let me take this opportunity to thank the Mover of this Bill because the intention will bring more accountability and transparency in the sector.

I support.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I just want to congratulate Mrs. Noor for bringing a very important Bill that will regulate the sector.

Thank you.

(Question put and agreed to)

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

THE SOCIAL ASSISTANCE BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Social Assistance Bill (Bill No.10 of 2012) and approved the same with amendments.

Mr. Temporary Deputy Speaker (Mr. Imanyara): Who was the mover for this?

Dr. Laboso: Myself, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

Mr. Ethuro seconded.

(Question proposed)

(Question put and agreed to)

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Public Benefit Organizations Bill be now read the Third Time.

The Minister for Youth Affairs and Sports (Mr. Namwamba) seconded.

(Question proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, again, I want to congratulate Dr. Joyce Laboso. I am happy that two women Members of Parliament have today passed two Private Members Bills. The women have done us---

Mr. Kioni: And one man.

Mrs. Odhiambo-Mabona: And one man. So we beat them in terms of performance because there we have two-thirds. We are excellent. I congratulate them especially on this Bill that touches the lives of poor people.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I also wish to congratulate Dr. Joyce Laboso. This is a very crucial Bill that touches on the vulnerability of our communities. This is a Bill that is going to transform this country in terms of social assistance and welfare.

Thank you.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to applaud the hon. Member for Sotik, Dr. Joyce Laboso for this very historic Bill. I must admit that I had very keen interest in this Bill and I am really glad that it has seen the light of day. Definitely, this will stand out as one of the most outstanding pieces of legislation to emerge out of the Tenth Parliament. I really applaud Dr. Laboso.

(Question put and agreed to)

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

THE CUSTOMS AND EXCISE (AMENDMENT) BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Customs and Excise (Amendment) Bill, Bill No. 15 of 2011, and approved the same with amendments.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

(Question proposed)

(Question put and agreed to)

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Customs and Excise (Amendment) Bill, Bill No. 15 of 2011 Bill be now read the Third Time.

Dr. Kones seconded.

(Question proposed)

(Question put and agreed to)

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

BILLS

Second Reading

THE CONSTITUENCIES DEVELOPMENT FUND BILL

(By leave of the House)

The Temporary Deputy Speaker (Mr. Imanyara): Is Mr. Ethuro not here?

If the Attorney-General is ready, we can to Do his Bill, and the come back to Mr. Ethuro's Bill later.

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)(NO. 2) BILL

(By leave of the House)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I will be very brief.

Hon. Members are aware this is the second time this year that I am publishing the Statute Law (Miscellaneous Amendments) Bill. The purpose, as usual, is to provide an opportunity to tie up loose ends that exist in several statutes that do not require individual Bills to be brought here. For example, in this Particular Bill hon. Members will notice that we are trying to clean up the Advocates Act, the disciplinary procedure and to remove references to the Director of Public Prosecutions because he is already a prosecutor.

Mr. Temporary Deputy Speaker, Sir, we are trying to structure the law on bail to bring it in conformity with the Constitution and international practices. But above all else, and more importantly, we are trying to make certain changes to the Political Parties Act and the Elections Act, 2012 in order to prepare ourselves for the election coming in March next year. There are other minor amendments to bring into line most statutes that have had some lacunae or omissions.

With those few remarks, I beg to move. I want to request Mrs. Odhiambo-Mabona, my very distinguished friend and comrade in this work, to second.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I rise to second this Bill. Indeed, we have been calling for this Bill because it deals with a lot of issues that are facilitative of a proper electoral process. Over and above that, it also touches on a lot of Bills. We passed a lot of Bills in a rush because this was a special House. Again, we have agreed, as a House, that we are prioritizing certain Bills. I am not going deep into the provisions of this Bill, but we will bring the issues that are of importance during the Committee Stage.

I beg to second.

(Question proposed)

Members, I see no interest. Therefore, I will propose the question.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, we will now go back to Order No.20. Hon. Ethuro, if you are here, leave has already been granted. So, you may proceed!

THE CONSTITUENCIES DEVELOPMENT FUND BILL

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I beg to move that The Constituencies Development Fund Bill be now read a Second Time.

This is a great day for the Constituencies Fund Committee (CFC) for promoting and publishing this Bill on the CDF, whose primary purpose is to align the CDF to the current constitutional dispensation. We have also made sure that the Board is lean and conforms to the normal size of the constitutional commissions. More fundamental is to ensure that the Fund continues to serve at the constituency level. The argument that we now have devolution should not arise because devolution is getting money from the Government. The same needs to be done at the constituency level, which the national Government could not appreciate. We submit that even at the county level, there will still be a case for this Fund to continue.

In the interest of time and knowing that this is very popular with the Members, I would plead that we restrict our submissions to minimal just like in the case of the Bill moved by the Attorney General.

I beg to move and request hon. C. Kilonzo to second.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I beg to second. First, I want to bring to the attention of the Members what we are doing and what transpired before we brought the Bill. We noticed that there was reluctance by the Government, so we took the Bill which was being prepared by the Government and put it under our Committee and published it in the interest of time. There are many issues which we are going to amend because they were not really from the CFC.

Secondly, the Members should look very clearly at Clause 4(2). Under the Constitution, the CDF funds are supposed to be devolved and managed by the county governments. But the same Constitution provides under Section 202(2) that funds from the national Government can be given with conditions. So, the CDF is given to the counties with the condition that it is managed by the Board, which is a national State corporation.

Thirdly, we are also going to attempt to solve the problem which has been controversial. We have gone to total separation of power between the Legislature and the Executive. One of the issues which have been very controversial is the Members of Parliament appointing constituency committees.

So, what we are proposing is that an office of the Board will supervise the nomination of these committees and we have indicated how they will be nominated at the constituency level but Parliament still maintains the authority to approve. Just like we will be approving Ministers, Parliament will still retain that power to approve.

Mr. Temporary Deputy Speaker, Sir, secondly, the other controversy has been that hon. Members have been members of committees. This time round, Members of Parliament will not

be members of committees but projects approved by this committee will still need to be approved by the National Assembly. Hon. Members must accept that you cannot waive in this particular case. We must go for total separation but Parliament must keep the role of oversight.

The other issue which is addressed in the committee is about efficiency. We are removing DDOs, District Accountants and having an office of the Board as the Authority to Incur Expenditure (AIE) holder. Finally, it is also about reducing the sizes of the Board and constituency committees to reduce on expenditure.

With these few remarks, I beg to second.

(Question proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I rise to support and I will be very brief. I want to indicate that there has been a lot of talk that the Constituencies Development Fund will be abolished with the new Government and that would be indeed very unfortunate because when you come from areas that are marginalised like where some of us come from, over the years, what has helped communities has been the CDF. I do not necessarily agree with some of the structures and I am happy that I see it from a better eye view because I have not been a beneficiary, in the sense that I do not have a geographical constituency. So, I have not been involved in the management. I am therefore able to look at it more objectively if I should say so and therefore I may not necessarily agree with some of the structures but I support and if I have any proposed amendments they will come at the third stage.

The Temporary Deputy Speaker (Mr. Imanyara): In view of the very many hon. Members who want to speak to this Bill, I will limit the time of your contribution to two minutes and you will be timed. So, your microphones will go off after two minutes. Hon. David Njuguna.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me start by thanking the Mover of this Motion, hon. Ethuro and say that this Fund has really transformed the lives of Kenyans in the constituencies. This transformation must not be stopped. It must be posted with more funds released through the same Fund.

I fully support.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I want to thank the committee first of all for ensuring that the CDF continues because it is a very important component of development in our country. I just want to swiftly indicate here that it is important that being a CDF the committee of the House should involve Members of Parliament. Two, submission of constituency project proposals for purposes of efficiency, this needs to be copied to the county projects committees and given directly to the national body so that we are able to make progress.

Mr. Temporary Deputy Speaker, Sir, the issue of clear separation is important but I think hon. Members of Parliament, being leaders, should be allowed to be *ex officio* members of these bodies. In considering the project proposals, they should consult the Member of Parliament. The word “administrator” should be removed. On the lapse of the term of the members, I want to propose that instead of three years it should be two and a half years renewable so that they expire with the term of the Member of Parliament.

Lastly is on the county projects committee, I think in this Bill, there is need to consider it very clearly and openly. There is need to fund this county project committee given that the accounts are within constituencies. Otherwise, I support the work being done by the CDF in this country.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I will be very brief. I want to add my voice in thanking the Committee. There was a reason why we introduced the CDF. That reason was to take us from the bureaucracies of the Government and much of the economic growth that we have witnessed in the last ten years is because of the CDF. Therefore, the Committee must rethink what they are trying to do with the Member of Parliament. We will pass this thing, but this is the Members of Parliament's baby. It shall remain the MPs' baby. When you say that some amorphous official will select the committee members, how do they know people in my constituency? For example, my Funds Accounts Manager does not come from my constituency. When you tell him to come and chose people to be in charge of development, what are you doing? Just put measures to stop corruption, but this must sit and reside under the control of the Member of Parliament.

With those few remarks, I beg to support.

Mr. Nyammo: Mr. Temporary Deputy Speaker, Sir, I beg to support this Bill. All of us have witnessed the role of the CDF in rural Kenya. There is a bit of disconnect that we have moved, as the CDF, faster than the line Ministries. I cite the cases of health and education. We have built health centers and dispensaries, but there are no nurses, doctors or equipment. In the area of education, again, we have built classrooms in primary and secondary schools and technical colleges, but we have no teachers. So, it is important that as we pass this, we carry along the line Ministries with us. This applies to all other areas of development.

With those few remarks, I beg to support.

Mr. Oyugi: Mr. Temporary Deputy Speaker, Sir, I rise to support this particular Bill. It is very useful. There are several parts of the Bill that are easily laudable like the provisions as to having constituencies share in joint projects. It also gives latitude to the various constituencies to give allocations to sporting and environmental activities among others. Those are very beautiful provisions that need to be lauded.

However, there is a lot in the Bill that would still be work in progress and work that needs to be looked at with a critical eye. These are issues like having the work being approved by the county development committees. That might not sit pretty in terms of harmonizing the county development work and the MP's work. There is also the fact that the Bill does not sufficiently define what ward committees are. There needs to be definitions of such words and other words that are used in the Bill. Otherwise, it is a very good Bill and I support it.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I rise to appreciate the retention of the CDF considering that many areas were marginalized until the CDF was introduced and the Members of Parliament were in charge of development in their constituencies. However, looking at Clause 24 on page 5737, you will notice that all the time they refer to a Cabinet Secretary.

Clause 24(4) states that:-

“The first meeting of the Constituency Development Fund Committee shall be convened within the first sixty days of a new Parliament or a by-election, by the national government official at the constituency or in his or her absence, by an officer of the Board seconded to the constituency, on such day as may be designated by the Cabinet Secretary”.

This is taking authority from the Member of Parliament. I propose that the Member of Parliament be the one to call the first meeting. Despite the others being elected, the MP should be in charge. Clause 24(1) states that:-

- “(1) There shall be a Constituency Development Fund Committee for every constituency.
- (2) Each Constituency Development Fund Committee shall comprise-

- (a) the national government official at the constituency as may be designated by the Cabinet Secretary or an alternate;
- (b) three men nominated by the ward development committees and one of whom shall be a youth at the date of appointment;
- (c) three women nominated by the ward development committees and one of whom is a youth at the date of appointment;
- (d) one person with disability nominated by the ward development committees;
- (e) one person nominated from among the active Non-Governmental Organizations in the constituency;
- (f) an officer of the Board seconded to the Constituency Development Fund Committee by the Board who shall be ex-officio and shall serve as the Secretary to the Constituency Development Fund Committee.

It is the Member of Parliament who should elect. It should be in collaboration with the Member of Parliament. The Member of Parliament should convene, so that the selection is done in his or her presence. I appreciate all the work done by the CDF.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I do not want to oppose this Bill but I have difficulties supporting it. The only reason we have seen some success as a result of the Constituencies Development Fund (CDF) is because the central Government was kept away from it. This Bill has created a department within the Executive. If hon. Members will take time to read it, they will realize that as Members of Parliament they have no role in it anymore. They have just been mentioned casually in it in one section. I know there has been misuse of CDF but that should not be reason enough to do away with this vehicle that has helped this country grow. The fact that we have a Constitution that separates powers, it does not mean that we stop being agents of development that we were elected to be. We are not yet where Kenyans or the developed world would want to tell us; that we are just here to pass laws and we have nothing to do with development. This Bill says that we should come to Nairobi to pass laws and leave development to another agent. What has happened to this Bill is that the Cabinet Secretary has been all the way to the ward. As Mr. Midiwo says, who knows who is in Ndaragwa? If you come and tell the Cabinet Secretary to start appointing people to sit in the Committee, what are you actually saying? Actually, this is passing a law that takes away this development through the back door. I hope this Committee has done something useful that is going to save the Bill. If they have not, then this is a Bill to oppose.

I beg to support.

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I want to start by congratulating the Committee for reactivating the CDF Bill. I want to say that CDF was created with a purpose and we are not yet there. The impact that it has created is something that is seen all over the country particularly in matters like education, health and vulnerability. This is a Bill that has really transformed the marginalized community. If people are talking about corruption, we are saying that any person who is corrupt should be taken to jail. Why do you want to destroy a system that is beautiful and people have been coming to copy from us? Members of Parliament from Uganda came here recently to see how we are doing with the CDF. They came to see how we were doing with all our programmes. I think Members of Parliament have a responsibility and we want the CDF Committee to look at it critically so that Members of Parliament can take their rightful position in CDF management.

The Minister for Youth Affairs and Sports (Mr. Namwamba): Mr. Temporary Deputy Speaker, Sir, I want to support this Bill. I also want to applaud the Committee led by the hon.

Member for Turkana Central. He has been a champion of this process and I hope that even as we conclude our term, the Chair and his Committee will ensure that every single cent due to all CDFs across the country will be released and expended before we conclude our term.

Mr. Temporary Deputy Speaker, Sir, it is important to restructure CDF and I do agree with the Committee that indeed you need to remove the Member of Parliament from the nitty gritty, from the centre of managing this process. At the same time, we should be careful not to carry over the bureaucracies and the restrictions that come with the process that was intended to be flexible and community driven. I would propose that one of the innovations that we could attempt in this regard is to have a Committee elected by the communities but under the facilitation of the Member of Parliament because remember a Member of Parliament is an elected person and he carries the popular mandate of the community. Therefore, he could be given the responsibility to preside over a democratic process where this committee is elected democratically and then it takes responsibility for all its actions. Hon. Members must also agree that CDF more often than not also becomes a milestone around their necks. This is because of being expected to be so actively engaged in its activities. So, whereas we should retain our oversight role, I do support the notion of really removing the Member of Parliament from the said centre of the process.

I support.

The Assistant Minister for Tourism (Ms. Mbarire): Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and, of course, raise the concerns that many of my colleagues raised earlier on.

I think it will be a big mistake to completely ignore the role of a Member of Parliament in terms of ensuring that they are really part and parcel of running the Committee and even determining through a democratic process how this Committee is formed.

Members of Parliament are politicians. It will be wrong to let a Cabinet Secretary from Nairobi come to the constituency to determine who should be in that committee. Woe unto you if as a Member of Parliament you end up with your opponent in that committee. That will be the end of the good work that you would have done in the CDF.

Therefore, I propose that there be a role that the Member of Parliament plays in terms of ensuring that we get the right people in the committee and, maybe, we could go through some democratic process of identifying them. But more importantly, the patron role that the Member of Parliament has been playing should continue to be so that we have a way of ensuring that we know what goes on. This is because at the end of the day, the fact that it is called "CDF" means that it is happening in your constituency and you are the leader of that constituency. You must have a role to play in determining what happens.

With those few remarks, I support the Bill.

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, I want to add my voice to the many speakers who have supported this Bill. We understand the role of the CDF to our communities. We know what it has done from the Ninth Parliament to date. All Members of Parliament and Kenyans, at large, believe that it has brought very big change in development especially in areas which were not considered by the previous Governments.

I happen to be one of the members and the Vice-Chair of this Committee. I think we need to move quite a number of amendments especially with regard to how we will identify the members of the CDF committees at the constituency level. As one hon. Member cited here, we need to identify democratic process in which we shall come up with members who are accepted by members of that community.

All in all, this is a Fund that must continue. Whereas we will talk about aligning it to the Constitution, we must make sure that the role of the Member of Parliament, as patron, is retained in this CDF era.

Dr. Otichilo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could I be in order to request that the Mover be called upon to respond since we are repeating ourselves?

The Temporary Deputy Speaker (Mr. Imanyara): Let me allow Mr. Musyimi and Dr. Kones just one minute each because they are the only ones who have requested to speak.

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, I beg to thank the Committee for this Bill, but allow me to make just one point. I do recall in one of our capacity building sessions, we had a paper given by Mr. Pheroze Nowrojee about the relationship between the organs of State. The fundamental point that Mr. Nowrojee was trying to make is that much has been said of the organs of State being separate – the whole notion of separation of powers. He sought to persuade us to believe that, indeed, whereas the powers are separate they are actually heavily co-related.

The point I want to make is that I read the Bill. The general drift of this Bill is that the separation of powers is absolute. We need to remind ourselves what we were taught by Mr. Pheroze Nowrojee that, indeed, they are correlated. So, this idea of removing the Member of Parliament from functions that appear to be of an Executive nature, I think is false. I would like to request the Committee to review the amendments they will make so that they give the Member of Parliament a more central role without fearing that they are offending the Constitution.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Bill. Without repeating what my colleagues have said, I would like to say something on behalf of those who will be governors.

On behalf of the council of governors, we support that this Fund remains with MPs so that they do not disturb governors. Otherwise, I support the spirit of the Bill.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Ethuro, it is your time to respond.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I want to thank each and every contributor. The Committee is very alive to the issues raised by the hon. Members, in particular, the role of the MP. The Committee is extremely cognizant of the fact that if a Member of Parliament does not play a key role in the CDF, then it will die like many other devolved funds that we know. So, we have proposed amendments and further suggestions. By tomorrow, we will make sure that the Bill has the necessary amendments.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

THE COUNTY GOVERNMENTS PUBLIC FINANCE
MANAGEMENT TRANSITION BILL

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Midiwo, I do not think that you have the numbers to withdraw leave. Therefore, leave is granted.

Where is the Minister for Finance? Is he not here? I will defer that business and rearrange the Orders to enable the Mover of Order No.26 to move the Motion.

(Bill deferred)

MOTION

REQUIREMENTS FOR GOLD MINING LICENCE

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Lands and Natural Resources on Question by Private Notice by Hon. Edick Omondi Anyanga, MP on the Licensing of Mid Migori Mining Company Limited to explore and prospect Gold in Nyatike, Migori County laid on the Table of the House on Wednesday, 22nd August, 2012.

On Wednesday, 27th, April 2011, the hon. Member for Nyatike, hon. Edick Anyanga, MP, through a Question by Private Notice asked the Minister for Environment and Mineral Resources on the criteria and requirements for grant of mineral prospecting rights and license for gold mining to Mid Migori Mining Company Limited.

The Member sought to know from the Minister:-

(a) the criteria and official requirements for mineral prospecting rights and licenses for gold mining ;

(b) the criteria used to award Mid Migori Mining Company Limited an exclusive prospective rights and licence for gold mining in his constituency and for how long the company had been operating; and,

(c) how much the company had spent on corporate social responsibility for the benefit of Kenyans.

I beg to move and request my good friend, Mr. Midiwo, to kindly second this Motion.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I second this Motion.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, that brings us to the end of this morning's business. Therefore, the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.