

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 14th February, 2017

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, we do not have quorum. Could the Bell be rung?

(The Quorum Bell was rung)

Hon. Members, we now have quorum. I will give the Communication just before we proceed to Order No.8.

PETITION

DISMISSAL OF BENJAMIN CHELANG'A BY KDF

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order 225(2)(b), I hereby convey to the House that my office is in receipt of a petition from one ex-Corporal Benjamin Chelang'a regarding unfair termination of employment by the Kenya Defence Forces (KDF).

The petitioner alleges that while serving as a corporal at the KDF he was unfairly disciplined on false accusation, imprisoned for 42 days and later dismissed from service even after seeking early retirement. The petitioner claims that this action contravenes Article 41 of the Constitution and the provisions of the Employment Act, 2007 (Cap.226).

The petitioner, therefore, prays that the National Assembly examines the legitimacy of the process applied in his dismissal, and in the classification of his conduct as "Good" instead of "Very Good" as indicated in the termination of service certificate.

Hon. Members, you will agree with me that the prayers sought by the petitioner can be settled at a court martial or any other appropriate court. However, Article 95(2) of the Constitution provides that the National Assembly deliberates on and resolves issues of concern to the people, and also obligates the House to attempt to address such matters with a view to resolving them. It may well be that the grievances of the petitioner may be resolved without having to resort to a court martial or any other court for that matter.

Hon. Members, the Petition, therefore, stands committed to the Departmental Committee on Labour and Social Welfare for consideration. The Committee is requested to consider the Petition and report its findings within 60 days in accordance to Standing Order No.227(2).

Next Order!

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today Tuesday, 14th February 2017:

The Memorandum to the National Assembly on the Ratification of the Amendment to Article 24(2) of the Protocol on the Establishment of the East African Community Customs Union.

Draft Elections (Registration of Voters)(Amendment) Regulations, 2017.

Draft Elections (General) (Amendment) Regulations, 2017.

Draft Elections (Voter Education) Regulations, 2017

Draft Elections (Party Primaries and Party Lists) Regulations, 2017 and the Explanatory Memorandum.

The Reports of the Auditor-General on the Financial Statements in respect of the following constituencies for the year ended 30th June, 2015 and the certificates therein:

- (i) Kandara Constituency; and,
- (ii) Garissa Town Constituency.

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

- (i) Anti-Female Genital Mutilation (FGM) Board;
- (ii) Revenue Statement of the Judiciary; and,
- (iii) Water Services Trust Fund.

Hon. Speaker: The Memorandum on the Ratification of the Amendment to Article 24(2) of the Protocol on the Establishment of the East African Community Customs Union is referred to the Committee on Regional Integration. The various reports, four of them, on election regulations are referred to the Committee on Delegated Legislation.

Let us move on to the next Order.

STATEMENTS

DEATH OF SENATOR BOY JUMA BOY

Hon. Mwadeghu: Ahsante sana Mhe. Spika. Naomba nichukue nafasi hii kwa niaba yangu na watu wangu wa Wundanyi ambao ninawawakilisha kutoa rambirambi zetu kwa familia ya mwenda zake Mheshimiwa Seneta Juma Boy ambaye aliaga dunia hapo mwisho wa wiki na alizikwa jana. Naomba tukubaliane na wenzangu kuwa Seneta Juma Boy hakuwa Mheshimiwa hivi hivi. Yeye alikuwa amejisitiri sana katika shughuli zake na utendaji kazi wake.

Alikuwa ni mmoja wa maseneta nchini ambaye alikuwa anategemewa na kuaminiwa sana kwa utendaji kazi wake. Tukubaliane kuwa wakati huu kuna msiba kwa familia yake, familia nyinginezo na Kenya kwa jumla kwa kumpoteza Seneta wetu. Mheshimiwa Spika naomba nitoe rambirambi kwa nchi yote nzima kwa kumpoteza Seneta Boy.

Wenzangu Wabunge, naomba tujiunge pamoja wakati huu mzito wa majonzi ili kuona vile tutaweza kusitiri familia yake Seneta Boy wakati huu wa msiba. Mheshimiwa Spika, Juma Boy alikuwa amejitoa mhanga kutumikia nchi hii na ni wazi kuwa alitekeleza wajibu wake bila ubaguzi.

Naomba Mwenyezi Mungu ailaze roho yake mahali pema peponi. Ahsante Mheshimiwa Spika.

Hon. Speaker: Let us have the Member for Emurua Dikirr.

Hon. Kipyegon: Thank you, Hon. Speaker. I also join my brother Hon. Mwadeghu to

condole with the family, friends and the country for the passing on of Sen. Juma Boy Juma. He is somebody I knew closely and for a very long time. Though I came to Parliament in 2013, I have been in active politics since 2001. Many times I interacted with him, especially when I was in the Orange Democratic Movement (ODM) in 2007. Then, I was a very active and serious member of that party. I interacted with him a lot.

Before the elections, he had an opportunity of coming to my constituency while I was launching my campaign to vie for the Kilgoris Constituency and also when I was contesting for Emurua Dikkir Constituency. He was a brother to me and I learnt a lot from him. This country has lost a serious personality, one who shaped so many people's lives. He always spoke the truth; he stood out as one who can be emulated. This is a man who fought for this country. He joined others in shaping the politics and the political future of this country.

At this moment, we know the people of Kwale have lost a very important leader and a Senator who represented them well even as they face a lot of political turmoil. Sen. Juma Boy would have helped shape the direction the people of Kwale would take. As we speak, there are so many busy bodies doing forays in Kwale County trying to convince people to move in a certain direction, which in their opinion may not be the best direction to take.

However, I urge the people of Kwale to stand firm. They should emulate the position and direction which Senator Juma Boy took. I condole with them and may his soul rest in eternal peace. I thank you.

Hon. Speaker: Let us have the Member for Kiminini.

Hon. Wakhungu: Thank you, Hon. Speaker. I join my colleagues to send a message of condolence, on behalf of my family and the great people of Kiminini, to the family of the late Senator Juma Boy and the entire Kwale County.

Sen. Juma Boy was my very close friend. He came to my constituency and I learnt so much from him. He was a charismatic debater and very truthful. Many politicians are sycophants but not Sen. Juma Boy. When we had a by-election in Malindi where Hon. Mtengo was elected, I happened to have been in same campaign team as him. We went round campaigning and the late Senator contributed much to the success of the CORD.

Hon. Speaker, in the bigger movement of National Super Alliance (NASA), we had identified Juma Boy as one of those who would be our mid-fielders. As a family, we have lost. We pray that at such a time of difficulty, the Almighty God gives the family of Senator Boy Juma Boy strength and comfort. He is the only Lord who consoles. It is written in the Bible, in the book of Revelations 7:17:

“The Lord will wipe away every tear from their eyes.”

Hon. Speaker, we have lost a great man. We have lost and I have no words. We pray to God to give the affected families and friends comfort.

Thank you, Hon. Speaker. May his soul rest in peace.

Hon. Speaker: Yes, the Member for Chuka/Igambang'ombe.

(Technical hitch)

Hon. Njuki: Thank you, Hon. Speaker for the opportunity and sorry for the system's failure.

I also take this opportunity to add my voice and send condolences to the family of Boy Juma Boy. This brings to five Members of Parliament (MPs) including three Senators whom we have lost since the elections. It is a big blow to both Houses especially at this particular time

when we are approaching the elections. It is a pity that just a few months to the elections, the people of Matuga have lost their representative.

This is a man we have known for quite some time and especially those who have been following politics. The name “Boy Juma Boy” was very popular in the 1980s because he came to Parliament in 1984. Therefore, he was in politics for quite some time. I interacted with him and he was a person of humility. We have definitely lost a senior Member of the two Houses. I condole with the people of Matuga and Kwale County and pray to God that his soul rests in peace. May he grant them peace to come to terms with this reality.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. May his soul rest in eternal peace.

Next Order!

Hon. Members, before we go to the next Order, I wish to make this Communication. It is on a request for recommitment of a clause in the Privatization (Amendment) Bill, 2016.

COMMUNICATION FROM THE CHAIR

REQUEST FOR RECOMMITMENT OF CLAUSE 3 UNDER THE PRIVATIZATION (AMENDMENT) BILL, 2016

Hon. Speaker: Hon. Members, on Thursday, 9th February 2017, the House considered the Privatization (Amendment) Bill, 2016 (National Assembly Bill No.27 of 2016) in the Committee of the whole House. The Bill is, therefore, due for Third Reading in accordance with our procedures. However, I have since received a request, in the form of a Motion from the Leader of the Majority Party, for the House to rescind its decision on the agreement with the Report of the Committee of the whole House on the consideration of the Privatization (Amendment) Bill, 2016.

Hon. Members, the essence of the request is that as currently carried, the law requires the approval of the relevant committee of Parliament in the appointment of the members of the Privatization Commission. This poses two technicalities. First, approval for appointments is by practice the jurisdiction of the House and not a committee of the House. Secondly, though the law had been passed prior to the bicameral legislature where Parliament and the National Assembly referred to one and the same House, the meaning of Parliament in the current scenario presupposes both Houses. It would, therefore, be prudent to clearly state the intention of the law as envisioned by its drafters in 2005, when it was first passed.

Consequently, Hon. Members, pursuant to the provisions of Standing Order No.49(2)(a), I have allowed the Leader of the Majority Party to move the Motion for rescission and recommitment of the clause indicated in the Supplementary Order Paper.

I thank you.

Hon. Members, this, therefore, means that the Leader of the Majority Party will move this Motion and if the House agrees with him, it will proceed to the Committee of the whole House for consideration of Clause 3. This is just to clarify whether the approval was intended to be by the Committee, Parliament or the National Assembly. After that, ideally in order to facilitate smooth operations, the House will again reconvene in plenary to receive the Report of the Committee of the whole House on the same, if you agree to the first Motion for rescission. That is what this means.

Next Order!

PROCEDURAL MOTION

THE PRIVATIZATION (AMENDMENT) BILL

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

THAT, pursuant to the provisions of Standing Order No.49(2)(a), this House resolves to rescind the decision made by the House on Thursday, 9th February, 2017 regarding the Question that “This House do agree with the Report of the Committee of the whole House on the Privatization (Amendment) Bill (National Assembly Bill No. 27 of 2016),” and further pursuant to the provisions of Standing Order No.136, resolves to agree with the Committee of the whole House on the said Report subject to recommittal of Clause 3 of the Bill.

Hon. Speaker, you have explained well in your Communication but for the benefit of the House and for this Motion, I am requesting a recommittal of Clause 3 of the Bill due to an error noted in the principal Act by both our legal and legislative departments.

Just for the information of the Members, Section 5(1) of the Privatization Act of 2005 on the composition of the Privatization Commission states:

“(1) The Commission shall comprise the following Members-

- (a) a chairman appointed by the President;
- (b) the Attorney-General;
- (c) the Permanent Secretary to the Treasury;
- (d) seven Members, not being public officers appointed by the Minister and approved by the relevant Committee of Parliament, by virtue of their expertise in such matters as will ensure that the Commission achieves its objective, and;
- (e) the Executive Director.”

It should be noted that the principal Act has two errors now and that is what we want to rectify. Section 5(1)(d) refers to the approval of the seven members of the Commission by a relevant Committee of Parliament. Approval is done in plenary and the House when committees submit their Motions. That is error No.1 which we want to rectify.

Hon. Speaker, as you explained in your earlier Communication to the House, the approval of commission members is done by the House and not by a Committee. That is the first thing.

The second error which was found in the principal Act is the use of the word “Parliament”. In 2005, Parliament referred to the National Assembly because the bicameral system was not in existence. This House was still unicameral. As such, there is need to align this Act with the current reality to provide for clarity in the process of appointment given that the National Assembly is the one that conducts approval of the appointees to the Privatisation Commission in this case. That is why I wish to seek for the recommittal of Clause 3 of the Bill and ask Members to support.

This was an error which the Departmental Committee on Finance, Planning and Trade, and I overlooked. I had amendments. Hon. Wafula Wamunyinyi and many Members who were with me on Thursday overlooked this error. We want to thank the good teams in the Legal Services Directorate, the Legislative and Procedural Services Directorate and the Parliamentary

Budget Office of this Parliament. They are competent men and women who look at every piece of legislation that comes to this House.

Most of us are fatigued by the nominations. Our eyes and hearts are somewhere else because our contract is coming to an end. I am sure every public officer will make sure that he or she uses all means to renew his or her contract. Unfortunately, in our case, we do not renew our contract with a few people; we do so through the citizens of this country. I am sure the electorate will consider and give us a fresh mandate when the time comes.

I beg to move and ask the Vice-Chair of the Departmental Committee on Finance, Planning and Trade to second. He is occupying a very powerful seat today. I do not know why he decided to sit there but I wish him all the best in that very hot seat of the Leader of the Minority Party.

(Loud consultations)

Hon. Gaichuhie: Thank you, Hon. Speaker. Maybe I am trying to practise. You never know. Next time I may be on the other divide and could be the Leader of the Minority Party.

I beg to second the Leader of the Majority Party. I agree with him that in the last dispensation, we only had one House. Maybe that is why the Act referred to Parliament. Since we now have two Houses - the Senate and the National Assembly - it would be good if it is clear that it is supposed to be the National Assembly.

It is the practice of the House that a Committee does not approve appointees to a commission. The Committee will only vet and table a report to the plenary upon which the Members in the plenary will approve. I quite agree and second the Motion.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

Hon. Speaker: Hon. Members, even though it would have naturally meant that we dissolve into the Committee of the whole House now, for the convenience of the House, I want to rearrange Business so as to allow me to put Questions in Order Nos.9 and 10. As you know, not many of us can stay beyond 30 minutes. For the period that the House will be in Committee, to avoid losing quorum and because I confirm that the House quorates now, I therefore, rearrange the Business and proceed to Order No.9.

BILLS

Third Reading

THE DIVISION OF REVENUE BILL

Hon. Speaker: Hon. Members, debate on this Bill was concluded and what remained was for me to put the Question.

(Question put and agreed to)

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

Second Reading

THE MOVABLE PROPERTY SECURITY RIGHTS BILL

(Hon. A.B. Duale on 8.2.2017 - Afternoon Sitting)

(Debate concluded on 9.2.2017)

Hon. Members, again, actual debate on this Bill was concluded last week. What remains is for the Question to be put.

(Question put and agreed to)

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

Hon. Members, I wish to make this Communication before we dissolve into the Committee of the whole House.

After consultations with the Leader of the Majority Party and the Chair of the Budget and Appropriations Committee, it has been agreed that in the Committee of the whole House, the business appearing as (iii), namely, the Public Finance Management (Amendment) Bill (National Assembly Bill No.4 of 2015) will be taken out. It will not be considered today because there are some amendments which were proposed by the Committee and they are not on the Order Paper. When the House goes into Committee, it will consider the Privatization (Amendment) Bill and the other two businesses appearing as (i) and (ii).

COMMITTEE OF THE WHOLE HOUSE

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

IN THE COMMITTEE

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

THE PRIVATIZATION (AMENDMENT) BILL

(Recommittal of Clause 3)

The Temporary Deputy Chairman (Hon. Cheboi): Order, Members! Those who are withdrawing, kindly withdraw in an orderly manner. We will proceed to the Privatization (Amendment) Bill (National Assembly Bill No. 27 of 2016).

Hon. Kamau: *(Inaudible)*

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, the incoming Governor is distracting me. You must protect me.

The Temporary Deputy Chairman (Hon. Cheboi): He has not been in the House for some time.

Hon. A.B. Duale: He is doing very well on the ground, but he has to go through the nomination process.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be further amended by—

(a) numbering the words appearing after the expression “section 5(1)(d)” as paragraph (a); and

(b) inserting the following new paragraph after the proposed paragraph (a)

—
“(b) by deleting the words “relevant committee of Parliament” and substituting therefor the word “National Assembly”.

It is a very straightforward thing. The Speaker said it in his Communication and I did it when I was moving the Motion. I am sure there is no much debate on this one.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members an opportunity. Let us start with Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I want to support this amendment. Just as the Leader of the Majority Party has explained, we are all aware that approval of Executive appointments is done by the National Assembly and not a Committee of Parliament. So, this is just to align this Bill with other Bills of the House.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Dalmas Otieno.

Hon. Anyango: I would like to support this amendment. My surprise is that the assistance by the National Assembly to draft---This is purely a drafting matter. How did it pass that the Member who brought the amendment was allowed to use the words “committee of parliament” when it is standard that it is the National Assembly? Something was missing in the necessary support for Members proposing amendments. Some help with drafting was missing. That is what I wish to point out.

*(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 Chairman (Hon. Cheboi): That brings us to the end of that particular Bill. We will have the Mover now.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Privatization (Amendment) Bill (National Assembly Bill No. 27 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we are now moving straight to the next Bill which is the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014). Kindly be informed.

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLIES APPROVAL) BILL

(Clauses 3, 4, 5, 6, 7, 8,9,10, 11, 12, and 13 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Hon. S.S. Ahmed walked into the Chamber and spoke off record)

The Temporary Deputy Chairman (Hon. Cheboi): Order, Member for Kisumu! You have just come in and you are already making a decision before you know what is happening in the House.

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

That marks the end of that particular Bill. Mover!

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we will move to the next one. This is the County Early Childhood Education Bill (Senate Bill No. 32 of 2014). Who will be moving? Is it the Vice-Chair of the Departmental Committee on Education, Research and Technology?

Hon. Melly: Yes.

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

THE COUNTY EARLY CHILDHOOD EDUCATION BILL

(Clause 3 agreed to)

Clause 4

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

THAT, Clause 4 of the Bill be amended in paragraph (a) by inserting the word “basic” immediately after the word “compulsory”.

The intention of that insertion is to make early childhood part of basic education. This is because basic education starts from early childhood all the way to secondary education.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see two Members. Hon. Birdi!

Hon. (Ms.) Sunjeev: Hon. Temporary Deputy Chairman, I support this insertion. It is very necessary. It should have been done like yesterday but it is better late than never. I beg to support.

The Temporary Deputy Chairman (Hon. Cheboi): For good order, let us have Hon. Shabbir. Do you want to speak to this amendment, Hon. Shabbir?

Hon. S.S. Ahmed: No, Hon. Temporary Deputy Speaker.

The Temporary Deputy Chairman (Hon. Cheboi): Can we have Hon. Maanzo?

Hon. Maanzo: Hon. Temporary Deputy Chairman, there has been debate on basic education and compulsory education. This amendment is meant to synchronize the two so that basic education is compulsory, so that Kenyan children can get basic education from primary school through to secondary school.

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

(Clause 4 as amended agreed to)

(Clauses 5, 6, and 7 agreed to)

Clause 8

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

THAT, Clause 8 of the Bill be amended—

(a) in Sub-section (1) by deleting the words “child fails to attend an education centre, the principal” and substituting therefor the words “pupil admitted in an education centre fails to attend the education centre, the head teacher”.

(b) by deleting the word “child” wherever it appears and substituting therefor the word “pupil”.

Hon. Temporary Deputy Chairman, this amendment tries to punish the head teacher. The justification is to limit the application of this clause to only children admitted in an education centre.

The Temporary Deputy Chairman (Hon. Cheboi): As you move, just indicate “as it appears in the Order Paper” and then give a brief explanation.

(Question of the amendment proposed)

Hon. Ogolla: Hon. Temporary Deputy Chairman, I support the amendment given that these words are contradictory. Talking about a principal in a primary school and a child in a school does not make any sense.

*(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 8 as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Order, Hon. Members! There are about two Members who, when I put the Question, acclaim “yes” and then proceed to acclaim “No”. That is out of order. Punitive actions will be taken against any Member who seems to vote twice, because voting twice is illegal.

Clause 9

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

THAT, Clause 9 of the Bill be amended—

- (a) in Sub-clause (1) by deleting the words “establish a mechanism for the identification of children with special needs and”;
- (b) by deleting Sub-clause 2 and substituting therefor the following new sub-clause—
 - (2) In performing the functions under subsection (1) the county executive committee member shall—
 - (a) ensure that there are adequate learning institutions and facilities for children with disabilities; and
 - (b) put in place necessary facilities to assist children with disabilities to access affordable assistive aids and devices.
 - (c) by deleting sub-clause 3.

Hon. Temporary Deputy Chairman, establishing a mechanism for identifying children with disabilities is not a function of the County Education Board. Part (b) of the amendment is putting this under the functions of the Teachers Service Commission (TSC) and providing for training of teachers. This is limited to the functions of the County Education Board relating to provision of facilities and infrastructure for early childhood education. The Bill had earlier proposed that the County Education Boards will train and even employ teachers. That is a

function of the TSC, and we want it to remain so.

We are also amending Sub-clause (3) to provide for the Cabinet Secretary (CS) and the County Executive Committee (CEC) Member for education to be the appropriate authority to make regulations setting out criteria for identification of children with disabilities to ensure that there are equal standards across the country. We realized that if every county carries out its own regulations and policies, we will not have a standardised education system in early childhood education.

(Question of the amendment proposed)

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

Hon. (Ms.) Otucho: Thank you, Hon. Temporary Deputy Chairman. I support this amendment because it aligns the Bill to the requirements of the new Constitution. It also brings out clarity in ensuring that every child, irrespective of their disability, has a right to education. The Bill says that the CEC Member shall ensure that adequate facilities to assist children with disabilities are put in place.

The Temporary Deputy Chairman (Hon. Cheboi): Member for North Imenti.

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairman. I support the proposed amendment because we need to take care of children with special needs. We should also have other ways of assisting children with disabilities because they do not have facilities.

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

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

(Clause 9 as amended agreed to)

Clause 10

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

THAT, Clause 10 of the Bill be amended—

- (a) by deleting the words “including education centres for children with special needs”; and,
- (b) by inserting the words “of the Constitution” immediately after the words “Article 53”.

It is not the function of the county governments to establish education centres for children with special needs. In part (b), we are inserting the words “of the Constitution” for clarification purposes.

(Question of the amendment proposed)

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

Hon. Okoth: Hon. Temporary Deputy Chairman, as a Member of the Committee, I support the proposed amendment.

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

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

(Clause 10 as amended agreed to)

Clause 11

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

THAT, Clause 11 of the Bill be amended—

(a) in Sub-clause (1) by—

(i) deleting the word “persons” appearing in paragraph (a) and substituting therefor the words “education centre”;

(ii) deleting paragraph (b);

(b) in Sub-clause (2) by deleting the words “upon payment of such a fee as the Registrar shall determine”

Hon. Temporary Deputy Chairman, it is education centres that are registered to offer early childhood education and not persons.

We are deleting paragraph (b) because it is a repetition of paragraph (a). In Sub-clause (2), we are changing the fee for inspection or obtaining a copy of the extract of the register of ECEs against the concept of free basic education. Sufficient budgetary allocations should be made to cater for this.

(Question of the amendment proposed)

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

Hon. (Ms.) Mitaru: Thank you, Hon. Temporary Deputy Chairman. I support this amendment. I am a member of the Departmental Committee on Education, Research and Technology. We support all the children of this nation so that Kenya will be a better place for all of us.

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

Hon. Oyoo: Thank you very much, Hon. Temporary Deputy Chairman. I support this amendment because I think it is giving it more face and clarity by removing ambiguous words.

*(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 11 as amended agreed to)

Clause 12

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

THAT Clause 12 of the Bill be amended by—

- (a) deleting the word “Part” and substituting therefor the word “Act”;
- and
- (b) renumbering the existing provision as Sub-clause (1) and inserting the following new Sub-clause immediately after the proposed new Sub-clause (1) —

“(2) A person who fails to comply with subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.”

The justification of this amendment is that it is offering early childhood education services and maintenance of early childhood education centres in the entire act, not part of it.

The amendment in Sub-section (b) is indicated because of the proposed sanction to bring into effect the law prohibiting unregistered persons to offer early childhood education. This is to ensure that the sector is streamlined and there are no quacks or individuals providing early childhood education without registration.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members an opportunity. First is Hon. Bishop Mutua.

Hon. (Bishop) R. Mutua: Thank you, Hon. Temporary Deputy Chairman. I support this amendment because it makes the Act very clear and it also gives a provision that everybody will be careful on how they are going to do the structures at the institutions.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Serem, Member for Aldai.

Hon. Serem: I support.

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

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

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

(Clause 12 as amended agreed to)

Clause 13

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

THAT Clause 13 of the Bill be amended in Sub-clause (2)—

- (a) by deleting the word “institution” appearing in paragraph (b) and substituting therefor the words “education centre”;

- (b) by deleting the word “institution” appearing in paragraph (c) and substituting therefor the words “education centre”; and
- (c) by deleting the word “institution” appearing in paragraph (d) and substituting therefor the words “education centre”.

The justification is for the consistency of the term used as per the definition clause. We are trying to ensure that there is information flow in the use of this term.

(Question of the 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 13 as amended agreed to)

Clause 14

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

THAT Clause 14 of the Bill be amended by deleting the expression “71” and substituting therefor the expression “70”

This is for correction of errors and cross-referencing.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Shabbir, do you want to speak to this amendment? It is a correction.

Hon. S.S. Ahmed: It is a correction. Actually, I wanted to speak on a different one and not this one.

(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

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

THAT Clause 15 of the Bill be amended in Sub-clause (3) by deleting the word “a private” appearing in paragraph (b) and substituting therefor the word “an”.

The justification of this amendment is to ensure a generalised reference to all education centres as the renewal of the provisional registration does not only apply to private education

centres, but all education centres. This is to ensure that each and every centre is registered as in the renewal of provisional registration.

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

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

THAT Clause 16 of the Bill be amended —

- (a) in Sub-clause (2) by deleting the words “with the consent of the principal” appearing in paragraph (b) and substituting therefor the words “in the opinion of the department, a shorter time is necessary”;
- (b) in Sub-clause (4) by deleting the word “principal” and substituting therefor the word “head teacher”; and
- (c) in Sub-clause (5) by deleting the word “a private” appearing in paragraph (a) and substituting therefor the word “an”.

The justification for the amendment in Clause 16 (a) is that the review of a provisional registered school may be done between six to 12 months or a shorter period, if in the circumstances the department finds it necessary to do so. The shorter period should not be subject to the head teacher’s consent. That is a very clear way.

The justification in Sub-clause (b) is that the Committee agreed to use the term “head teacher” as per the earlier reasoning because we do not want the words “principal” and “head teacher” to be interchanged.

Sub-clause (c) ensures a generalised reference to all education centres since the report may refer to a public education centre. That is the last justification.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give two Members a chance. Let us start with Hon. Dawood, Member for North Imenti.

Hon. Dawood: Hon. Temporary Deputy Chairman, I agree with what the Deputy Chairman of the Departmental Committee on Education, Research and Technology said because we need to differentiate between a head teacher and a principal. There are so many different versions. Every other day, we get different versions. I think this will rectify that problem.

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

Hon. Maanzo: Thank you, Hon. Temporary Deputy Chairman. I support and agree with the deputy chairman.

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

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

(Clause 16 as amended agreed to)

Clause 17

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

THAT Clause 17 of the Bill be amended —

- (a) in the opening statement by deleting the word “centre” appearing immediately after the word “such” and substituting therefor the word “institution”;
- (b) in paragraph (e) by deleting the word “education”; and
- (c) in paragraph (f) by deleting the word “principal” and substituting therefor the word “head teacher”

The justification of the amendment in Clause 17 is to correct typo and grammar errors and inclusion of the term “head teacher”. That is mainly a correction amendment.

(Question of the amendment proposed)

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

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

(Clause 17 as amended agreed to)

(Clause 18 agreed to)

Clause 19

Hon. Melly: Hon. Temporary Deputy Chairman, I beg to move a further amendment.

The Temporary Deputy Chairman (Hon. Cheboi): You cannot be proposing a further amendment. If that is the case, we do not have it here. What is the case as far as I am concerned is that you are trying to delete. Therefore, move the deletion.

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

THAT Clause 19 of the Bill be deleted and substituted.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Member for Kibra.

Hon. Okoth: I am paying attention to this and I am curious. Does that mean that it will be deleted or it will be deleted and substituted with New Clause 28?

The Temporary Deputy Chairman (Hon. Cheboi): The clear position at this point in time is that he is proposing a deletion.

Hon. Okoth: What is going to happen to Clause 28 that was proposed in the Order Paper for Clause 20A? It is the clause talking about change of premises. It is a very important and sensitive issue.

The Temporary Deputy Chairman (Hon. Cheboi): First, let us get it clear from the Chair. You are proposing a deletion. If there will be any substitution we cannot see it anywhere here. Member for Kibra, I see what you are saying, but the unfortunate bit is that we do not see any substitution, so we will consider it a typo in the Order Paper, unless the Chair who has that power to make that kind of proposal, makes it.

Hon. Melly: Hon. Temporary Deputy Chairman, we are proposing that Clause 19 of the Bill be deleted.

It is a typo because it is not indicating the substitution.

The Temporary Deputy Chairman (Hon. Cheboi): That makes it clearer.

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

(Clause 19 deleted)

(Clauses 20, 21 and 22 agreed to)

Clause 23

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

THAT, Clause 23 of the Bill be amended—

- (a) in Sub-clause (1) by inserting the word “County Education” immediately before the word “Board”;
- (b) in Sub-clause (2) by—
 - (i) inserting the word “County Education” immediately before the word “Board”;
 - (ii) deleting the word “ principal” appearing in paragraph (a) and substituting therefor the word “head teacher”;
 - (iii) deleting the word “ principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;
 - (iv) deleting the word “children” appearing in paragraph (b) and substituting therefor the term “pupils”
- (c) in Sub-clause (3) by inserting the word “County Education” immediately before the word “Board”;

The justification is to correct typo, grammar and inclusion of the term ‘head teacher’ in place of ‘Principal’ and ‘pupils’ in place of “children”. This is to ensure that the Bill runs systematically and smoothly across in the usage of those terms.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. It seems like a tidying up clause and proposal.

(Question of the amendment proposed)

What is it that you want to say Hon. Tongi?

Hon. Tongi: Thank you, Hon. Temporary Deputy Chairman. In developed countries depending on where you are coming from, the word ‘Principal’ and ‘head teacher’ have similar meanings. Nowadays we have Member of County Assemblies (MCAs) who are called Honourable Members, and Members of Parliament who are called Honourable Members. So, it is a matter of semantics. Why do we have to belabour so much to interchange the names when we know they have the same meanings?

The Temporary Deputy Chairman (Hon. Cheboi): Suppose a question was made in a different direction, what harm will it have if that is done? That is a proposal that is made and I believe whatever the membership will have is to either support it or not. We have done a few clauses amending the same kind of issues. The Chair is perfectly in order. Let me proceed and put the Question then you can make your decision.

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

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

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

(Clause 23 as amended agreed to)

Clause 24

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Shabbir, what is it?

Hon. S.S. Ahmed: Hon. Temporary Deputy Chairman, I want to seek your guidance. Are we going to address the New Clauses 20A and 21A in order or are we coming back to them?

The Temporary Deputy Chairman (Hon. Cheboi): Procedurally, Hon. Shabbir and you know you are a very seasoned Member, the new clauses come at the tail end of our proposals. After Clause 74, we will be going to New Clause 20A and New Clause 21A, then New Clause 61 A. I understand because we are at that particular point where Clause 21 would have been dealt with, but these are new clauses. They will come at the end. The procedure is a little different and therefore we will have to place it at the end.

Hon. S. S. Ahmed: Thank you, Hon. Temporary Deputy Chairman.

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

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

THAT Clause 24 of the Bill be amended—

- (a) in the marginal note by deleting the word “children” and substituting therefor the word “pupils”
- (b) in the opening statement by deleting the word “children” and substituting therefor the word “pupils”

- (c) in subclause (2) by—
 - (i) inserting the word “County Education” immediately before the word “Board”;
 - (ii) deleting the words “principal of the centre” appearing in paragraph (a) and substituting therefor the word “head teacher”;
- (d) in subclause (3) by-
 - (i) inserting the word “County Education” immediately before the word “Board”;
 - (ii) by deleting the word “children” appearing in paragraph (a) and substituting therefor the word “pupils”
 - (iii) deleting the word “principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;

The justification is just the correction of grammatical errors and replacement of the terms “principal” for “head teacher” and “children” for “pupils.” This is just a clean-up of the Bill.

(Question of the amendment proposed)

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

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

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

(Clause 24 as amended agreed to)

Clause 25

Hon. Melly: Hon. Temporary Deputy Chairman, I bet to move:

THAT Clause 25 of the Bill be amended—

- (a) in sub-clause (1) by—
 - (i) deleting the words “by it”
 - (ii) inserting the word “County Education” immediately before the word “Board” appearing in subparagraph (a) (ii);
 - (iii) by deleting the word “principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;
- (b) in subclause (2) by—
 - (i) inserting the word “County Education” immediately before the word “Board” wherever it appears”;
 - (ii) deleting the word “officer” appearing in paragraph (a) and substituting therefor the word “committee”

(iii) deleting the word “ principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;

A committee is more ideal for the purposes of collective responsibility in reviewing cases leading to cancellation of a certificate of registration. Earlier on, this function was bestowed to individuals, which in essence could not have an objective view of that particular process of cancellation.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Regina, do you want to speak to this. Not interested. So let us go to Hon. Mwinga, Member for Kaloleni.

Hon. Chea: I support.

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

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

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

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

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

THAT Clause 27 of the Bill be amended in Sub-clause (2) by deleting the words “or to any other private status unless the county executive committee member has consulted with the County Education Board and has approved such conversion”.

The reason is to guard against privatisation of public schools and encouragement of preservation of public resources so that public schools cannot be privatised in an easy way.

(Question of the amendment proposed)

Hon. Murungi: Thank you, Hon. Temporary Deputy Chairman I want to support his amendment because we need to safeguard all public institutions, otherwise rogue people can privatise them.

The Temporary Deputy Chairman (Hon. Cheboi): Let us listen to Hon. Wanyonyi.

Hon. Wetangula: I support this amendment because I have had issues in my constituency; some people claiming or trying to claim public schools to convert them into private institutions. So, I think it is very important to safeguard our public institutions.

Thank you.

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

(Clause 27 as amended agreed to)

Clause 28

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

THAT Clause 28 of the Bill be amended—

- (a) in Sub-clause (1) by deleting the word “or” and substituting therefor the word “including a”;
- (b) in Sub-clause (5) by deleting the words “secular” and substituting therefor the word “as set and approved by the Kenya Institute of Curriculum Development”.

The Departmental Committee on Education, Research and Technology saw it right to safeguard the right of the Kenya Institute of Curriculum Development (KICD) to be the sole organ or institution to ensure that the curriculum is either changed or improved in this country. The Committee did not want to give any other body that part of doing curriculum reform.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Member for Nakuru Town East.

Hon. Gikaria: Temporary Deputy Chairman, I support this amendment because it is important for us to have a unified way of learning in the country instead of having confusion. The Ministry of Education, Science and Technology should take issues seriously when we have institutions trying to bring other curricula into our system. They should be discouraged.

I totally support.

The Temporary Deputy Chairman (Hon. Cheboi): Very well.

*(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 28 as amended agreed to)

Clause 29

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

THAT Clause 29 of the Bill be amended by deleting Sub-clause (3).

Amendment to Clause 29 is moved because of enumeration to ensure that it is moved in the next clause dealing with the composition of the Board of Management. We want to ensure that each clause is dealing with the next one.

(Question of the amendment proposed)

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

(Clause 29 as amended agreed to)

Clause 30

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

THAT Clause 30 of the Bill be amended—

(a) in Sub-clause (1) by—

(i) deleting the word “children” appearing in paragraph (a) and substituting therefor the word “pupils”;

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

(c) two persons with experience in matters of nutrition and social work relating to early childhood development and education nominated by the County Governor on the recommendation of the County Education Board;

(iii) inserting the following new paragraph immediately after paragraph (d) —

(da) one person to represent children with disabilities

(db) the head teacher of the education centre, who shall be an *ex officio* member.

(b) in subclause (3) by deleting the word “principal” and substituting therefor the word “head teacher”

(c) in Sub-clause (4) by inserting the word “of Management” immediately after the word “Board” where it appears at the first instance and third instance”;

(d) in Sub-clause (5) by inserting the word “of the Board” immediately after the word “committee”;

It is proposed that the nominees by county governors be persons with experience in matters of nutrition and social work relating to Early Childhood Development. That is in Sub-section (a)(i) and (ii). It is also in Sub-section (a)(iii)(da)(db). The justification is that a representative of the children with disabilities will advocate their needs at the Board of Management. They need to have somebody who has the feeling and the experience of disability, in the Board of Management.

Those are the amendments we propose.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give chance. Let us see a Member who has not spoken this afternoon. Hon. Dawood has spoken, but the rest have also done the same. So, let us have Hon. Dawood.

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairman.

I support this. In fact, I support the one which says people who have experience in nutrition and social work together with one person to represent children with disabilities. I think many people disregard children who have disabilities and parents have no say in whatever is happening in the schools.

So, I support this fully.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Chairman, Member for Kaloleni. Go to the next one please. Sometimes we have to use alternative mechanisms.

Hon. Chea: I agree, Hon. Temporary Deputy Chairman.

I support this amendment. I think the idea here is to have some mechanism in which the county governor or the nominating authority will really get the people who will add value to the affairs that are supposed to be discharged.

So, I support.

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

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

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

(Clause 30 as amended agreed to)

Clause 31

Hon. Melly: Thank you, Hon. Temporary Deputy. I beg to move:

THAT Clause 31 of the Bill be amended—

- (a) by inserting the word “of management” immediately after the word “Board” in the opening statement;
- (b) in paragraph (a) by deleting the word “the said” and substituting therefore the word “these”;
- (c) in paragraph (d) by deleting the word “ to” appearing immediately after the word “equip”; and
- (d) in paragraph (h) by inserting the word “of” immediately after the word “implementation”.

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

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

Hon. Temporary Deputy Chairlady, the justification is to have correction of the typo errors that are many there.

(Question of the amendment proposed)

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

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

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

(Clause 31 as amended agreed to)

Clause 32

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

THAT Clause 32 of the Bill be amended by inserting the words “of management” immediately after the word “Board”.

The reason the Committee had is to distinguish it from the County Education Board (CEB) and to distinguish the two boards; the BoM and the CEB.

(Question of the amendment proposed)

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

(Clause 32 as amended agreed to)

Clause 33

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

THAT Clause 33 of the Bill be amended—

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

“(1) There shall be a Parents Teachers Association for every public and private school consisting of—

(a) every parent with a child in the education centre;
and

(b) a representative of the teachers in the education centre

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

(1A) There shall be an Executive Committee of the Parents Teachers Association consisting of representatives of parents with children in each level within the education centre and a teacher.

(1B) The members of the Executive Committee of Parents Teachers Association shall be elected during an annual general meeting of parents and teachers.

(1C) The Parents Teachers Association shall, at its first meeting, elect a Chairperson from amongst the persons elected under Sub-section (3).

(1D) The Chairperson of the Parents Teachers Association shall be co-opted to the Board of Management.

(1E) The head teacher shall be the Secretary to the Parents Teachers Association.

(c) in Sub-clause (2) by—

(i) deleting the word “children” wherever it appears and substituting therefor the word “pupils”;

(ii) deleting the word “recommend” in paragraph (e) and substituting therefor the word “approve”

The justification is that rather than leave it to the County Secretaries of Education and the CEBs to determine the constitution of PTAs, it is proposed, for equality in ECDs, including equal standards, the law should provide guidance on the composition of PTAs. As earlier indicated, it was only the County Executive Committee Member (CEC) of education and the CEBs that would determine the constitution of PTAs. We are saying that we also let the education providers do their work. The law should provide for guidance on the composition of PTAs so that all other stakeholders are involved.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member for Muhoroni, is he in the House? He is not in. Hon. Dawood.

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairlady.

This new clause 33(a) is a very good one, in that we will have only parents of children in each level represented. It is unlike what has happened previously; parents whose children have finished school were still in the PTAs. With this, there will be more clarification.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Iringo?

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Chairlady.

I support the proposal by the Vice-Chairman of the Committee. PTAs are very important organisations in learning institutions. Their composition should be all inclusive. All stakeholders should be involved in getting these PTAs. It is because they are the people who run and, own the schools.

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

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

put and agreed to)

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

(Clause 33 as amended agreed to)

(Clause 34 agreed to)

Clause 35

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair you have an amendment.

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

THAT, Clause 35 of the Bill be amended—

- (a) in the opening statement by deleting the words “committee or”;
- (b) deleting the word “child” wherever it appears and substituting therefor the word “pupil”;
- (c) deleting the word “children” wherever it appears and substituting therefor the word “pupils”;
- (d) by deleting paragraph (f).

The justification is that it is not necessary to keep a record that parents regularly examine the record of attendance of their children. This was trying to legislate what is obvious. It is not necessary at all because a parent can go there 10 or five times in a day but it is not necessary to keep those records as part of the law.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

Clause 36

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair of the Committee.

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

THAT, Clause 36 of the Bill be amended—

- (a) in Sub-clause (1) —
 - (i) by deleting the words “or caregiver” the opening statement;

- (ii) in paragraph (d) by deleting the words “ and a medical certificate evidencing soundness of mind”;
- (iii) by inserting the following new paragraph immediately after paragraph (d) —
 - (e) a medical certificate evidencing soundness of mind;
- (b) in Sub-clause (2)—
 - (i) by deleting the words “principal or” the opening statement;
 - (ii) by inserting the words “and has at least two years’ experience in matters of early childhood education” immediately after the word “development” in paragraph (a)
- (c) in Sub-clause (3) by deleting the words “Each County Government” and substituting therefor the words “The Teachers Service Commission”.
- (d) in Sub-clause (4) by deleting the words “County Government” and substituting therefor the words “Teachers Service Commission”.

The justification of this amendment is that, by the preceding clauses, all registered teachers may offer early childhood education. The term “caregiver” is not defined or used elsewhere in the Bill.

Additionally, the qualifications mentioned thereafter refer to early childhood education teachers. So, in this case, we are trying to ensure that the Bill is all-inclusive and does not include terms that are not used in the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Member for Kaloleni, do you want to comment on that amendment?

Hon. Chea: Yes, Hon. Temporary Deputy Chairlady. I wish to support the amendments, in particular the one that deletes the requirement for a medical certificate evidencing soundness of mind. I find that not necessary.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gikaria, do you want to speak on that amendment?

Hon. Gikaria: Yes, I do support that. As the Vice-Chair has just indicated, it is important for us, particularly the caregiver. This has always been a subject of a lot of discussion in most of these ECDEs. So by giving that definition, I think it is going to be clear.

Thank you.

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

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

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

(Clause 36 as amended agreed to)

(Clause 37 agreed to)

Clause 38

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chair.

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

THAT, Clause 38 of the Bill be amended by deleting the words “in consultation with the Council of Governors” in the opening statement.

The justification of this amendment is that the recruitment of ECE teachers is the exclusive mandate of the Teachers Service Commission (TSC) as provided under Article 237 of the Constitution. Further, TSC is an independent commission that is subject only to the Constitution and not subject to direction by any other person. This is to ensure that the mandate given to TSC to recruit and deploy the teaching force in this country is for TSC, not any other body outside it. Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Member for Makueni.

Hon. Maanzo: Thank you, Hon. Temporary Deputy Chairlady. The deletion of “in consultation with the Council of Governors” is quite right in the sense that we must make sure that TSC is independent. If you keep having consultation with CoG then it will waste time. So this is a proper amendment and I support it.

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

(Clause 38 as amended agreed to)

Clause 39

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair of the Committee.

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

THAT, Clause 39 of the Bill be amended in Sub-clause (2) by deleting paragraphs (b) and (c)

The main reason is to leave out charges levied on children who are entering early childhood education centre to make sure that there is education for all.

Thank you.

(Question of the amendment proposed)

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

(Clause 39 as amended agreed to)

(Clause 40 agreed to)

Clause 41

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair of the Committee.

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

THAT, Clause 41 of the Bill be amended—

- (a) in Sub-clause (2) by deleting the word “principal” wherever it appears and substituting therefor the word “head teacher”
- (b) in Sub-clause (3) by—
 - (i) deleting the word “principal” and substituting therefor the word “head teacher”;
 - (ii) inserting the words “passport or any other recognised identification document” immediately after the words “birth certificate”;
- (c) by deleting sub-clause (4).

The justification of this amendment is that the proof of age may be by a passport, if a child has one or any other document that may be recognised as an identification document. That is for standard purposes and no any other form of identification on age of a child.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Member for Igembe Central.

Hon. Kubai Iringo: I support the Vice-Chair because identification is a very important document and we should cover all forms of identification. Even small children have passports. I agree with the Vice-Chair that this needs to be included. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Member for Nakuru Town East.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Chairlady. I want to support this. We have children who want to join nursery school but the documents they are told to produce are too much. What the Vice-Chair is doing is trying to simplify an entry to a nursery school. They even ask for clinic cards and other mothers never went for clinic.

At the same time, the fees he was mentioning under Clause 39, they needed to have specified what levies we are talking about, like admission. They need to say admission and this. It is becoming a nightmare in some of the schools.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I am sure the Vice-Chair has heard you.

(Question of the amendment proposed)

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

put and agreed to)

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

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

(Clause 41 as amended agreed to)

(Clause 42 agreed to)

Clause 43

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair of the Committee.

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

THAT, Clause 43 of the Bill be deleted.

We are justifying that the grouping of children in a school be left upon the teacher or the education centre to assess the pupils' abilities and select a mode of grouping them. Earlier, they wanted to set criteria for grouping children based on a standard, but the teachers are well trained; they know the abilities of the pupils. They can group as per age or as per what the teacher deems fit. So, that clause should be deleted.

Thank you.

(Question of the amendment proposed)

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

(Clause 43 deleted)

Clause 44

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

THAT, Clause 44 of the Bill be amended—

(a) by deleting sub-clause (1);

(b) in sub-clause (2) by deleting the word “child” and substituting therefor the word “pupil”.

This means the incentives may be given to pupils, but this needs not be mandated upon the teachers or the school by law. We cannot set a standard of incentives. An incentive can be given based on the will and the ability of the school to give. We cannot set a standard that every school should give a particular incentive of a certain level.

(Question of amendment proposed)

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

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

(Clause 44 as amended agreed to)

(Clause 45 agreed to)

Clause 46

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

THAT, Clause 46 of the Bill be amended—

- (a) in subsection (2) by deleting the words “county executive committee member” and substituting therefor the word “relevant stakeholders including the national and county quality assurance bodies”;
- (b) in subsection (4) by deleting the words “county executive committee member” and substituting therefor the words “Kenya Institute of Curriculum Development”;
- (c) by deleting sub-clause (5);
- (d) in sub-clause (6) by deleting the words “county executive committee member” and substituting therefor the word “Kenya Institute of Curriculum Development”

The justification is that consultation should be held with all the concerned stakeholders, including the CECs in charge of education in all counties, teachers and parents. The curriculum that is taught in all ECD centres will be standardised to ensure equal standards as the children will require similar educational foundation when they transit to primary school. This is to ensure that the process of setting up educational standards is consultative or inclusive of all the stakeholders in the society.

In sub section (b), we are doing an amendment to give the mandate of curriculum development to KICD as mandated by Section (5) of the KICD Act. The KICD is responsible for the review of curriculum programmes for all levels of education except universities. Therefore, we do not want to introduce other bodies to undertake review of the curriculum for early childhood education. We want to make sure that we have a set standard of curriculum across the country.

In sub section (c), the justification is that the provision is a repetition of sub-clause 1. That is why we introduced the amendment.

Lastly, the KICD is the relevant body to review the curriculum and publish it. If we allow many bodies to undertake that function, we will cause a problem of standardisation.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Dan Maanzo, the Member for Makueni.

Hon. Maanzo: Thank you, Hon. Temporary Deputy Chairlady. This has been the cause of most of the confusion when it comes to CEC member in charge of education. It has been substituted with the words “relevant stakeholders including the national and county quality assurance bodies”. These are national Government officers. In this case, we are dealing with special schools and the issue of the KICD. I agree with the Vice-Chair so that we do not end up with a situation where different bodies develop curricular for different counties. In this particular regard, this is the institution which should do curriculum development in consultation with all education stakeholders, but not excluding some. This is a great amendment. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nyikal, do you want to speak to this amendment?

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady, I would like to seek some clarification on (c). The Vice-Chair of the Departmental Committee said that sub clause (5) is the same as sub clause (1). Sub-clause (1) talks about the day we produce the curriculum, but sub-clause (5) goes ahead to say that there will be other people involved. There is a slight distinction between the two provisions. I do not know whether that is what he sought to remove.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Departmental Committee Vice-Chair, could you explain your proposal to delete sub-clause (5), so that the Member for Seme can understand?

Hon. Melly: Let me make it clear for the Member that we are actually trying to bring clarity. The provision is a repetition of sub-clause (1). Earlier on, we carried out amendments to ensure that no other bodies are involved in curriculum review and development apart from the KICD. However, in this case, those other bodies or stakeholders will be involved. In sub-clause (1), we had indicated that only the KICD would be carrying out the review process. The other bodies would not be part of the review process.

*(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 46 as amended agreed to)

Clause 47

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

THAT, Clause 47 of the Bill be deleted.

This is to ensure that the aspects of standards and procedures of curriculum development fall under the purview of the KICD. Earlier on, I alluded to the fact that we do not want other bodies to carry out curriculum review. We want a centralised body to carry out that function, but in consultation with other stake holders across the country.

(Question of amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

(Clause 47 deleted)

Clause 48

Hon. Melly: Hon. Temporary Deputy Chairlady, I beg to move: -
THAT, Clause 48 of the Bill be amended—

(a) by inserting the following new sub clauses immediately after sub-clause (2) —

(2A) A head teacher of a public education centre who—

(a) imposes a charge without the approval of the county executive member in consultation with the County Education Board and the respective Parents Teachers Association as specified under subsection 2(b) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

(b) refuses a child admitted in an education centre to attend the education centre because of failure by the parent or guardian to pay charges imposed on the child, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or both.

(b) in sub section (4) by inserting the word “education” immediately before the word “centre”.

Hon. Melly: Hon. Temporary Deputy Chairlady, these amendments are intended to deter the management of early childhood education centres from imposing additional charges or disallowing pupils to attend school due to non-payment of additional costs. This is to ensure that all the children in the country attain basic education. This will apply to head teachers and those teachers who take care of children in ECD centres. If they impose additional charges, they shall be dealt with accordingly by law to deter them.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ken Okoth.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. I want to speak to this amendment because we are making the law in context. I am a Member of this Committee. This Bill came from the Senate. Even as we talk about extra fees, it is like we have already decided that only a certain amount of money should be charged and that any extra amount must be negotiated with the PTA. That is extreme. As we talk about ECD centres, we should appreciate that this a country of poor people. I wish we could be as explicit as the Constitution. We have committed ourselves in Vision 2030 and the Strategic Development Goals (SDGs) that ECD should also be free and funded by county governments. They should set good policies and not argue about how much fees should be charged. They should also work out the procedures that head teacher should use to determine how much more to charge.

I beg to oppose this amendment and ask Members to oppose it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ken Okoth, you said you are a Member of the Departmental Committee on Education, Research and Technology?

Hon. Okoth: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): It is totally out of order for a Member of a Committee to oppose an amendment on the Floor of the House. You had the opportunity to do that in the Departmental Committee. That is why we require Committees to bring reports that are agreeable to their Memberships.

Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Chairlady. Let me start with what Hon. Okoth has just said, which I totally agree with.

It is true, but at the same time, even if levies are to be charged like school fees, of course schools have to be sustained, such levies must be reasonable. I will tell you the truth that there is a place in Nakuru where kids can no longer go to nursery school. Under our Constitution, every child has a right to education, which must be provided by the Government, be it at the county level or at the national level. So, the Committee needs to look into it. If we have free education in primary and secondary schools, why not have the same for our early childhood education? The Committee should look at that concern.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have the Hon. Member for Rangwe, on the same clause?

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairlady. The Constitution is clear. Basic education is a right and the Government should not seek to uphold rights which it cannot pay for. Every responsible Government must adhere to the Constitution of its country. Basic education is a right and if a child has to go to an ECDE centre, it is required by law that he or she goes to school. You cannot tell the child that she must pay for the education which she requires to attend. The ECDE must be free just like primary and secondary education. Those elements of basic education must be free as of right. This amendment must be clear that nobody should charge any fees at the ECDE level.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have the Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Temporary Deputy Chairlady. I want to support the same. This amendment tends to improve what was in the original Bill. I do not think it goes far enough. It allows some people at some level to charge fees. The Mover would have done better to declare that a teacher who imposes a charge, and leaves out all those within and without, shall be liable to a conviction. That would have made this provision of the law clear. We know that when you allow people to levy a charge, they have a tendency to increase the charges. The essence of having free ECDE will be lost. So, I appeal to the Mover that this be amended further to exclude any charges at all.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman of the Committee, just for the purpose of clarity, is your amendment imposing a charge after consultation with other bodies? If you are allowing for the imposition of a charge after consultation with other bodies, it means that ECDE is not free!

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. The original Bill proposed by the Senate was allowing CECs and even their boards to impose some fees. In this case, and Hon. Okoth, who is a high-ranking Member of this Committee, was aware of this fact, we indicated that we want to sanction proposals intended to deter the imposition of additional

charges and deter teachers from sending children away for non-payment of those additional costs.

In this case, the intention of the Bill, as was given to us, was that there were certain costs that parents were supposed to pay. Our stand is that we do not want them to be paid and we are giving a sanction to the teachers.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Members, I get where the Vice-Chairman is coming from. I can quickly read the original Bill from the Senate.

“Clause 48

- (1) A public education centre shall not charge or cause any parent or guardian to pay tuition for or on behalf of any people in the education center.
- (2) Notwithstanding subsection (1), a public education center-
 - (a) may charge tuition fees for the education of children who are not citizens of Kenya.
 - (b) may with approval of the county executive committee member and in consultation with the County Education Board and the respective Parents Teachers Association (PTA) impose such other charges as it may consider necessary for the management of the education centre.”

As a Committee, you suggest this amendment as follows:

“Clause 48

- (2A) A head teacher of a public education center who—
 - (a) imposes a charge without the approval of the county executive member in consultation with the County Education Board and the respective Parents Teachers Association as specified under subsection 2(b) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.”

So, this is deterrent and is different from the original. So, you have provided for a deterrent measure and have not clearly said that there should be no fees charged. It is just a deterrent.

Take the microphone. We know you are on record because you are the Vice-Chairman.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. We are deterring them, but we are not expressly telling them not to charge.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think that is where the concern of the Members lies. That is why Members are wondering why you would not just make it clear, unless in the Free Primary Education policy of the Government, the ECDE is not free. If it is free, it should be very clear that there should not be any charges. Am I not right Members? Let us have two more people. The Vice-Chairman needs to hear more suggestions. Let me start with Hon. Birdi. Mr. Vice-Chairman, you could also consult your clerk.

Hon. (Ms.) Sunjeev: Hon. Temporary Deputy Speaker, I seek some clarification. Under immigration rules and regulations, if one is born in this country, it does not necessarily mean that one is a citizen. According to the regulations, one of the parents has to be a citizen of this country when a child is born. So, that particular clause, unless amended, will lock out many

children who are born in this country, but are not necessarily citizens. The definition does not fit. I seek guidance on that concern.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think the Vice-Chairman is listening. Let us have the Member for Makueni.

Hon. Maanzo: Hon. Temporary Deputy Speaker, I do not think there is any contradiction. It is quite clear and even the fines imposed are quite punitive. There is no law without exceptions. What we have done is to create an exception which is necessary and this is well checked. So, I do not think there is anything wrong. I support the Vice-Chairman and we should pass it as it is.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chairman, let me also clarify before you make your last comment.

Hon. Members, the Bill is clear that a public education centre shall not charge tuition fee. However, it gives provision for charging other levies, for example, trips. The Committee, in its amendments, has ensured that even that charge must be in consultation with the three bodies that have been mentioned. They are allowed to impose a penalty if the charge is levied without consultation. So, let us get it clear. There is no payment of tuition fee. What the Committee is trying to cure is the creation of a penalty even where other charges, which could be anything, are supposed to be levied after consultation.

Let us have Hon. Nyikal.

Hon. (Dr.) Nyikal: Let me express my fear. This is how it starts. You say there is no charge unless there is consultation with the County Executive Board and the respective PTAs as expressed under this proposed amendment. It, therefore, means that PTAs will sit and agree on some fee which they deem necessary. Then this will be approved by the County Education Board (CEB). This is how secondary schools which perform well literally become private schools. If a secondary school does well today, the PTA sits down and adds levies which are approved by the CEB and the fees goes higher. Let it be clear that there is no charge for ECDE and it will be okay.

In fact, if you look further at Clause 48(2A)(b), it says that the education centre shall not refrain a child from attending the centre for the reason that the charges imposed have not been paid. This is another confusion we have in this country. We usually say that we have free primary and day secondary education. Head teachers still charge some levies which we are fighting and say they will not send the children away, but they send them away. They say they cannot retain their certificates and we know certificates are being retained.

I would delete Clause 48(a) and amend it as follows:

“(2A) A head teacher of a public education centre who—

- (a) imposes a charge shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.”

Now, it will be closed and that is what I will appeal to the Vice-Chair to amend.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chairman, before we proceed, I know you have done some consultations. We could be arguing on things which you would want to clarify.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. First of all, I want the Members to read this Bill because we are against tuition charges. The Bill is very clear in Clause 48(a)(2A) that if head teachers are to run schools, parents will have to pay for trips and meals if there are any. This is practised in our schools. If you look at the Bill, its proponent was lifted

from the Basic Education Act and the intention was that the children of Kenya shall not be charged tuition fees. A foreigner can be charged. What are these charges? A penalty will be imposed on the principal or manager of a school if he goes against them.

If you look at the sanction we are giving, it is to ensure that the fees are minimal and in consultation with all the stakeholders. In essence, we are not allowing head teachers to charge fees, but telling them to charge for trips or other things and this should be in consultation. We are in Kenya and we know this happens.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chairman, before I give the Members a chance to continue speaking, let us get the main concern which is levying of fees and additional charges. You are curing something which is not in the Bill. The Bill says no charges. So, what are you curing because you have consulted? Are you stopping extra charges on fees or fees in totality?

Hon. Melly: Extra charges.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have not put what the extra charges are. You know you can open up charges for anything. If you give somebody a chance to levy a fee, they will get a reason, irrespective of whether they hold consultations. If schools decide to charge extra fees on anything, they can come up with anything and it will be very illogical and will hurt the parents. You may remove tuition fees, but create an almost equal fee with these extra charges. I do not know whether you are getting my point. Are you able to say exactly what your charges will include? You are not.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Rangwe.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairlady. Looking at the Basic Education Act which he is referring to, it is a total failure. I used to be a BoM member in a school before I became a Member of Parliament and we used to charge Kshs11,000 for a whole year. The Government used to pay the same school Kshs12,000 per child as capitation for free day secondary education.

The school is now charging Kshs21,000 because they have created extra charges. If you open this window, you are going to make ECD costly than before levying tuition fees. People are clever and they will create things and say, for example, the children need Nan and then they charge it more than food. The Vice-Chairman should just close the door and do not say anything like “with approval”. He should just say a head teacher of a public education centre who imposes a charge commits an offence and must go to jail or pay a fine. He should remove all those exceptions he is putting in between and increase the fine. That way, we will cure this once and for all. If we let that loophole into this Bill, it will fail the same way the Basic Education Act has failed. I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we now have to put the Question because we have argued from both sides. Hon. Vice-Chairman, if you are not able to bring a further amendment, we have no choice. Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Chairlady. I think you have made it very clear by trying to get the right meaning from the original Bill. We are trying to correct something which is not there. As Hon. Nyikal has put it, if we allow this, a school will start doing well from nursery school and the parents, who are unable to pay fees, will agree to the levies and eventually their children will be sent home.

It is important to do a further amendment as the Member for Rangwe has put it. We just delete it and say that “if a head teacher of a public education centre imposes a charge, he or she

commits an offence.” I agree with the penalty and it should be harsher. I have a school in my constituency which charges Kshs9,000 for Standard One which the parents are unable to pay. When the head teacher is asked, she says that she has given her responsibility to the PTA Chairman. The PTAs should not be here. They are the worst people. The PTA Chairman has a child in that school and usually sends other children away.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Vice-Chairman. Everybody now wants to speak. It is like we are going back to Second Reading and we are in the Committee of the whole House.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. I have listened to the Hon. Member’s contributions and fears. First of all, the intention of this Bill was to ensure that ECD is accessible to all Kenyans. But looking at the sanctions, they are opening up a loophole. I wish to propose a further amendment to the section of being refused to attend school because of non-payment of the additional costs. So, it ends at imposing a sanction on the part of the head teacher.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I do not want us to rush the Vice-Chair of the Committee to propose a further amendment that does not solve the problem that we have on this Floor. It is very simple. You are proposing a sanction for somebody who imposes other charges. In short, this means that they can impose other charges. Members are saying that there should be no additional charges. Once you impose an additional charge for hot lunch, parents can then be told to pay money to buy printing paper for exams and then for a school trip. At the end of the day, the parent can end up paying more than the original fees. That is the concern of Members. How many Members of the Committee do we have here?

Hon. Okoth, Member for Kibra, please, approach your Vice-Chair. Let us propose a further amendment.

Hon. Kajwang’: On a point of order, Hon. Temporary Deputy Chairlady. You did not see what was happening behind here.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I did not see. Hon. Members, so that we can give the Vice-Chair time, can we suspend the determination of the amendment of the Committee to Clause 48, go ahead with the rest and then come back to the amendment to Clause 48 as we give the Vice-Chair time to consult on the best option? We have suspended consideration of the amendment to Clause 48 for the time being as the Committee agrees. We can continue with the rest.

(Consideration of Amendment to Clause 48 suspended)

Hon. Vice-Chair, can we move to the next clause as the clerk consults?

Clause 49

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

THAT, Clause 49 of the Bill be amended—

(a) in Sub-clause (1) by—

(i) deleting the word “and” appearing after the word “materials” in paragraph (a);

- (ii) inserting the word “and” immediately after the word “materials” in paragraph (b);
- (b) deleting Sub-clause (2);
- (c) deleting Sub-clause (3); and
- (d) deleting Sub-clause (4).

The justification is that the information in Clause 49(2) to (4) on the programmes of an education centre, the times when an education centre should open and rest periods are better left to the regulations which are more detailed. In this case, to develop or legislate on the programmes and times should be left to the Cabinet Secretary (CS) to develop regulations that will run ECDs.

(Question of the amendment proposed)

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

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

(Clause 49 as amended agreed to)

Clause 50

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

THAT, Clause 50 of the Bill be amended by—

- (a) renumbering the existing provision as Sub-clause (1);
- (b) inserting the following new sub-clause immediately after the proposed Sub-clause (1) —

(2) A head teacher of a public education centre who offers early childhood education services or offers tuition in an education centre during school holidays, a day declared to be a public holiday or weekends contrary to subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twelve months or both.

I propose that Clause 50 be further amended. Clause 50 is also at variance with Clause 48.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I can see that. I am actually reading it.

Hon. Melly: I propose that we further amend that particular clause. It shall be read together with Clause 48.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you want us to suspend Clause 50 as well?

Hon. Melly: Yes, let us suspend Clause 50.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us not assume it has a problem. Let us hear from the Members. Let us have the Member for Nyandarua. We are considering the amendment to Clause 50.

Hon. (Ms.) Muhia: Hon. Temporary Deputy Chairlady, I would go with the suggestion of the Vice-Chair of the Committee that we move Clause 50 together with Clause 48. I was concerned with Clause 48 because I am a stakeholder in many nursery schools and I offer nursery school education for free. If I offer free ECE, why can the Government not do the same?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nyikal, have you read Clause 50? Would you like to speak on it?

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady, it seems okay unless you introduce tuition. Once you introduce tuition, we should give it time and consult more on it like with Clause 48.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chair, early childhood education is kindergarten and nursery. Why would you need tuition in kindergarten and nursery school? Why would you even allow the discussion of tuition fees? I am asking you even if I am on the Chair. You are talking about tuition fee for early childhood education which consists of children up to the age of five. Would someone expect a five-year-old child to go back to school for tuition during the school holidays? What are you asking? I can see the word "tuition".

Hon. Melly: Hon. Temporary Deputy Chairlady, it is not the tuition that we know in this country where children go back to school outside the dates provided in the school calendar. It is the normal learning. When you talk about tuition in this case, it is the payment of fees to offer education. It is not about taking children back to school during holidays.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The sanction you have put here seems as though you are anticipating a head teacher, who offers early childhood education services in an education centre during school holidays, a day declared to be a public holiday or weekends contrary to sub-section (1) to be deemed to have committed an offence.

Hon. Melly: What clause is that?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We are on Clause 50.

Hon. Melly: Yes, that is why we have said we are not looking at it. We will consider it together with Clause 48. I have seen a lot of variance in that particular clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chair, we can dispose it off because it has no relationship with Clause 48. It talks about a very different scenario which brings in tuition during holidays.

Hon. Melly: It is wrong.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): It is wrong. You have said it yourself. We can get rid of it. We do not even need to wait. You can either withdraw it or we can vote on it.

Hon. Melly: I can withdraw the amendment to Clause 50.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Say on record that you wish to withdraw the amendment to Clause 50.

Hon. Melly: I withdraw the amendment to Clause 50.

(Proposed amendment to Clause 50 withdrawn)

(Clause 50 agreed to)

Clause 51

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

THAT, Clause 51 of the Bill be deleted.

The justification is that each county should be left to establish its own feeding programme and formulate policy in that regard given its priorities, needs and requirements and to determine its own budgetary allocation for a feeding programme. The particular clause that we are deleting was trying to establish a way of dealing with the feeding programmes and formulating policies in schools. We felt that, that should be left to individual counties.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, is there anybody who wants to speak on that? Let us have Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady, I want to support it. Once you bring that, you cannot know the burden you are creating. So, if you leave it, policies will be formulated as has been said. I support that amendment.

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

(Clause 51 deleted)

Clause 52

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

THAT, Clause 52 of the Bill be amended by deleting the words “County Education Board” and substituting therefor the words “Teachers Service Commission”.

The justification is that the TSC should be the body that is mandated to deliberate on matters of teachers to child ratio and responsible for the management, administration as well as monitoring the performance of teachers. The set ratio will go a long way towards ensuring teachers and pupils perform at optimum. This is to encourage the functions of the CEB and the TSC.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Turkana Central

Hon. Nakara: Thank you, Hon. Temporary Deputy Chairlady. That amendment affects Clause 51 because we are trying to bring uniformity. If we go the TSC way, we shall have one recognised body yet in Clause 51 we are leaving every county to do its own way. That is why it was good for us to leave Clause 51 for uniformity purposes. A child from Turkana can get the same education with a child in Nairobi. There is a problem there. We are using the TSC in one area and again using the CEB in another area.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you support that amendment by the Committee?

Hon. Nakara: Yes, I do.

*(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 52 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chairman, are you ready to go back to Clause 48? Please, give us the amendment. You have to read it in totality. I hope Hon. Okoth, Hon. Oner and everybody else are listening.

Clause 48

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

THAT, Clause 48 be amended-

In sub-sections 48(2A)(b) and Sub-sections 3 and 4 be deleted and in place thereof be inserted the following new Sub-clause 2(A)-

(2A) A head teacher of a public education centre who —

- (a) imposes a charge commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months.
- (b) refuses a child admitted in an education centre to attend the education centre because of failure by the parent or guardian to pay any tuition fees or charges imposed on the child, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or both.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I want to hear from the Member for Kibra.

Hon. Okoth: Thank you, Hon. Temporary Deputy Chairlady. I did not mean to be disorderly. I apologise if I seemed disorderly. This proposed amendment is good law because it will guarantee that children go to school. It also ensures that head teachers and PTAs do not have the loopholes to levy fees. Teachers establishing schools will not be in a position to come up with ways of charging fees through crafty means, therefore, denying children their right to education. It is in our Constitution.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you agree with the amendment?

Hon. Okoth: I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Maanzo.

Hon. Maanzo: Thank you, Hon. Temporary Deputy Chairlady. The new amendment fits the bill. We have just managed to clean it up. It is now much better for Kenyans. There is no ambiguity or loopholes, say, where managers of schools could take advantage and levy unnecessary fees. It is clear it is an offence. It now conforms to the Constitution. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The last one is Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Chairlady. I totally support the amendment. When it comes to enforcement, we must ask the Cabinet Secretary (CS) to take stern action because if we leave it at that, schools will continue to levy charges and nobody will take action. We are asking the CS to be vigilant. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, just for record, after the amendment by the Vice-Chairman, please, note that Clause 48(b)(4), which is a proposal to insert the word “education” immediately before the word “centre”, still holds.

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

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

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

(Clause 48 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We are now going back to where we were, Hon. Members.

(Clauses 53 and 54 agreed to)

Clause 55

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

THAT, Clause 55 of the Bill be amended—

- (a) in Sub-clause (1) by inserting the words “County Education” immediately before the word “Board.
- (b) deleting Sub-clause (3)
- (c) deleting Sub-clause (4)
- (d) deleting Sub-clause (5)
- (e) deleting Sub-clause (6)

The justification is that sub-clauses 3 to 6 are being treated as separate clauses for proper flow of the Bill. In essence, the enumeration and the movement of this is for the proper flow of the Bill in the subsequent clauses.

(Question of the amendment proposed)

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

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

(Clause 55 as amended agreed to)

Clause 56

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

THAT, Clause 56 of the Bill be deleted.

This is moved after the clause on granting of accreditation.

(Question of the amendment proposed)

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

(Clause 56 deleted)

(Clauses 57 and 58 agreed to)

Clause 59

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

THAT, Clause 59 of the Bill be deleted and substituted with the following new clause—

Interim accreditation 59. (1) The County Education Board may, in consultation with the County executive member grant to an applicant a certificate of interim accreditation where the County Education Board is not satisfied that that the education centre complies with the prescribed accreditation standards.

(2) An education centre to which a certificate of interim accreditation is issued under subsection (2) shall address areas of non-compliance within such a period as may be specified by the County Education Board not exceeding twelve months from the date on which the certificate is issued and on compliance, resubmit an application to the County Education Board for full accreditation.

(3) The certificate of interim accreditation shall be deemed to have expired if an education centre fails to meet the accreditation standards within the period specified by the County Education Board.

Grant of accreditation. of 59A.(1)The County Education Board in consultation with the County executive member, may —

- (a) grant to an applicant a certificate of accreditation upon satisfaction that the education centre complies with the prescribed accreditation standards and meets the requirements under this Act;
- (b) reject the application.

(2) The certificate of accreditation shall be valid for a period of five years and renewable subject to the education centre meeting the prescribed conditions.

(3) The County Education Board may defer its decision on an application for accreditation and require the applicant to submit to it such additional information or take such measures as it may consider necessary.

Renewal
accreditation

of 59B. (1) An education centre may make an application for renewal of its accreditation to the County Education Board in the prescribed form.

(2) An application for renewal of accreditation shall be submitted at least ninety days before the expiry of the certificate of accreditation.

(3) The County Education Board in consultation with the County executive member shall consider an application for renewal of accreditation

The clauses have been rearranged for proper flow, that is, from application to consideration of application, evaluation of applicants for accreditation, interim accreditation, grant of accreditation and renewal of accreditation. This is to make sure that we have a system in which accreditation is awarded.

(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 59 as amended agreed to)

Clause 60

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

THAT, Clause 60 of the Bill be amended in—

- (a) the opening statement by deleting the words “under section 60”;
- (b) paragraph (a) by deleting the words “throughout the period of accreditation”;
- (c) paragraph (b) by deleting the words “section 48 and such further standards as may be determined by the Kenya Institute of Curriculum Development in consultation with the County Education Board” and substituting therefore the words “under

section 47 and such further standards as may be determined under this Act”

Compliance, standards and conditions set out in the certificate of registration should be for good.

(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 60 as amended agreed to)

Clause 61

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

THAT, Clause 61 of the Bill be deleted.

Hon. Temporary Deputy Chairlady, when a certificate expires, it is deemed obsolete and of no value. There is no need to emphasise that in law or prescribe that the expired certificate be returned to the CEB. When a certificate expires, it is of no value and serves no purpose.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Saku.

Hon. Dido: Hon. Temporary Deputy Chairlady, any certificate that has been deposited with any institution or organ remains the property of the institution. By deleting it, we are going against the grain of the law. Deleting Clause 61 means that from the beginning, the drafters of this Bill had no intention of having it here. The Chairman should give us more explanation about this.

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

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady, this is a monitoring issue. At times, it is necessary to have a certificate back once it is revoked. It may be revoked, but people may still use it. If you have a strict monitoring system, then that is fine. Returning the certificate upon revocation may help. Expiry is different because it carries the date and if anybody sees it, he will know that it is expired. A revoked certificate may be used unless it is surrendered or destroyed. We may need to differentiate revocation from expiry. For revocation, the certificate should be returned to the board as indicated here.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Melly, is the deletion of Clause 61 taken care of in your new clauses?

Hon. Melly: Yes. New Clause 61A caters for deletion. An expired, revoked or void certificate is not supposed to be operationalised by law. Keeping it with the CEB will not be of essence. New Clause 61A caters for the deletion.

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

put and agreed to)

(Clause 61 deleted)

Clause 62

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

THAT, Clause 62 of the Bill be amended by deleting Sub-clause (2).

The justification for this is that once a certificate has been cancelled, it has no value and legal effect. There is no need to emphasise this or prescribe that the certificate be returned to the CEB as it is obsolete.

(Question of the amendment proposed)

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

(Clause 62 as amended agreed to)

(Clause 63 agreed to)

Clause 64

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

THAT, Clause 64 of the Bill be deleted and substituted with the following new Clause—

Register of accredited education centres of 64 (1) The County Education Board shall establish and maintain a register of accredited education centres.

(2) The register established and maintained under subsection (1) shall be open to the public for inspection.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Saku, I hope it is not on what we have already passed

Hon. Dido: If the hammer has fallen, I can reserve my comment. The fear I have in deleting this is a matter of safety. Sometimes, we can say that we are over-legislating, but the important thing is we need---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Sorry! On which clause are you?

Hon. Dido: Clause 68.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): But we are not deleting Clause 68.

Hon. Dido: I am obliged.

(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 68 as amended agreed to)

(Clauses 69 and 70 agreed to)

Clause 71

Hon. Melly: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 71 of the Bill be deleted.

The justification of this amendment is that whether the Bill is or not a money Bill, it need not be in law. This is a matter for determination by the Speaker of the National Assembly. In this case, this clause was trying to give a determination, which is done by the Speaker of the National Assembly.

(Question of the amendment proposed)

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

(Clause 71 deleted)

Clause 72

Hon. Melly: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 72 of the Bill be amended—

- (a) in Sub-clause (2) by deleting the words “county executive committee member may, taking into account any policies, standards or regulations applying to all education centres prescribed by the Cabinet Secretary” and substituting therefor the words “Cabinet Secretary may”
- (b) by inserting the following new paragraph immediately after paragraph (f) —
 - (fa) prescribe fees required to be paid under this Act;

The justification of this amendment is that the power to make regulations for purposes of equalisation of standards across counties should be vested with the Cabinet Secretary (CS), who may consult with the Council of Governors. This function is bestowed on the CS by the Constitution and the national Government.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairlady, I did not get it clearly. The general trend is limiting any form of regulation check-up by the county governments. If you look at early childhood education, we will have thousands of schools all over. If we leave all this to the national Government, even without some delegation, then we will have a problem of very many of those schools and people who are not checking. So, I just want to hear more details about Clause 72.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have the Deputy Chair.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. I want to inform the Hon. Member that the power to make regulations or to set standards across counties should be vested in the CS. It does not mean that the CS will do it alone. What we are trying to indicate here is that counties, whenever they carry out their functions, should ensure that standards of education across the country are the same. If we allowed counties to carry out different policies and programmes which are not guided by the CS--- That is an Article of the Constitution which remains with the national Government, especially on policy and making sure that standards of education are the same across all counties. However, the counties can still do part of their work on early childhood education.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Saku.

Hon. Dido: Thank you, Hon. Temporary Deputy Chairlady. I beg to support this clause. We have a single education system in Kenya and once we allow the 47 counties to come up with their regulations and policies, then I think we will have chaos in this country. I support that the CS should be at the centre of formulating policies and regulations.

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

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

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

(Clause 72 as amended agreed to)

(Clause 73 agreed to)

Clause 74

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

THAT, Clause 74 of the Bill be amended—

(a) in paragraph (a) by—

(i) by deleting subparagraph (i) and substituting therefor the following new subparagraph—;

“(i) deleting the words “pre-primary education institutions and” and substituting therefore the word “early childhood education” in the definition of the word “basic education”

- (b) inserting the following new paragraph immediately after paragraph (a)—
- (aa) in section 4(g) by deleting the word “pre-primary” and substituting therefor the words “early childhood”.
- (c) deleting paragraph (b) and substituting therefor the following new paragraph—
- “in section 18(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”.
- (d) inserting the following new paragraphs immediately after paragraph (b)—
- (ba) in section 26(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”.
- (e) in paragraph (c) by inserting the words “and substituting therefor the words “early childhood” after the expression “Section (28)(2)(a)”.
- (f) by inserting the following new paragraphs immediately after paragraph (c)—
- (ca) in section 41 by deleting the word “pre-primary” appearing in paragraph (a) and substituting therefor the words “early childhood”.
- (g) in paragraph (d) by inserting the words “ and substituting therefor the words “early childhood” after the expression “Section 44(2)”.

These are consequential amendments to the Basic Education Act. Rather than delete the term “pre-primary education” where the term is used not to refer to matters covered under the ECD Bill, the term “early childhood education” is best suited to be used in place of the term “pre-primary education.” For instance, in the definition of the words “basic education,” rather than remove the term “pre-primary education,” the term “early childhood education” replaces this term since basic education included early childhood education. It is consequential to the Basic Education Act.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Makueni, are you interested?

Hon. Maanzo: Hon. Temporary Deputy Chairlady, I support this amendment because there have been too many names on early childhood education. There have been names like “pre-primary”, “baby class”, “pre-unit” and many others. It is good that we put all these into one so that we have just one way of calling them and we standardise it in the county for the benefit of the children of Kenya. I support.

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

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

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

(Clause 74 as amended agreed to)

New Clause 20A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I call on the Mover to move Second Reading of New Clause 20A.

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

Change of premises. THAT, the following new clause be inserted immediately after clause 20—
of 20A. (1) The head teacher of an education centre shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless he or she has applied to, and obtained the approval of the County Education Board.

(2) In determining whether to grant approval of premises under subsection (1), the Board shall take into account the criteria specified under section 17.

(3) The head teacher of an education centre shall notify the County Education Board of any change in the location of the education centre including -

- (a) the acquisition of premises that are in addition to its current premises; or
- (b) the relocation of the education centre to a different premises from that currently occupied by the education centre.

(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 21A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I call on the Mover to move the Second Reading of New Clause 21A.

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

THAT, the following new clause be inserted immediately after clause 21—
 Obligations of a private education centre 21A. A private early childhood education provider registered under this Act shall—

- (a) establish the structures necessary for the management and administration of education within the centre;
- (b) recruit persons who are qualified and registered by the Teachers Service Commission to teach the early childhood education curriculum in the education centre;
- (c) administer a curriculum that adheres to the early childhood education policy and this Act;
- (d) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards;
- (e) maintain necessary teaching and learning materials and equipment;
- (f) maintain a data bank on pupils admitted in the education centre and submit to the county executive committee member; and
- (g) met such other requirements as the committee executive committee member, in consultation with the County Education Board, may consider necessary for the delivery of quality early childhood education services within the county.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gikaria, do you want to speak on this?

Hon. Gikaria: Yes. I think it is important. More emphasis should be put particularly on Clause 21A(b), which says:

“recruit persons who are qualified and registered by the Teachers Service Commission to teach the early childhood education curriculum in the education centre.”

In the past, they have just been getting teachers from right, left and center. This requirement will go a long way in trying to standardize our education at early childhood.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Mover, at this point, you can explain your new clause and its implication.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. The main reason we have this is to have a logical flow after Clause 20. You will realize that there are no structures. Every education sector or component must have structures for the management and administration of education centres. Earlier on, you would realize that if you go to a secondary school in this country, you would have a board of management, principal, staff, teachers and the student body. In early childhood education, we had not established structures on how it is going to be managed. This Bill is going to cure that.

Secondly, it is about the level of education of teachers. Who are those teachers? In this country, individuals who know how to speak English and Kiswahili are picked from the streets and made teachers in early education centers. This Bill is going to ensure that every teacher who is going to teach in early childhood education centres should be well trained, certified and a registered teacher with the TSC.

Lastly, this Bill wants to maintain the necessary teaching and learning materials and equipment and maintain a data bank as a centre. It should have materials, teaching and learning aids. It is a necessary clause to ensure that early childhood centres meet the required standards.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gikaria.

Hon. Gikaria: Hon. Temporary Deputy Chairlady, I am seeking some clarification. If you look at the New Clause 21(f), it says:

“maintain a data bank on pupils admitted in the education centre and submit to the County Executive Committee (CEC) member.”

Is it CEC member or committee? If you have to maintain a data bank of all the pupils, it must be sent to a board or a committee and not to individual members. I need some clarification.

Hon. Melly: That is the CEC member in charge of education. He or she should know the number of pupils and children in all ECDs in the country. It is not sending to the board, but the CEC in charge of education. He needs to understand how many pupils are in schools, what their problems are, if they are disabled for the management of those schools.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think that is clear. It is equivalent of the Minister. Hon. Member for Seme.

Hon. (Dr.) Nyikal: This is an extremely important new addition. At least, we can be sure that wherever children go, they will get the same education. But New Clause 21A(g) says;

“met such other requirements as the committee executive committee member, in consultation with the County Education Board, may consider necessary for the delivery of quality early childhood education services within the county.”

Would it not have been necessary to put some guidelines in line with certain guidelines or we leave it to the County Education Board to ensure that people do not go overboard? It is these openings that people tend to exploit.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairlady, do you want to respond for one minute to the concerns of Hon. Nyikal? In my thinking, I thought that is where regulations come in. I would like the Vice-Chair to answer that concern.

Hon. Melly: New Clause 21A (g) is meant to ensure that the CEC member in consultation with the County Executive Board may consider the requirements that are necessary for the delivery of quality education. That section is giving a discretionary role that a Member can be-- This one is not opening room for the CEC member, but he also has a discretionary role that he plays in the county education board. It is very necessary.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Hon. Member for Saku.

Hon. Dido: Thank you, Temporary Deputy Chairlady. I think this is a very important part of this Bill and it gives it value. ECD is the formative years of the child and develops that child into the future. What we had allowed is for everybody to open their schools and run them the way they want. If I can just touch on what Hon. Nyikal has raised, a law is a living document and this allows room for improvement at every level. I think this is a safeguard that has been built in it and we must support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you, Hon. Members.

*(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 61A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Mover, move the Second Reading for New Clause 61A

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

THAT, the following new clause be inserted immediately after clause

61—

Suspension of
a certificate of
accreditation

61A. (1) The County Education Board may, in consultation with the County executive committee member suspend a certificate of accreditation issued to an education centre for a specified period where the centre fails to comply with the standards of accreditation until the standards are met.

(2) The County Education Board shall communicate a decision made under subsection (1) to the education centre specifying the reasons for the decision, the non-compliance noted and the action required to be taken by the education centre.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Member for Rangwe.

Hon. Ogalo: What about New Clause 59A and 59 B? Are they not supposed to be dealt with?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Are they new clauses?

Hon. Ogalo: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): They are not new clauses, Hon. Member. We are looking at new clauses. We have already dealt with amendments to Clauses 59 and 60, but they were not new clauses. They were amendments.

Hon. Ogalo: Then I got confused, Hon. Temporary Deputy Chairlady.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Kibra.

Hon. Okoth: Thank you, Hon. Temporary Deputy Chairlady. I rise to support that there is a procedure where schools which do not meet the requirements can be suspended or their certificates of accreditation taken back, and that the procedure for communicating it to them is very clear.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sunjeev.

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Chairlady. It has come to our attention that in the past, there have been schools that run amok and they need to be disciplined. This suspension of accreditation is very much in order. I support.

*(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 agreed to)

(Second Schedule agreed to)

Clause 2

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

THAT, Clause 2 of the Bill be amended—

(a) in the definition of the term “children with special needs” by deleting the word “special needs” and substituting therefor the word “disabilities”;

(b) in the definition of the term “principal” by deleting the term “principal” and substituting therefor the term “head teacher”

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

“child” has the meaning assigned to it under the “Children Act”

(d) by deleting the definition of the word “teacher” and substituting therefor the following new definition—

“teacher” has the meaning assigned to it under the Teachers Service Commission Act”

(e) by inserting the following new definitions in proper alphabetical sequence—

“Board of Management” means the Board of management of an education centre.

“Education Appeals Tribunal” means the Appeals Tribunal established under section 92 of the Basic Education Act; “pupil” means a person who is at least three years of age and not more than six years of age or who meets such other criteria for admission as the Cabinet Secretary may, in consultation with the County Education Board, prescribe;

The input of this is that the term “children with disabilities” is no longer used in the human rights field and the term now acceptable is “children with special needs”. We are trying to move with what the society is using. Earlier on, they were using “disabilities” but now we are using “special needs”.

On Clause 2(b), that is the justification for the purpose of considering similar unique terms in the statute books. That is for purposes of consistency.

On Clause 2(c), the justification is that the term “child” has globally been accepted. That is a person under the age of 18 years per the Children Act, which borrows from the United Nations Convention on the Rights of the Child. In this case, it is trying to put the Bill in concurrence with what the international standards or conventions require.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member for Saku?

Hon. Dido: Thank you, Hon. Temporary Deputy Chairlady. If I can read the proposed definition, what the Vice-Chairman is saying is opposite because here it is saying:

“by deleting the word “special needs” and substituting therefor the word “disabilities”.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, I think the Member on the Floor is challenging your amendment to Clause 2. Hon. Member for Saku, please repeat to the Vice-Chair because he was distracted. Give him the microphone.

Hon. Dido: What the amendment reads is: “(a) in the definition of the term “children with special needs” by deleting the word “special needs” and substituting therefor the word “disabilities”.” It is opposite of the explanation that the Vice-Chair has given.

Hon. Melly: I concur with him. There is some correction. It is something that was inadvertently written.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, is it something you want to withdraw or to amend?

Hon. Melly: No. In this case, let me go over it again. The term “children with disabilities” is no longer used in the human rights field. The term now acceptable is “children with special needs”. So, you have realized that the Bill is reading: “The definition of the term “children with special needs” be amended by deleting the word “special needs” and substituting therefor the word “disabilities”. It is the opposite.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Of course it is opposite. You have to remove it. You have to either delete it or---

Hon. Melly: We delete it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Just approach your clerk and consult. This is where it is very good to have Members who are keen on doing the Committee of the whole House.

Hon. Gikaria: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Gikaria?

Hon. Gikaria: Again, on the same, I need some clarification. You realize these days that Kenya has really transformed. The old people---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Are you on the amendments on Clause 2?

Hon. Gikaria: Yes, I am on the amendments. I am on the last one that talks about a pupil. It says three years to six years. I am saying this because in our county, you will find a child of up to 12 years. I have children who are going to class and they are very old. There are even old women wanting to join nursery school. Would that stop them from joining their classes or some children who did not have an opportunity to go to the early childhood development centres between the ages of three years and six years. Will that be an issue?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chair, as you solve that confusion, what Hon. Gikaria is talking about also makes sense on the issue of the pupil. I believe a pupil is one who is up to standard eight, if I am not wrong. Then, a student is in secondary school. You have said “up to” and “not more than six years.” So, what are they called after six years and are still in primary school?

Go to your amendment again so that you do amendments together. It is the last part that talks about a pupil as a person who is, at least, three years of age and not more than six years of age or who meets such other criteria for admission as the Cabinet Secretary may, in consultation with the County Education Board, prescribe. You are dealing with ECDE and it is true that they probably do not go beyond six years. But, what if they do?

Hon. Melly: The ECDE children do not go beyond six years.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): But, what if they do?

Hon. Melly: At times they go beyond.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes. Sometimes they do. What will they be called if they are seven years old? They will still be pupils. Is it not so? Did you have to limit yourselves to six years?

Hon. Melly: We cannot. Maybe, that is the problem.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think that is something else you could think of. Is it provided for? You are leaving “who meets such other criteria for admission as the Cabinet Secretary may, in consultation with the County Education Board, prescribe.”

Yes, Hon. Gichigi, Member for Kipipiri?

Hon. Gichigi: I think in our attempt to come up with law, we over-legislate. On this issue, I doubt there is any need of coming up with a meaning of a pupil other than a person who is learning in an education centre. The issue of age is obviously going to cause problems. I suggest that the same be dropped.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Rangwe?

Hon. Ogalo: I agree with Hon. Gichigi. A pupil is anybody who goes into an early education centre to get education. We do not have to put years. We do not have to put criteria by the CS or CECM. I do not think this is necessary. Let us stick to “a child who goes to an early childhood education centre to acquire education.” That is the pupil. Finished! No criteria of age or any other criteria prescribed by anybody should be there. I think the Vice-Chair can amend that and we move on.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let me try and explain where the Committee is coming from. You were looking at the original Bill of 2014 which talked about a child as meaning a person who is, at least, three years of age and not more than six years of

age. Is it not? You have substituted “child” with “pupil”. In the whole document, I hear you have substituted “child” with “pupil”. That is probably what the Committee was doing. It was removing the word “child” and giving “pupil”, but not removing the issue of the age. We are talking about ECDE.

Are we together, Hon. Gikaria? You can see what they were curing. Since we are talking about ECDE, the issue of three years to six years also remains because this is early childhood education. It is not very neat. I agree but it is curing the issue of a child in the other Act. It is in the context of ECDE. That is the reason we are calling them pupils and not children. I do not think it really harms. It may not be very neat but I think it is meeting the needs.

Yes, Hon. Member for Rangwe?

Hon. Ogalo: There is already a definition; a new definition for “child”. It says:

“child” has the meaning assigned to it under the Children Act.”

So, I do not know why we are still curing “pupil” and “child”. A child is already defined in another law; in the Children Act. So here, on pupil and ages, there are areas where people start education very late. If you put age here and a child who is seven years has not started ECDE, maybe, it is because of the area where they live. Look at the pastoral communities. Why do we specify the age? Any child who can be admitted into ECDE is a pupil. Let that be determined locally at that centre. Why do you want to define that at this high level of the law? Either we remove “pupil” completely or we say “anybody who goes to those institutions to get education.”

Hon. Temporary Deputy Chairlady, maybe, you should help us.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair, do you want to respond? I do not want to be too much in the debate. I think you have got the gist. If you feel it is fulfilling what the Committee’s idea was, we could just move on.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. The Committee’s feelings or reasoning behind all this is that we want to know what group of children is in early childhood education. We know very well that we have an age bracket for children in the primary and secondary education. So, I know the Member is talking about the practical things that are happening in this country. If you go to pastoral communities, even individuals of 18 years can be in primary schools. But, in some other counties or areas, we can have people of 10 years or 15 years being in secondary school. In that context, it is understandable. But in this case, we are trying to know who is in the early childhood education centre. This is an individual most probably between the ages of three and six years. After that, anyone above six years is in primary, up to 12 years. This is for administrative purposes and our understanding.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): My only worry, Vice-Chair, even if you are talking about early childhood, is to have a seven-year-old child starting early childhood education. You would have, in law, locked them out. I can tell you for a fact, most children start school at around five to six years – even that early childhood. Three years is for people in middle class who can afford to take their children to baby class, kindergarten and day-care centres. The reality is most of them start at that age. That is the concern of Members.

If somebody starts early childhood education at five or six years and has to be there for two years, it means they will be seven years. Or even just take the extreme case. What if somebody starts early childhood education at seven, will they not be allowed?

Hon. Melly: They should be allowed.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Then do not limit the age in law. I think you get my point. If they should be allowed, if you put in the law an age bracket of

between three and six years, you are simply saying that a child from Korogocho who is seven years and wants to start nursery school will be locked out by the law.

The Member for Saku.

Hon. Dido: Thank you, Hon. Temporary Deputy Chairlady. I agree with some of the debate on this Bill. I think the Committee has come up with two things. First, who is a child? Clearly, when they say that, that relates to the Children Act, then I will agree with this. This law is purposely meant for early childhood education. They have attempted to say, when you are talking about early childhood, what is the age bracket that you can generally find at that level of education. When we have people older than this entering ECDE or even primary school, then those are outsiders. What is important is for whom this law has been made. It is that age bracket. Anybody else can still come and learn, but they cannot in any way adulterate or interfere with this.

Also, I agree with the Committee. They have gone further to say “criteria for admission as the Cabinet Secretary may, in consultation with the County Education Board, prescribe.”

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Vice-Chair, I think you have got the gist. Give us a way forward, if you have an amendment.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. I have got the gist of the matter from the concerned Members. From that, I would wish to propose a further amendment on the definition of a pupil:

“A pupil means a person who meets the criteria for admission to an early education centre.”

This covers the issue of age, including an individual of 10 or 20 years.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That makes a lot of sense. You have not locked out anybody.

Hon. Melly: We do not lock anyone out. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, Vice-Chair, you are withdrawing what is in the Order Paper and substituting with the new definition. Please say that on record.

Hon. Melly: Thank you, Hon. Temporary Deputy Chairlady. I wish to withdraw the definition of “pupil” as indicated in the Order Paper and substitute it with this new definition:

“A pupil means a person who meets the criteria for admission to an early education centre.”

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Vice-Chair, you are the Mover.

Hon. Melly: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the County Early Childhood Education Bill (Senate Bill No. 32 of 2015) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*(The Deputy Speaker
(Hon. (Dr.) Laboso) in the Chair)*

REPORTS

THE PRIVATIZATION (AMENDMENT) BILL

Hon. Deputy Speaker: Chairperson, you may report. We will start with the Privatization (Amendment) Bill.

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Privatization (Amendment) Bill (National Assembly Bill No. 27 of 2016) and approved the same with amendments.

Hon. Deputy Speaker: The Mover.

Hon. Melly: Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said report. I request Hon. Gikaria to second.

Hon. Gikaria: I second.

(Question proposed)

(Question put and agreed to)

Hon. Deputy Speaker: Hon. Members, we will end it there. We will not proceed to the Third Reading because of obvious reasons. We will move to the Public Appointments (County Assembly Approval) Bill (Senate Bill No. 20 of 2014).

Chairperson of the Committee of the whole House.

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Public Appointments (County Assembly Approval) Bill (Senate Bill No. 20 of 2014) and approved the same without amendments.

Hon. Melly: Hon. Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request the Member for Saku to second.

Hon. Dido: Hon. Deputy Speaker, I second.

(Question proposed)

(Question put and agreed to)

Hon. Deputy Speaker: We will proceed with the Third Reading when it is appropriate. Let us proceed to the County Early Childhood Education Bill (Senate Bill No. 32 of 2014).
Chair of the Committee of the whole House.

THE COUNTY EARLY CHILDHOOD EDUCATION BILL

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the County Early Childhood Education Bill (Senate Bill No. 32 of 2015) and approved the same with amendments.

Hon. Melly: Hon. Deputy Speaker, I beg to move that the County Early Childhood Education Bill (Senate Bill No. 32 of 2015) be read a Third time.

I request the Member for Kajiado North to second.

Hon. Manje: Hon. Deputy Speaker, I second.

Hon. Deputy Speaker: We are not doing Third Reading. You are just agreeing with the Report of the Committee of the whole House.

Hon. Melly: Hon. Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also agree that the Motion ---

Hon. Deputy Speaker: No, no! Just give us a seconder.

Hon. Melly: I request the Member for Kajiado North to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Manje: Hon. Deputy Speaker, I second.

Hon. Deputy Speaker: As soon as Hon. Gumbo is seated, I will propose the Question.

(Question proposed)

Hon. Deputy Speaker: Hon. Shebesh.

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, before we conclude this matter, I would like to be on record that we have Members of Parliament who consistently sit here to see Bills through Committees of the whole House – the most important part of the law-making process in this country. It is important for Kenyans to know that there are Members who sit through the most complicated stage of the law-making process. The Chairs of Departmental Committees have to sit throughout a session as they move amendments on the Floor of the House. It is about time we recognised them for taking their time to ensure that the legislative process is completed. Therefore, on behalf of the Office of the Speaker, and yourself, I thank the Members of Parliament who are seated here today to pass three very crucial Bills, which will change the lives of Kenyans in one way or another. That is my opinion Hon. Deputy Speaker and I am sure you share the same sentiments with me.

Hon. Deputy Speaker: Thank you, Hon. Shebesh. I am sure we will have more Members supporting your sentiments and also the importance of the three Bills when we get to Third Reading. For now, it is about agreeing with the Committee.

(Question put and agreed to)

Hon. Members. We will prosecute the Third Reading of those three Bills when it will be appropriate in the next Order Paper.

Next Order.

MOTION

REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON NSSF TASSIA II PROJECT

THAT, this House adopts the Special Report of the Public Investments Committee on the Procurement and Financing of the National Social Security Fund Tassia II Infrastructure Development Project, laid on the Table of the House on Wednesday, 30 April, 2014.

(Hon. Keynan on 9.2.2017)

(Resumption of Debate interrupted on 9.2.2017)

Hon. Deputy Speaker: Who was on the Floor? If he is not here we can have another Member who has not contributed. I see Hon. (Dr.) Pukose's name here but he is not around. Hon. Johana Kipyegon? Hon. Mwadime? Hon. Gerald Opiyo? Hon. Francis Waititu? Hon. Onesmus Njuki? Let us have Hon. Daniel Maanzo.

Hon. Maanzo: Thank you, Hon. Deputy Speaker. This Report has been largely debated by Members. The National Social Security Fund (NSSF) is a very important body for Kenyans to save. Since it is members' monies that have been invested, it is the duty of the board, which is running those activities, to make sure that the money is well spent. When this Committee deliberated on the matter, it came up with several conclusions and observations. The approval of the NSSF Tassia II Project could only be given at a formal board meeting that was duly constituted. The Board then would pass a resolution. Indeed, that is the requirement of the law of board meetings.

There was no budgetary allocation from the Republic of Kenya and, therefore, the monies which were being used to do infrastructure--- The NSSF Board of Trustees flouted Section 32 of the Public Procurement and Disposal Act that prohibits procurement of services without a budget. There was no formal agreement between the NSSF and the land owners - the squatters - on the NSSF Tassia II infrastructure. Therefore, with breaches like that, the only way forward was to look for a way of resolving pending disputes. Part of this House's duty is to help Kenyans resolve disputes. It is only fair that the clock be reversed and the right thing be done, and the necessary compensations be made to those who may have been aggrieved in one way or the other. We know that NSSF is a very rich body. It should resolve all those disputes so that nobody feels that they have been taken advantage of. There are cases where land belonging to people has been developed unlawfully.

*(The Deputy Speaker
(Hon.(Dr.) Laboso left the Chair)*

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

The moment you are not properly constituted as a board, do not follow the Procurement Act and fail to engage squatters before they settle on your land, you break the law. The moment the law is broken, remedies have to be sought. For that matter, I want to support the position of the Committee and the Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I see Hon. Member's requests here, but they are not in the House. I cannot see your request, Member for Rangwe. Have you pressed the intervention button? Even the request by the Member for Rarieda is not showing. Maybe, my screen is not showing. Let me start with the Member for Rangwe and then Rarieda.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker. I will be very brief on this. The history of NSSF and land is long and difficult. NSSF has been used as a conduit to siphon money from the pensioners under the guise of land buying here and there. There is even an issue that I brought to this House about NSSF buying 10 acres of land in Athi River, and pretending in their records to own land worth 150 acres.

This is not a different one. Maybe, NSSF had initially intended to use the land as an investment vehicle to settle Kenyans and make money for the pensioners. The story changed when land grabbers decided to invade the land under the guise of certain politicians. Having won the case against the squatters, NSSF had to grapple with the difficult task of rationalizing their settlement. In the process, the squatters themselves agreed that they would buy the land from NSSF. How did NSSF become a body responsible for providing infrastructure on land which had been taken away from them by force? They were forced to sell it to people to put up infrastructure, sewerage and roads. This is another case of public funds being misused.

NSSF should have ended the contract with the people buying the land the moment they paid. The planning authority at that time, being the City Council of Nairobi, which is now the County Government of Nairobi, should have had a contract with those who were staying there to ensure that the sewer lines and roads were constructed without any further penny from NSSF. I agree with this Report in as far as it is saying that no money from NSSF should be used in any way in providing infrastructure services in Tassia. The people who own land in Tassia should come together, contribute and pay for the services they need for their properties and leave other pensioners who do not stay in Tassia without any further burden of paying for the services they exclusively use.

This Report is also good in noting that the approvals for the award of the contract were carried out over emails and the law at that time did not allow for such big contracts to be awarded in such a manner. It is also interesting that one Chinese company has been doing major projects for NSSF across the country as if there are no other companies in Kenya. This should be investigated and those who colluded with that company should face the law. It is not natural for one company to win five contracts in a row with one public entity. There must be some insider trading besides their knowledge and somebody must have been facilitating them from within the Board to win contracts each and every time. It is not natural and this should be investigated.

The NSSF should be very credible, careful and ensure that the monies put under its charge should be used for the benefit of the public. The pensioners who save money with NSSF require value for their money. They should earn money from those investments. People should not misuse NSSF funds and then we end up with pensioners suffering all over without being paid their pensions.

I conclude by supporting the Report and urge the Members of the House to support it.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I am going to use the clerks because I cannot see the names of those who have requested to speak. Let us have Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, thank you for giving me the opportunity to contribute to this important Report. Every time people are employed, unless they die while employed, the natural thing that happens is that they have to retire at some point. Every day that passes moves you closer to retirement. I remember when we left the university in the early 1990s, we were in our early 20s and the mid-50s looked like a long time away. We had thoughtful employers with foresight who told us that every day that passes moves you closer to your retirement. The idea of pension funds all over the world is to let people retire in dignity. That dignity is attained through very carefully thought-out investments whose focus has to be the contributors to those pension schemes.

The NSSF has been with us for a long time. The conversation that we should be having as a nation today is the success stories as to what extent NSSF has made Kenya and the Kenyan worker to retire in dignity. The stories are not there for many people to see. That happens because of the investment criteria that NSSF has for example, that Tassia scheme, which was developed by private individuals. That happened to be the place where both Hon. Nyamai of Kitui Rural Constituency and I bought our first pieces of property but, this was not within the NSSF property. This was Tassia I which was developed through funds that were raised by the residents who were living there like me. It beats logic that, that land belonged to the NSSF. People went there and acquired the land legally.

At what point did NSSF get the authorisation to use pensioners' money to give services to people who ought not to have been there in the first place? What one would have expected to happen is that the moment the NSSF agreed with those people to buy the land - and from the look of it those people were deceived into believing that they were buying land in an honest and proper way - the money for the development of the infrastructure either ought to have come from a local authority, in this case the Nairobi City Council, or a contribution from those people who were there. But that did not happen. This ought to be a big concern for us.

I have said it many times before that the trouble with our country is not the fact that we do not make laws. We have some of the best laws in this country and this part of the world. In terms of the efficiency of making laws, our Parliament is way up there. The bane of our country has always been respect for our laws. This Report clearly identifies cases where people sidestep procedures. We see people sidestepping procedures all the time. But what happens to them? More often than not, they get no more than a tap on the wrist. This has to change. We will be acting in vain if we make laws which people can disregard at will. Clearly, the procurement of this project was done in an unlawful manner. Those responsible are known.

As Hon. Oner of Rangwe has just said, at that time, appointments and approvals could not be done by email. This is a new development which came when we passed the Electronic Funds Transfer Act (EFTA) in the 11th Parliament. At that point, we could not apply laws retrospectively. At the point when that was being done, it was clearly an unlawful act.

We see many Kenyans who break the law time and again, day in, day out but a lot of times, instead, of facing the full force of the law, they are given baptismal names. Some of the people who have stolen public funds in this country, instead of being called thieves, are called billionaire businessmen. The footprints are there. This House has discussed some people who have been involved in some of the worst scandals in this country. Instead of being called by their proper names; instead of being called thieves, they are being called billionaire businessmen. They know themselves.

Indeed, I have complained here that when national honours are given out, some of those people are the ones who get them and yet, even Members of Parliament like my good neighbour, Hon. Nyikal of Seme, my good friend Member for Alego Usonga and my good friend Member for Kibra who are always here to ensure the Third Reading of Bills is done, are not honoured. When the honours list was done last year, their names did not appear. What kind of a country is this we have? It is like you are being punished for doing your job well. Is this what Kenya wants to be? We reward people for doing all the wrong things. We ought not to have waited for this Report. The law enforcement agencies of this country have always been there. Why are we not seeing the people who are responsible for misuse of taxpayers' money being made to account for those illegal acts? I am one of the people who have admired how visionary leaders in some parts of this world have lifted their countries from Third World status to First World status. Some of them, in fact, have gone through the route of accumulating pension funds.

The story of Singapore is known to people and how the late Lee Kuan Yew, their founding Prime Minister, marshalled the pension funds to be able to provide affordable housing for the people of Singapore. In fact, at one time, it was said that only less than 2 per cent of the people in Singapore were not having affordable and decent housing. It was through proper investment of pension funds.

But in our country, NSSF is getting into all manner of projects which are clearly intended to benefit individuals as opposed to benefiting the pensioners. The question must be asked. It is not just the NSSF. Right now my Committee, Public Accounts Committee (PAC), for example, is looking at the misuse of public funds at NYS. It is always the same story. It is a select group of companies that is always getting contracts and, sometimes, sidestepping procurement procedures. We must ask why we would not have an equalisation law of sorts which can track that. I have argued in this House and some people have even said some of the reasons why we do not give work to Kenyan contractors - and I mean firms that are owned by Kenyans - is because they do not have capacity. Where will they get that capacity if the law-making body of this House does not intervene? I argued, for example, when we were doing the National Construction Authority Act that, projects of up to Kshs1 billion should be exclusively reserved for indigenous Kenyans. It was our own Members of Parliament who were calling in the middle of the night and saying we are going to scare away investors and yet, we have discussed here, for example, the issue of illicit financial flows. Africa is a net giver of capital. Africa receives almost nothing from the rest of the world. This scaremongering that we always get into when we want to capacitate our people and saying we are going to chase away investors is not based on anything. I have never known anyone who can go to any person's country to build that country. It is not possible. It is even a contradiction. Why would I be more interested in building Uganda than building Kenya? My interest has to be, first and foremost, Kenya. Much as I respect the fact that Uganda and Tanzania are our neighbours, as a Kenyan patriot, my interest has to be in ensuring that, first and foremost, Kenya is built to a level where as many Kenyans as possible can be accommodated before I think of others. But here in Kenya, we are obsessed with this thing.

This is why people come here bearing labels of expatriates, but they cannot even be technicians in their own countries. This Report shall be in vain as many others have been if people responsible for that blatant misuse of public funds are not brought to book and the full force of the law is made to apply.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Gumbo. I now give the Floor to the Member for Kibra, Hon. Ken. Okoth.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. I rise to support and thank the Public Investments Committee (PIC) for bringing this Report on Procurement and Financing of the NSSF Tassia II Project. This Report and the Tassia saga raises a number of important issues that we need to think about. As a Member for Kibra, who believes in the rule of law, it is important for us to pay attention to procurement procedures – and the legality and validity of contracts. Yesterday, the court ruled about the validity of a contract and agreement that the Independent Electoral and Boundaries Commission (IEBC) entered into when the commissioners were not in place. That ruling might affect the election date. Members tasked with handling public money and those leading public bodies should be scrupulous about following the laws, unless there is conspiracy that we are not paying attention to, whereby members and leaders of such organisations collude to commit intentional errors. When they are taken to court, it results into profits for favoured legal firms in this country and for extending their procedures so that other people can benefit through that technical argument about the process and its cost rather than delivering the required projects.

I would like to talk about the issue of squatters rights in this country. This House passed the Internally Displaced Persons Act in 2012. That law speaks clearly about displacement that is initiated because of development projects, whether by Government agencies or private actors. The law is clear about the rights of the people displaced, whether they are squatters or slum dwellers in constituencies. In Kibra, a road is being built and we have gone to request for compensation in vain. The law says that people must be compensated and consulted. Any displacement must be done in a humane way that looks to the highest possible way the human rights standards of the people. If you are building a road or any other development project, you must make sure that you leave the affected people better than you found them. That is the principle. But Government agencies such as the Kenya Urban Roads Authority (KURA) and the Ministry of Roads just want to bulldoze. The court has ordered them to consult those who will be affected but they are ignoring it. They do not want any proper engagement with the people to list and compensate those who will be affected. Those affected should be given a chance so that they can know where they will be resettled and compensated. Where are they moving schools? We are going into elections and two polling centres are in the middle of a place where KURA is planning to build a road. We have not been told what will happen to the registered voters. Those are the only polling centres for Lindi Ward. It is interesting to see how squatters have been handled in that Tassia Project. Some people might say that squatters took advantage of a system, but we must look into that issue critically. One Member mentioned the role of politicians in inciting and collaborating with squatters to take advantage of the situation. We must know people with inside information to orchestrate such a thing. Whatever is done in terms of development, human rights of the people who live there must be considered. If they are genuine squatters and the downtrodden members of our society, they must be compensated and given a

resettlement plan. It is not my personal opinion but the law of Kenya, which is the guiding standard for the many treaties that we have signed.

Our Constitution speaks about socio-economic and cultural rights, including the right to housing. We are now talking about a national drought, including the right to food and freedom from hunger. I want to talk about the right to housing. Housing is a devolved function, but it is shared between the national Government and to a large extent, with our county governments. To talk about the Tassia Project really brings to us the reality of what is the status of the right to housing in Nairobi County, and what can be done to make sure that all Nairobians enjoy the right that is written in the Constitution – to provide housing of a decent standard that has adequate supplies of water and sewerage, and a health environment to live in. I feel it is not just Nairobi County, but many of our major cities. As people move in, in huge numbers and they are coming to settlements like Kibra, Korogocho and Soweto, they are really finding themselves in a place where the planning has not been up to par. If NSSF really wanted to invest and create affordable low or middle cost housing to accommodate all the people who are moving to the City, we applaud them. But I still think the problem is huge. It is not a problem that was created by the county government. But it is now a problem that must be solved by our county governments. In Nairobi, Kisumu, Mombasa and Nakuru, we must make sure that our urban areas are decent and liveable places. As the county government embarks on reconstruction and engaging public private partnerships and opportunities such as Tassia, the NSSF is a potential source of major cash to invest in major programmes. We also have the World Bank and other donors. We really need to look into places like Shauri Moyo, Makadara, Railways and other estates. All those places are going to be changed. In my constituency, there is talk about renovating and re-doing Woodley and bringing it up as a new type of neighbourhood with many more houses. We must make sure that those procedures are done in a way that the people who already live there are compensated.

There is a report in the newspaper today by the World Bank talking about one billion dollars' worth of land in Kibra within the slum area. That is foregone revenue for the Government of Kenya. If the Government went ahead and issued a title properly and took care of the interests of all the people who live there, the Government would be getting that money rather than the people who own and run the facilities and the houses there in Kibra as slum lords. So, I think there is a lot of things that need to be done for reconstruction and all stakeholders should come to the table. It is not something that is impossible if we put our heads and hearts to it as leaders of this country. Nairobi can be a model county in which we renovate our old estates and renew and build them to meet the needs of today and the growing population, including the young people who cannot even start to dream and hope that one day, they can own a house in Nairobi. It is really overpriced.

I finish up by talking about the concept of trusteeship and stewardship. We are talking about the NSSF in a country like Kenya where our money and equity markets are not that advanced. The Nairobi Stock Exchange is still relatively small. Many people cannot invest their own money to guarantee enough money for retirement. They are relying on pooling their money through this social security fund. It is their only public safety net for their old age. When people retire at 60 or 65 and they are going to live to be 70, 80 or 90; 15, 20 or 30 years later, they really need a retirement and pension plan that works for them. We need trustees and stewards of such investment groups. We have seen this even in the railway retirees' asset fund where people are careless with the destinies of our old people who have worked honestly and have saved for their pensions, and then the investments that are being done do not have a good return on money. You

have seen Tassia has turned out to be a major scandal where lots of legal fees are paid. The original purpose and goal for Tassia Project has not brought any benefits to the retirees on whose behalf the pension fund is being run. I say this with a lot of pain in my heart because I know many retired people who count on the NSSF to be solvent and invest in major projects that bring it returns that it can share and guarantee that they have money for their retirement ages.

I thank the PIC for a job well done on this. I support the Report.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, for the convenience of the House, using Standing Order No. 30, I would like to end today's session of Parliament.

Hon. Members, the time being 6.25 p.m., this House stands adjourned until Wednesday, 15th February 2017 at 9.30 a.m.

The House rose at 6.25 p.m.