

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 11th August, 2016

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Ring the Quorum Bell. We are only 36.

(The Quorum Bell was rung)

Very well! We will keep reminding Members that sitting hours are between 2.30 p.m. and 6.30 p.m. on Thursdays. I will issue Communication after the business on Order No. 8.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today Thursday, 11th August 2016:-

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2015, and the Certificates therein:-

The Constituencies Development Fund, Jomvu Constituency.

The Kenya Marine and Fisheries Research Institute

The Annual Report and Financial Statements of the Privatisation Commission for the Financial Year 2014/2015

Thank you.

Hon. Speaker: The Chairperson, Departmental Committee on Health.

Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I beg to lay the following Paper on the Table of the House today Thursday, 11th August 2016: -

The Report of the Departmental Committee on Health on its consideration of the Petition regarding alleged irregularities at Medanta Africare Groups of Hospitals, a private health facility.

Hon. Speaker, I would like to make a few comments on this matter as we have been guided.

Hon. Speaker: You are only laying a Paper.

Hon. (Ms.) R.K. Nyamai: I stand guided, Hon. Speaker.

PETITIONS

Hon. Speaker: Hon. Members, for the convenience of the House, we go back to Order No.4. In keeping with our practice, there are petitions to be reported on. Those to be reported on today are by the Chairperson, Departmental Committee on Environment and Natural Resources.. Hon. Amina Abdalla.

HUMAN-WILDLIFE CONFLICT IN MERU COUNTY

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. The petition I am reporting on is by Hon. Florence Kajuju on behalf of the residents of Meru County regarding human-wildlife conflict in Meru County. The Report was laid on the Table of the House on 21st July, 2016.

The Petitioners' prayers were as follows:-

Recommend the erection of an electric fence covering the entire park and provision of additional forest stations and wardens.

Recommend that the Ministry of Environment and Natural Resources puts in place mechanisms to ensure human-wildlife conflict ceases forthwith.

Recommend the qualification and compensation of victims of human-wildlife conflict and such other affected persons and/or families and properties as a result of damage suffered due to the massive destruction of homes, crops and loss of life.

Make any other directions or consideration that fits in the circumstances.

In considering the Petition, the Committee held a meeting with the petitioner, Hon. (Ms.) Kajuju on 28th April 2016 and also undertook a field visit to Meru County between 26th and 28th May, 2016.

The following are the observations that the Committee made:-

There is need to put up a permanent electric fence as attacks by wildlife has caused immense destruction.

The leadership in the human-wildlife conflict hotspot areas has, through the CDF, allocated funds towards fencing while the residents have provided labour towards the cost.

The claims for compensation have been forwarded to the Ministry of Environment and Natural Resources. However, no compensation has been done since January 2015 and the time when we went there.

Our recommendations on this Petition are as follows:-

The Kenya Wildlife service should include in its budget Kshs100 million to complete the remaining 34-kilometre stretch that remains unfenced. Hence, the Agency should consider engaging community wardens as a local solution to enhancing the capacity of rangers and to boost response rate.

The National Treasury should allocate Kshs4.8 billion that is requested by the Committee in its report on the estimates for the Financial Year 2016/2017. The funds would go towards offsetting pending claims of compensation for victims of human-wildlife conflict.

The Ministry of Environment and Natural Resources should clear all pending bills amounting to Kshs4.8 billion on compensation to victims of human-wildlife conflict. Some of these funds should go towards offsetting the pending claims in Meru County.

The Kenya Wildlife Service should explore a partnership with the Nyayo Tea Zone to build a belt of 100 metres next to Imenti Forest to act as a buffer zone to prevent elephants from leaving the forest.

DUMPING OF SOIL IN NGONG RIVER

The second Petition was by James Mwangi Gakuya on the massive dumping of soil in Ngong River on the Reuben side, opposite St. Elizabeth Primary School. That Report was tabled in the House on 28th July 2016.

The prayers by the Petitioner were:-

Recommend immediate halt of dumping of soil in the school compound and Ngong River.

Recommend that the Ministry of Environment and Natural Resources intervenes and restores broken sewers and river bank.

Make any other order or direction that it deems fit in the circumstances.

We held a meeting with the Petitioner. We also held a meeting at Mukuru Slums where the school is located. We had further meetings with Water Resource Management Authority (WARMA) and the Ministry of Interior and Coordination of National Government.

The Committee also held a public forum. Our observation was as follows:-

It was unfair that St. Elizabeth School which was meant for children from needy families is unable to meet its objectives due to constant closures occasioned by floods and yet, the children do not have alternatives.

There was massive dumping in the river which has raised the river bed and altered the original course of the river.

There was massive encroachment on the river catchment. That is a major problem that needs to be addressed.

Our recommendations are as follows:-

On its first prayer, WARMA should mark the riparian area along Ngong River so as to initiate the process of reclamation.

The Ministry of Environment and Natural Resources should use the funds allocated to the Urban Rivers Rehabilitation Programme in the Budget Estimates for the Financial Year 2016/2017 to rehabilitate Ngong River on the Reuben side to its original state.

The Nairobi City County Government is urged to stop issuing further licences and revoke already issued licences for dumping of excavated soils next to Ngong River on the Ruben side. Further, the Committee urges the county government to repair all broken lines in Lunga Lunga village.

Thank you.

Hon. Speaker: While allowing for some comments, as I can see some Members desire to comment, it is important that those recommendations, especially those directed at certain institutions, are communicated to them for appropriate action so that our Committee on Implementation may make follow-ups. Member for North Imenti.

Hon. Dawood: Thank you, Hon. Speaker. I want to thank the Chairperson of the Departmental Committee on Environment and Natural Resources. Indeed, they came to Meru County. The Petitioners together with the residents of Meru County made a complaint and it was well captured. Unfortunately, only two constituencies have contributed their Constituencies Development Fund (CDF) money to construct an electric fence. My colleague from my neighbouring constituency has not contributed. I want the recommendation of the Committee to be taken up by the Department Committee of Environment and Natural Resources because there are so many pending Bills of compensation dating back many years. My people have suffered in that there have been cases where lives have been lost and their livelihoods destroyed because elephants have eaten all their farm produce. The Chairperson should probably indulge us so that

we get some relief food to give to our people. This is because it has come to a situation where my people do not have food because all the food crops which they had planted like maize, watermelons and everything has been eaten and destroyed by wildlife. I want the Chairperson of that Departmental Committee on Environmental and Natural Resources to speak to any ministry which would probably give us food so that, at least, we can give it to our people. It should be possible to be implemented as soon as possible.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Sunjeev Birdi.

Hon. (Ms.) Sunjeev: Thank you, Hon. Speaker. Today, I stand a very worried person because of one reason. As our able Chair of the Departmental Committee on Environment and Natural Resources tables the Report of the Petition, let me say that I am a Member of that Committee. Unfortunately, I was not available to accompany them when our Committee went to the ground, but I have been a frequent visitor to that area.

Hon. Speaker, it is sad to note that a Committee works so hard in trying to deliver to the people what is theirs, but there are some rogue people who do not take note of the law. As our Committee was investigating this particular matter, the prayer of this particular Petition was that soil dumping should be stopped. However, by the time we had finished reporting, soil dumping had been completed and people had migrated to that land to make their shanties and so, the situation was out of control. People had abrogated their duties and I did not even see the basis of this Petition. Sometimes, I feel the hands of the Committee are tied. This is because even if we go on the ground, relevant authorities do not take notice of what is supposed to be done. When the Committee on Implementation will go there, they will probably report that the Petition has been overtaken by events. In situations like these, it will need justice to be served to the people.

Thank you, Hon. Speaker.

Hon. Speaker: I would encourage Members to speak for not more than two minutes since they are only comments on the Petitions. Hon. Richard Makenga.

Hon. Makenga: Thank you, Hon. Speaker. I would like to say that the Chair of the Departmental Committee on Environment and Natural Resources worked very hard in looking at the Petitioner's prayers. The recommendations that the Committee came up with were to ensure that the riparian area is marked. The agency that is concerned with doing that should do it with speed so that further encroachment of Nairobi River is stopped. Further, the dumping has also caused the changing of the course of the river and, therefore, that should be stopped even in other areas.

Finally, the House should think of forming "Friends of Nairobi River" to ensure that Nairobi River is cleaned and reverted to its original standard. Therefore, the recommendation should be implemented without any further delay.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Chuka/Igambang'ombe.

Hon. Njuki: Thank you, Hon. Speaker for giving me the opportunity to comment on this Petition. I would like to thank the Chair of the Departmental Committee on Environment and Natural Resources for bringing the results of the Petition in a very short time.

I have heard about the recommendations for the affected people around Meru National Park. Even though most of the recommendations make a lot of sense, the one that concerns people living 50 to 100 metres away from the boundary of the national park may not be attainable because those are people's farms. But in a place like Tharaka where the boundary between the national park and the residents of Tharaka is a river then it becomes very difficult

for both animals and the people of Tharaka to use the river. That is because both the animals and people use the river for drinking. Therefore, the most attainable solution would have been to do an electric fence around the national park that would allow the watering of animals and, at the same time, enable people to use the same river and stop the animals from getting to the farms. All the same, the recommendations are in good faith and I believe the Committee on Implementation can be able to take up the issue and ensure that they are implemented.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, before I allow the Member for Kiminini to make his comments, let me recognise the presence of students and pupils who are seated in the Speaker's Gallery. They are Eagles Academy, Moiben Constituency, Uasin Gishu County; Visa Oshwal Primary School, Baringo Central Constituency, Baringo County; Kairebi Primary School, Imenti Central Constituency, Meru County and St. Joseph's Boys Kitale, Saboti Constituency, Trans Nzoia County. They are all welcome to observe the proceedings in the National Assembly. Member for Kiminini.

Hon. Wakhungu: Thank you, Hon. Speaker. I want to commend the Departmental Committee on Environment and Natural Resources under the leadership of Hon. Amina Abdalla for work well done.

This Committee has been doing good work. As they bring the Report on the Petition, I wish the Committee on Implementation Committee can emulate it. We cannot see the Chair or the Vice-Chair of the Committee on Implementation in the House. This will help this House in that whatever is passed here and agreed upon is implemented to the letter. It is important that as we move forward, this approach that you have brought to this Floor is very encouraging; that when Petitions are completed, they have to be read the way Hon. Amina has done. This will help us in terms of monitoring the issues of implementation. As we know, matters of environment are very critical as outlined in the Sustainable Development Goals (SDGs). My humble request to the other Committee Members is to move with speed and particularly when it comes to the Departmental Committee on Education, Research and Technology. Hon. Melly had brought a Petition about the prayers in schools. It is over two months now, the 60 days that you had indicated and it seems even the Chair is not aware that there was a Petition that was brought to the Floor of the House on behalf of parents and guardians from Trans Nzoia County, and they have been waiting. I can see St. Joseph's School from Trans Nzoia is here. Their parents are waiting for this Petition. So, I am calling upon Hon. Melly to move with speed and bring a Report on the Floor of the House pertaining to the banning of prayers in secondary schools.

Thank you, Hon. Speaker, support.

Hon. Speaker: Hon. Rachel Nyamae, could you make brief remarks on the Paper which you tabled?

Hon. (Ms.) R.K. Nyamai: Thank you, Hon. Speaker for giving me this opportunity. I will make few remarks on the Petition by Mr. Brian Onyango regarding the alleged irregularities at Medanta Africare Group of Hospitals which is a private healthcare facility.

Hon. Speaker, you referred this Petition to the Parliamentary Committee and the allegations were that the hospital institutes criminal charges against local staff and subsequently terminates their services and that they were establishing several departments and institutions across the country without proper registration.

The Petition further alleged that the hospital had been referring patients to its current hospital, Medanta India for ailments and a charge of \$2,000 was being charged for the referrals.

The Petitioner alleged that the objective of such referrals was to defraud the National Hospital Insurance Fund (NHIF).

Hon. Speaker, the Departmental Committee on Health invited various institutions and individuals. It met the Petitioner himself, the hospital management, the Kenya Medical Practitioners and Dentists Board (KMPDB), NHIF and also the Committee conducted a visit to the institution. These were the observations:-

That, indeed, there was a problem with the registration of the facility. The facility was registered in different names under several agencies as follows:-

From the Registrar of Companies, it is referred to Africare Limited. At the KMPDB, it also had a different name, Africare Limited Hospital and at NHIF it is registered as Medanta Africare. This was a problem because in case of any loss, it was difficult to know who was responsible. NHIF had entered into an agreement with Medanta Africare Limited which is not seen at the Registrar of Companies and it is not recognised at KMPDB. Some referrals, indeed, for patients were being referred to Medanta India. It indicated that they were not warranted because they could have been handled locally. There was no clear relationship between Medanta Kenya and Medanta India. The Committee felt that this name may have been used as a marketing tool. From the list of the staff that was provided, the biggest number of staff are salespeople. From each department, they were required to meet a certain level of income. This was why some of the staff were being fired from the hospital. The high number of police scans that were done also raises concerns because from the Ministry of Health and also from other institutions and individuals that presented information, MRI scans ought to be done on case by case basis. But in the case of the police, it was done on 250 officers on the same day. There was an indication that majority of the patients being referred to India were also doing it on their own request and their bills were being footed by NHIF.

Hon. Speaker, the submissions by KMPDB had reported some facts also on this matter. For example, the board had reported that 75 cases had been referred to India but, when Medanta Hospital management brought us the number of people who had been referred, it was 83. So, there was a difference. The medical board submitted that the respondent, Medanta Africare, was directed to pay Kshs250,000 to it as cost of sittings of the preliminary inquiry committee of the board. The board should not charge its clients for carrying out its own responsibilities. The investigations by the Medical Board and its subsequent submissions appeared to have been compromised. Medanta Africare Limited expansion strategy was also questionable, because they were starting so many hospitals at the same time. So, the Committee was concerned about this.

Hon. Speaker, we made some recommendations:-

- (i) Medanta Africare Limited should ensure that it is properly registered so that when there is a problem with NHIF, then we know who is responsible.
- (ii) The Ministry of Health as a matter of urgency should develop a policy on international referrals so that patients do not go to the institutions and seek referrals themselves on matters that can be handled in Kenya and having NHIF foot such big bills that can be handled here.
- (iii) Medanta Africare Limited should put its expansion plans on hold and address the matters that were raised by the Committee and also by the Ministry of Health and from there they can continue with their expansion plans.
- (iv) The Kenya Medical Practitioners and Dentists Board should report back to the Ministry and also to the Committee.

- (v) The Ministry of Health should ensure that it builds capacity of KMPDB as a regulatory body so that it can handle matters such as these ones of Medanta Africare Limited.

On termination of services of petitioners who brought this Petition, the Committee could not pronounce itself on this matter because it seems that it was very complicated and the Committee felt it was not its responsibility to pronounce itself on this matter.

I would like to thank the Members of the Departmental Committee on Health for being supportive in doing this investigation.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I know some of you want to make comments but you will have to reserve them. I will allow you later because there is some other business which we must transact when you are not less than 50. Since I know that some of you have problems sitting in the Chamber beyond 15 minutes, allow us to transact business.

I can see the Members for Seme, Mavoko and the Leader of the Majority Party want to make some comments on that Report. I will allow you later. Let us go to the next Order.

NOTICES OF MOTIONS

Hon. A.B. Duale: Hon. Speaker, I beg to give notice of the following Motions:-

ADOPTION OF SESSIONAL PAPER ON THE NATIONAL POLICY ON ELIMINATION OF CHILD LABOUR

THAT, this House adopts Sessional Paper No.1 of 2015 on the National Policy on Elimination of Child Labour, laid on the Table of the House on 19th August 2015.

ADOPTION OF SESSIONAL PAPER ON THE NATIONAL CHILDREN POLICY

THAT, this House adopts Session Paper No.6 of 2014 on the National Children Policy, laid on the Table of the House on 25th August 2015.

ADOPTION OF SESSIONAL PAPER ON THE NATIONAL BUILDING MAINTENANCE POLICY

THAT, this House adopts Sessional Paper No.2 of 2015 on the National Building Maintenance Policy, laid on the Table of the House on 14th June 2016.

ADOPTION OF SESSIONAL PAPER ON NATIONAL SLUM UPGRADING AND PREVENTION POLICY

THAT, this House adopts Sessional Paper No.2 of 2016 on the National Slum Upgrading and Prevention Policy, laid on the Table of the House on 29th July 2016.

Hon. Speaker: I do appreciate that the first two Sessional Papers were laid on the Table of the House in August last year. I expect the relevant Committee which is headed by the Member for Matungu and deputised by the Member for Isiolo who is not listening to lead in the discussions and debate for adoption. We expect you to look into them and guide the House in debate.

Next Order!

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 16TH TO 19TH AUGUST 2016

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(a), on behalf of the House Business Committee (HBC), I rise to give the Statement regarding business that will appear before the House the week beginning Tuesday, 16th August 2016. The HBC met on Tuesday this week at the rise of the House to give priority for the coming week.

On Tuesday next week the House will continue debate on the Civil Aviation (Amendment) Bill 2016 and the Betting, Lotteries and Gaming (Amendment) Bill 2015 at Second Reading. Also scheduled for consideration is a Report of the Public Accounts Committee (PAC) on the Government of Kenya Accounts for the year 2013/2014, if not concluded today.

The following Committee Reports have been scheduled for consideration next week:-

- 1) The Report of the Public Investments Committee (PIC) on the Inquiry into Allegations of Fraud and Financial Mismanagement at the Youth Enterprise Development Fund.
- 2) The Twentieth Report of the Public Investments Committee on Audit of State Corporations.
- 3) The Report of the Defence and Foreign Relations Committee on the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United Kingdom (UK) concerning the Defence Cooperation.

Also scheduled for Second Reading next week, are the following Bills:-

- 1) The Finance Bill which has to be passed by 28th September, 2016.
- 2) The Statute Law (Miscellaneous Amendments) Bill No.58 of 2015.
- 3) The Kenya Regiment (Territorial Force) (Repeal) Bill, 2015

The HBC has resolved to give priority and utmost consideration to all the Year-Five constitutional Bills which ought to be passed by, 27th August 2016. In this regard, we are appealing to the Senate to expedite the consideration of the Fiscal Planning Bill 2015 to allow this House time to consider it in a timely manner. As Members are aware, yesterday, the House approved a Motion to have Thursday Morning sittings for next week and the week after. I urge Members to avail themselves during these sittings where we will consider various Departmental Committee Reports and several Private Members' Bills which are pending before HBC.

On questions before Committees the following Cabinet Secretaries are scheduled to appear before Committees on 16th August 2016:-

- (i) Cabinet Secretary for Health at 10.00 a.m. before the Departmental Committee on Health to answer Questions from Hon. Steven Mule MP, Hon. Kabando wa

Kabando MP, Hon. Joseph Gitari MP, Hon. Jacob Macharia MP and Hon. Peter Kaluma MP.

(ii) Cabinet Secretary for Agriculture, Livestock and Fisheries at 10.00 a.m. before the Departmental Committee on Agriculture, Livestock and Cooperatives to answer Questions from the following Members; Hon. Abdullahi Diriye MP, Hon. Ronald K. Tonui MP and Hon. John Muchira Nyaga MP.

(iii) Cabinet Secretary for Water and Irrigation at 10.00 a.m. before the Departmental Committee on Environment and Natural Resources to answer questions from Hon. Mary Seneta MP, Hon. Susan Musyoki MP and Hon. Ali Wario, MP.

Finally, the HBC will reconvene on Tuesday, 16th August 2016 at the rise of the House to consider business for the coming week.

Hon. Speaker: Next Order.

MOTION

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE SENATE AMENDMENTS TO THE ENERGY BILL, 2015

THAT, the House do agree with the Report of the Committee of the whole House on the consideration of the Senate amendments to the Energy Bill (National Assembly Bill No. 50 of 2015).

(Question put and agreed to)

BILL

Second Reading

THE PUBLIC BENEFITS ORGANISATIONS (AMENDMENT) BILL

(Hon. (Ms.) Kanyua walked into the Chamber)

(Applause)

Hon. Speaker: Why should the Member for Nyeri be congratulated? Welcome back.

Hon. Members, let me put the Question while congratulating Hon. Agostino Neto for successful moving this Bill.

(Hon. Oyugi on 10.8.2016)

(Debate concluded on 10.8.2016)

(Question put and agreed to)

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

Hon. Speaker: Before we move to the next Order, I had promised that I will give a few of you a chance to make comments on the Petition whose Report was tabled by the Chair of Departmental Committee on Health. Hon. Member for Seme, Dr. Nyikal.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker for giving me an opportunity to comment on this Petition.

The Petition against Medanta Africare Group of Companies and Hospitals having been considered, the Committee raises very important questions in the healthcare in this country. It raises the issue of referral of patients outside the country. We are aware that for various reasons, ranging from cost to efficiency and effectiveness of service, many patients are referred outside this country to seek treatment in other hospitals. What has come to light through this Petition is that as of now, we do not have a policy or a clear system of referral of patients. What is going on is that sometimes patients are referred without relation to the outcome of the disease and treatment they are going to get out there. It seems to be motivated, to a large extent, by the business approach that is being pushed and promulgated by the countries that are receiving these patients. Sometime, we noticed that some referrals are actually done directly between the patient and their families and the hospitals and the professionals abroad.

We find that this is not acceptable because many times, you find that patients are actually given options on what sort of treatment they can get and on what kind of facilities they should go to and these are done directly with petitions without any reference to the doctors who look after them here. In that situation, it is likely that the patients can make decisions that will not be beneficial to them. We also realise that there seems to be a financial consideration on the referral of patients. There seems to be people motivated to refer. There are organisations which have actually been set up merely as business centres that send patients out. That needs to be addressed.

We have raised this with the appropriate authorities. We expect a policy will be put in place and we may have to bring to this House some amendments in the appropriate law so that there is something guiding the referral of patients outside.

The other thing that is related to this is the cost of care in this country. We find that the cost of care in some cases is so high. One cannot understand why people will fly out with relatives to get treatment and still come back here where it is actually cheaper than when it is done out there.

We notice that the Medical Practitioners and Dentists Board and the Ministry have tried to put up a price schedule. I am not sure that it is entrenched in the law. But that is a good step in the right direction. We need to look at this deeply. The rates that have been put out may not be very beneficial to the patient, but it is something we need to look at.

Another issue that has come out is that we are in a liberalised economy and medicine is now being practised as a business. What has come out is that we have a company or companies that register many health facilities in their own names. This raises the issue that in case of malpractice or problem, who will take responsibility. Is it the individual employees in the hospitals or the directors who benefit most when these hospitals are run as businesses? This is an area we need to look at in law and bring responsibility to bear on someone when something happens.

All in all, we need a system of universal healthcare so that every Kenyan can access healthcare in facilities that they can afford. I know there was an attempt in 2005 to get a National Social Health Insurance that did not really work. We are working on it and we need to bring it back. The main issue here is the reform of the National Hospital Insurance Fund (NHIF) which is

going on. With that in place, we will bring a Bill in this Parliament that will attempt to make it possible for all Kenyans to access health at affordable rates; rates that do not render them paupers at the end of their treatment.

With that, Hon. Speaker, I thank you for giving me the opportunity to make a note that the Petition is an important one and it has given us the right way to look at healthcare in the country.

Hon. Speaker: I encourage you as a ranking Member of that Committee to move with speed and address whatever deficiency that is in the law as you have noted.

Before I give a chance to the Leader of the Majority Party allow me to recognise the presence of pupils and students from Isiolo Boys Secondary School, Isiolo North Constituency, Upper Hill Primary School, Isiolo North Constituency, and Itembe Primary School, Chepalungu Constituency. They are all welcome to observe proceedings in the House.

The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I am sure I am going to use very little time. On this matter, with your permission, I would like you to direct the Committee to give me a copy of the Petition.

This Medanta Group of Companies, as the Committee has said, have no bearing to the hospitals they are mentioning is India. They are quacks and are cheating poor Kenyans. If you go to where they are, I am told that they mention names of big people. The Chair did not say that. They claim that they are untouchables. I remember this is the same group on which one time the Cabinet Secretary was to appoint a team from the Kenya Medical and Doctors Association to look into the fees or kickbacks which are paid to certain companies like Medanta for patients to be referred to India for diseases that can be treated here.

So, Hon. Speaker with your permission, if I can access the Petition, I can frame it as a Question for the Cabinet Secretary for Health to come and answer. There are many grey areas about this Medanta. We must protect the welfare of our people. They might be sent to India on a procedure that can be done here at a very cheap cost. Kenyans flock to India every day and most of them come back after having spent their money and are told that those procedures could have been done at Kenyatta Hospital or Nairobi Hospital because the cost is still the same. It is good that the staff of Medanta Africare have raised this matter. The Committee should not only stop the extension plans of this group, but they should visit them and get data records of all the patients they have referred to India and whether those ailments can be treated in our country.

That is my comment. This is a very serious matter particularly when it comes to the group called Medanta Africare. I do not know who they care for.

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

Hon. King'ola: Thank you, Hon. Speaker. Before I comment, I intervened to see whether I could be given a chance to know the status of my Petition which I brought here in April, querying the modality and methodology used to appoint managing directors (MDs) at the Kenya Meat Commission (KMC) and East African Portland Cement Company. The two companies lie in the middle of Ukambani. Since their inception, no single local person has ever been an MD of either company.

Hon. Speaker: Hon. Makau, the Member for Mavoko, it is not fair for a Member to speak in vain. Are you asking a question? If so, to who is it directed? Unfortunately, I have no way of knowing those things about Mavoko or the boundaries until you take me there. Since it is unlikely that you will take me there, why do you not frame a question directed to a Cabinet

Secretary so that a proper response is given to you? You have raised the issue here but who is going to take action?

Hon. King'ola: Hon. Speaker, I had written the Petition to the Departmental Committee on Finance, Planning and Trade. That was in April. It has pained me more---

Hon. Speaker: A Petition?

Hon. King'ola: Yes! It was a Petition. I have never received any answer for the same. It pains me even more that with the exit of the current MD, they have appointed a person from the same tribe. I am very annoyed.

Hon. Speaker: Hon. Makau, approach the Clerk-at-the-Table and give details of that Petition. If you brought it in April, it ought to have been finalised by now. The Chair of Departmental Committee on Finance, Planning and Trade was just here.

Hon. King'ola: Hon. Speaker, it is by design that the Petition is not being answered.

Hon. Speaker: Approach the Clerk-at-the-Table so that appropriate directions can be issued. A report should be tabled in the course of the week.

Hon. King'ola: Hon. Speaker, I pray for your intervention because if it is the Clerk who is sitting on the same, I do not think I will be satisfied. May I kindly request that you also intervene so that we get an answer as a community. I represent them and they are worried whether this is a country that values equity.

Hon. Speaker: Are you a Member of the Departmental Committee on Finance, Planning and Trade?

Hon. King'ola: Hon. Speaker, I am.

Hon. Speaker: You should know better then. If you are a Member of that Committee, you should be answering yourself. As a Member of that Committee, you ought to grab the Chairman and the Deputy---

Hon. King'ola: Hon. Speaker, I raised the same question in our Committee and nobody seems to have an answer to it. I felt compelled to raise it in this Chamber so that someone somewhere might give me an answer.

Hon. Speaker: Somebody somewhere? I certainly will not be that somebody somewhere. Who is this somebody somewhere who is going to help you?

Hon. King'ola: If the Clerk of the National Assembly has not helped me, I am at loggerheads.

Hon. Speaker: Give the Senior Deputy Clerk the details of that Petition. A response will be forthcoming very soon.

Hon. King'ola: I stand guided. Thank you, Hon. Speaker.

COMMUNICATION FROM THE CHAIR

APPOINTMENT OF MEMBERS TO MEDIATION COMMITTEES

Hon. Speaker: Hon. Members, this Communication leads to the appointment of Members to the Mediation Committees on the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015) and the Energy Bill (National Assembly No.50 of 2015).

Hon. Members, you may recall that on Tuesday, 9th August 2016 this House, while in the Committee of the whole House, agreed with the Senate on most of its amendments to the

Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015) save for the amendments to Clauses 12 (1), 17 (1) (e) and (i), 48 and 49.

(Loud consultations)

Member for Lagdera, this is a Communication. You cannot also purport to communicate. Similarly, the House also considered the Senate amendments to the Energy Bill (National Assembly Bill No.50 of 2015) on Wednesday, 10th August 2016 and concurred with the Senate save for amendments relating to paragraphs (e) and (i) of Clause 57. Now that the House has also agreed with the Report of the Committee of the whole House on the Senate amendments, the two Bills, henceforth, stand committed to a Mediation Committee in accordance with the provisions of Article 112 (2) (b) of the Constitution.

In consultations with the leadership of the majority and minority parties in the House, I have appointed the following Members to represent the National Assembly in the Mediation Committee to consider the said Bills:-

- (1) Hon. Jamleck Kamau, MP;
- (2) Hon. Onesmus Njuki, MP; and,
- (3) Hon. Olago Aluoch, MP.

It is advisable that in attempting to develop agreed versions of the Bills, the Committee confines itself to the contested clauses and any other consequential amendments only. It is only instructive to note that since the two Bills have constitutional timelines, the Mediation Committee, once fully constituted, ought to hasten the consideration of the two Bills cognisant of the 26th August, 2016 deadline.

We are into some interesting season. Allow me to recognise the presence of the following students and pupils from the following institutions in the Speaker's Gallery:- Sotik Girls High School from Konoin Constituency, Bomet County; and Kisaruni Girls High School from Narok South Constituency, Narok County.

In the Public Gallery we have St. Camila Academy from Baringo North Constituency, Baringo County; Kisiki Primary School from Yatta Constituency, Machakos County; and St. Michael's Secondary School from Chepalungu Constituency, Bomet County.

Once again, they are all encouraged to observe proceedings in the House. Let us move to the next Order.

BILL

Second Reading

THE BRIBERY BILL

(Hon. A. B. Duale on 9.8.2016)

(Resumption of Debate interrupted on 10.8.2016)

Hon. Speaker: I now call upon the Mover to reply.

Hon. A.B. Duale: Thank you, Hon. Speaker. This Bill was debated the whole of yesterday afternoon and part of the previous day.

At the outset, I want to thank all the Members who contributed. In a nutshell, the overall objective of this Bill is to extend the fight against corruption to the private sector and, more specifically, by criminalizing bribery in the private sector. There was a lot of focus in our country in terms of the legislation, policy pronouncements and institutions fighting corruption in the public sector. This Bill brings on board the role of the private sector. How do we extend the fight against corruption to the private sector?

Secondly, this Bill seeks to provide a specific legislative framework for the private sector to put in place procedures to prevent corruption.

This Bill creates a legal obligation for every citizen who becomes aware of an act of bribery to report it to the nearest Ethics and Anti-Corruption Commission (EACC).

This Bill also provides for an effective coordination and accountability framework in the prevention, investigation and prosecution of acts of bribery.

I beg to move.

Hon. Speaker: We are required to put the Question but only if it is confirmed that we have quorum. I am told we have quorum. We are in compliance with Article 121 of the Constitution.

(Question put and agreed to)

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

MOTIONS

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

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

THAT, the Senate Amendments to the Fisheries Management and Development Bill (National Assembly Bill No. 20 of 2015) be now considered.

Hon. Speaker, following the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives, I agree with the Senate amendments to this Bill.

I am aware that the Committee concurred with the Senate amendments to Clauses 10, 33, 35, 36, 37, 39, 84, 85, 104, 112, 200, and 201 of the Fisheries Management and Development Bill. The Vice-Chairman of the Committee can confirm.

I beg to move.

Hon. Speaker: Vice-Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives.

Hon. Mbiuki: I wish to confirm that the Departmental Committee on Agriculture, Livestock and Cooperatives was seized of this particular Bill from the Senate and we concurred with all the amendments.

I second.

(Question proposed)

(Question put and agreed to)

THE ACCESS TO INFORMATION BILL

Hon. (Ms.) Kanyua: Hon. Speaker, I beg to move the following Motion:-

THAT, the Senate Amendments to the Access to Information Bill (National Assembly Bill No. 36 of 2015) be now considered.

The amendments are largely editorial but quite useful in terms of cleaning up the legislation. As it is a constitutional Bill, we are in good time in the sense of completing it before 27th August, 2016.

Now that I am here during my maternity leave, allow me to note that the baby room has not been sufficiently prepared. The House has agreed that mothers should bring their babies to the Assembly to do both the national legislative work and what we have to do as mothers. It will be very useful if the baby room is completed as early as possible.

I now request the Vice-Chairman of the Departmental Committee on Energy, Communication and Information, Hon. Kiptanui, to second the Motion.

Hon. Kiptanui: Thank you, Hon. Speaker. I rise to second the Part (a) of the Motion. I am not seconding the other one. The Committee considered Senate amendments to the Access to Information Bill, 2015 in its sitting held on Tuesday, 2nd August, 2016 and approved all of them.

I second.

(Question proposed)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

CONSIDERATION OF THE SENATE AMENDMENTS TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL*Clause 10**Senate Amendment*

THAT, Clause 10 of the Bill be amended in Sub-clause (1) by deleting the words “and the Director of the Service” appearing immediately after the words “the Director-General” in paragraph (g).

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Mbiuki, are you supporting Senate amendment to this clause?

Hon. Mbiuki: Yes. We support the Senate amendment to this particular clause.

Hon. Mulu: Hon. Temporary Deputy Chairlady, it would be necessary for the Vice-Chairman to tell us the import of this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Vice-Chairman, please, tell Members the implication of this amendment.

Hon. Mbiuki: This amendment seeks to correct a typo error by deleting the word “Director of the Service”, a non-existent title in the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Makali, are you satisfied?

Hon. Mulu: Hon. Temporary Deputy Chairlady, that is quite important. The Senate has done a good job. This is an issue of cleaning the Bill in Clause 10. I support.

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

(Senate Amendment to Clause 10 agreed to)

Clause 33

Senate Amendment

THAT, clause 33 of the Bill be amended in sub-clause (2) by inserting the words “collaborate with the Director-General in the management of fisheries and shall, for this purpose” immediately after the words “each county shall”

Hon. Mbiuki: The amendment seeks to enrich the clause better by providing clear linkages between the national Government represented by the Director-General and the counties represented by the County Executive Committee member on matters related to the fisheries.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gumbo, do you want to speak to this amendment on Clause 33?

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Not quite.

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

(Senate Amendment to Clause 33 agreed to)

Clause 35

Senate Amendment

THAT, clause 35 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph –

(b) take into account any recommendations that may be made by the Director-General with respect to the plan.

Hon. Mbiuki: The justification of this amendment is that it enriches the clause by ensuring that this registration complies with Schedule 4 of the Constitution on the function of the two levels of Government.

Thank you.

(Question of the amendment proposed)

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

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

(Senate Amendment to Clause 35 agreed to)

Clause 36

Senate Amendment

THAT, Clause 36 of the Bill be amended by-

- (a) deleting subclause (3);
- (b) deleting subclause (4).

Hon. Mbiuki: The justification is that Clause 36(3) and (4) as passed by the National Assembly give powers to the Cabinet Secretary to recall a function from a county in case it is not properly managed, a power not provided for in the Constitution of this House. The power to recall the county function is clearly provided in the Inter-Governmental Act. Therefore, the amendment is to correct this anomaly.

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

(Senate Amendment to Clause 36 agreed to)

Clause 37

Senate Amendment

THAT, Clause 37 of the Bill be amended –

- (a) in subclause (1) by deleting the words “governing the administration of beach management units” appearing immediately after the words “make regulations” and substituting therefor the words “setting out standards for the management of beach management units established by the county governments”.
- (b) in sub-clause (2) by –
 - (i) deleting paragraph (b) and substituting therefor the following new paragraph –

- (b) minimum standards in the general administration of the beach management units;
- (ii) deleting paragraph (c);
- (iii) deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) standards to be adhered to by beach management units in imposing levies and charges and the management and utilization of such funds;
- (iv) deleting paragraph (e) and substituting therefor the following new paragraph –
 - (e) such other standards which the Cabinet Secretary may consider necessary for the effective administration and management of the beach management units;

Hon. Mbiuki: The justification is that the general administration and management of beach units is a function of the county government, not the national Government. Hence, the amendment corrects the anomaly created earlier which granted administration of each unit to the national Government.

Thank you.

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

Hon. (Ms.) Kanyua: I rise to support the amendments. This is to ensure that the laws and rules are in line with the Constitution.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you, Hon. Nyokabi. Hon. Gumbo?

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairlady. It is good that the management of the beach management units should revert to the counties. Those of us who live along the water bodies of this country know that one of the biggest problems that the beach management units face is security particularly the invasion by foreign countries.

Much as we propose that the management should revert to the counties, the Committee should also bring its mind to bear on how we are going to deal with this menace. We have seen what the Government is doing in Migingo. It is not just Migingo, there are other Beach Management Units (BMU) which are literally under the grip of foreign forces, particularly those that are in some islands in Lake Victoria. It is good that we must find a way to have the national Government intervene on matters. As the BMUs manage the beaches, let the national Government intervene on matters security. Otherwise, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I am sure, Chair, you have heard what the Member has suggested and I am sure your Committee will look into that.

*(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)*

(Senate Amendment to Clause 37 agreed to)

*Clause 39**Senate Amendment*

THAT, Clause 39 of the Bill be amended—

(a) in the introductory clause of sub-clause (1) by inserting the words “in consultation with the Council of Governors and” immediately after the words “the Board may”; and

(b) in the introductory clause of sub-clause (2) by inserting the words “in consultation with the relevant county governments” immediately after the words “Director-General shall”.

(Question of the amendment proposed)

Hon. Mwiru: This amendment enriches the Bill by ensuring that the power to designate fisheries is shared between the fisheries services and the Council of Governors (CoG) as opposed to the clause that was passed by the National Assembly which reserved these powers to the fishery service which is a national Government institution. I thank you, Hon. Temporary Deputy Chairlady.

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

Hon. F.K. Wanyonyi: I support the amendment because fisheries management is a devolved function. We, therefore, have to consult the governors instead of what was happening previously where it was only the national Government that was in control since this is a devolved function. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh: Hon. Makali Mulu

Hon. Mulu: Hon. Temporary Deputy Chairlady, I also support this amendment. Even as I support, it is important we observe that wide consultation is important though it should not be used to delay implementation of decisions. At some time, the room for consultation has been used to delay implementation. I support.

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

(Senate Amendment to Clause 39 agreed to)

*Clause 84**Senate Amendment*

THAT, Clause 84 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting paragraph (d);

(ii) deleting paragraph (e).

- (b) by inserting the following new sub-clause immediately after sub-clause (1) –
- (1A) The respective county governments shall be responsible for issuing licences with respect to –
- (a) using any vessel for recreational fishing in the Kenya fishery waters; and
 - (b) operating a fish processing establishment within the respective county.
- (1B) The Cabinet Secretary shall prescribe the standards for the registration of vessels and grant, renewal and revocation of licences by a county government under sub-clause (1A).
- (1C) Each County Government may enact county specific legislation setting out the –
- (a) criteria for the registration of a vessel and issuance of a licence to an applicant for a licence under subsection (1A);
 - (b) information required to be submitted by an applicant for registration or issuance of a licence;
 - (c) process of determination of an application;
 - (d) conditions for the issuance or renewal of a licence under this Act;
 - (e) grounds for the rejection of an application or cancellation of a licence issued under this Act;
 - (f) process of application for the renewal of licences, de-registration of a vessel and revocation of a licence issued to an applicant by the county government; and
 - (g) appointment of inspectors or such other authorised officers to carry out such inspections as the county executive committee member responsible for fisheries may consider necessary for the implementation of this Act.

(Question of the amendment proposed)

Hon. Mwiru: This amendment is meant to enrich the clause by ensuring that registration complies with the Fourth Schedule of the Constitution and the functions of the two levels of Government, therefore, there is need to involve the county executive members in licensing and marketing.

*(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)*

(Senate Amendment to Clause 84 agreed to)

Clause 85

Senate Amendment

THAT, Clause 85 of the Bill be amended in sub-clause (1) by inserting the words “to the respective county government” immediately after the words “shall require to apply”.

(Question of the amendment proposed)

Hon. Mwiru: This amendment is meant to ensure that the clause respects the fact that fisheries management is a devolved function and there is need to involve the county executive member when it comes to matters of licensing. I thank you, Hon. Temporary Deputy Chairlady.

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

Hon. (Eng.) Gumbo: I wish to support. I think the intent of that amendment is clear because it intends to recognise the role of the county governments on a function which is devolved.

(Question of the amendment proposed)

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

(Senate Amendment to Clause 85 agreed to)

*Clause 87**Senate Amendment*

THAT, Clause 87 of the Bill be amended in sub-clause (4) by inserting the words “county executive committee member responsible for fisheries in the respective county in consultation with” immediately after the words “effect unless the”.

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

Hon. Mbiuki: The amendment seeks to enrich the clause by respecting the fact that fisheries management is a devolved function and, therefore, we need to involve the County Executive Committee (CEC) member.

(Question of the amendment proposed)

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

(Senate Amendment to Clause 87 agreed to)

*Clause 104**Senate Amendment*

THAT, Clause 104 of the Bill be amended in sub-clause (2) by deleting the words “Cabinet Secretary” appearing immediately after the word “The” and substituting therefor the words “county executive committee member”.

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, this amendment is to correct the anomaly in the Bill that empowered the Cabinet Secretary (CS) to license local fishing vessels in the country which, as a matter of fact, is a function of the CEC member at the respective county.

(Question of the amendment proposed)

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

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

(Senate Amendment to Clause 104 agreed to)

Clause 112

Senate Amendment

THAT, Clause 112 of the Bill be amended –

(a) in sub-clause (1) by–

(i) inserting the words “respective county executive committee member responsible for fisheries may, in consultation with” immediately after the words “quantity as the” in paragraph (a);

(ii) deleting the words “Director-General” appearing immediately after the words “notified to the” in paragraph (c) and substituting therefor the words “respective county executive committee member responsible for fisheries”

(b) in sub-clause (2) by deleting the word “authorized officer or inspector” appearing immediately after the words “request of an” and substituting therefor the words “officer or inspector authorized to carry out an inspection by the county executive committee member responsible for fisheries”.

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

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, this amendment is to enrich the clause by respecting the fact that fisheries is a devolved function. Therefore, there is need to involve the CEC member in the inspection of fish processing plants in the counties.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, before I put the Question, let me give you an opportunity.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, it is all very well to give this role to the CEC member. However, I think giving roles is one thing and ensuring that those roles

are executed is another matter. We have seen a lot of disorder in the fishing industry, particularly with regard to processing of fish. As you know, fish is very perishable. I think this is one area that even though we are taking it to the county governments, there should be some way for the national Government to provide the required capacity before it is completely taken over by the county governments. Otherwise, I support.

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

Hon. King'ola: Thank you, Hon. Temporary Deputy Chairlady. I am worried that most of these functions which have been devolved seem to be taking away all the powers of the CS in the national Government. How I wish all the devolved functions are taken to the county governments and the CSs responsible for the same are relieved of their duties.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, I believe you are listening to the concerns of the Members that we seem to be taking away all the roles, but you said that this is a devolved function. Maybe you want to clarify.

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, I wish to say that the role of the CS is on policy matters. The general execution of this mandate is the prerogative of county governments. The national Government is left with policy matters.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think that makes it clear.

*(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)*

(Senate Amendment to Clause 112 agreed to)

Clause 114

Senate Amendment

THAT, Clause 114 of the Bill be amended in—

(a) Sub-clause (1) by inserting the words “or the county executive committee member responsible for fisheries, as the case may be” immediately after the words “the Director-General”;

(b) Sub-clause (4) by inserting the words “or the county executive committee member responsible for fisheries, as the case may be” immediately after the words “the Director-General”;

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

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, this amendment is to enrich the clause by respecting the fact that fisheries is a devolved function. Therefore, there is need to involve the CEC member in the inspection of fisheries and fish processing plants in the counties.

(Question of the amendment proposed)

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

Hon. Murgor: Thank you, Hon. Temporary Deputy Chairlady. I stand to support the amendment from the Senate. I would also like to echo the sentiments of the Chair that this is a function which is already devolved. Therefore, the CEC member ought to be involved.

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

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairlady. I want to echo the words of the Chair that this being a devolved function, there is need for consultations between the CEC member and the Director-General. I support.

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

(Senate Amendment to Clause 114 agreed to)

Clause 200

Senate Amendment

THAT, Clause 200 of the Bill be amended by deleting paragraph (f).

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

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, this amendment is to enrich the clause by recognising that fisheries management is a devolved function. Therefore, the county governments are expected to develop and improve fish market infrastructure and marketing system in the respective counties.

(Question of the amendment proposed)

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

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Chairlady. I support.

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

Hon. F.K. Wanyonyi: I support the Chair. Fisheries management is a very important function. We have realised that it provides employment in the rural areas. We will see quite a number of refrigeration centres being put up in the counties. Therefore, I support the amendment from the Senate.

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

(Senate Amendment to Clause 200 agreed to)

Clause 201

Senate Amendment

THAT, Clause 201 of the Bill be amended—

(a) by inserting the following new paragraph immediately after paragraph

(e) —

- (ea) one person, who has knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;
- (b) in paragraph (h) by –
 - (i) deleting the word “five” appearing at the beginning of the introductory clause and substituting therefor the word “four”;
 - (ii) deleting the word “three” appearing at the beginning of subparagraph (ii) and substituting therefor the word “two”.

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, the amendment is to enhance the clause by recognising the fact that fisheries management is a devolved function. The county governments have a bigger role in fisheries management in the country. Therefore, their representation in the Fish Marketing Authority (FMA) through the Council of Governors is valid. The amendment shall not cause an increment in the number of the members of the Board of Directors.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Everybody wants to speak to this amendment. Hon. Beatrice Nyaga, the Member for Tharaka-Nithi.

Hon. (Ms.) B.N. Nyaga: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Onesmus Njuki.

Hon. Njuki: Hon. Temporary Deputy Chairlady, I want to support the amendment even though my worry in this case is the power given to the CoG. Even though the function is devolved, it does not necessarily have to be a governor because the CoG is made of governors only. It could also be delegated to the staff of the county governments who are more experienced in this field. Even if it is a policy matter, we have experts. There could be a professor in fisheries in the county government who can do the same. All the same, I support.

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

Hon. Wambugu: Thank you. I support the amendment.

As we recognise that this is a devolved function, we impress on the CoG to closely coordinate with the former Ministry in charge of fisheries to implement some of the programmes, especially in areas which are not close to water bodies and around mountains, where we produce a lot of fish for export. We hope they are going to do that.

I beg to support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I wish give the last opportunity to the Member for Kesses, Hon. Kimaru.

Hon. J.K. Bett: Thank you, Hon. Temporary Deputy Chairlady. I support the Senate amendments to Clause 201, particularly on the fact that the CoG will appoint somebody with the knowledge and experience in fisheries. That is very important because it will enable the counties to lift fisheries to another level.

Hon. King’ola: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is your point of order, Hon. Makau?

Hon. King’ola: Hon. Temporary Deputy Chairlady, in this amendment, we are referring to the CoG. I am worried. Is the CoG recognised by law or is it in the Constitution? In which Article is it in the Constitution? It is an umbrella body.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair of the Committee, will you clarify?

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, it is unfortunate that one of us does not know that, indeed, the CoG is anchored in the law through the Intergovernmental Act. As stated in this amendment, it is not necessarily the governor himself who should be part of the Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Makau, you should be seated when another Member is on his feet.

Hon. Mbiuki: A representative of the CoG can be an executive who represents the CoG. The CoG is properly anchored in the Intergovernmental Act.

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

Hon. Katoo: Hon. Temporary Deputy Chairlady, it is very unfortunate that one of us is not aware that the CoG is a legally constituted body. It is the only way that the two levels of the Government can legally interact or consult. If you look at the amendments of the Bill that we have been going through, almost in every amendment, there is consultation. It is consultation between the two levels of the Government, namely, the national Government and the county governments since fisheries is a devolved function. There is no other way the two levels of Government can consult other than by using the Intergovernmental Act that formalises the CoG. So, it is legally recognised.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Mavoko, I am sure you are sufficiently advised, are you not?

Hon. King'ola: Thank you, Hon. Temporary Deputy Chairlady. I am informed. With the introduction of "one person in consultation with the CoG, I now see some professionals in fisheries. Fish is not only good in our diet, but it also improves the economy.

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

*(Question, that the word 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)*

(Senate Amendment to Clause 201 agreed to)

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

Hon. Mbiuki: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Senate amendments to the Fisheries Management and Development Bill (National Assembly Bill No.18 of 2014) and its approval without amendments.

(Question proposed)

(Question put and agreed to)

THE ACCESS TO INFORMATION BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We will proceed with the Committee of the whole House to consider the Senate amendments to the Access to Information Bill (National Assembly Bill No.36 of 2015).

*Clause 2**Senate Amendment*

THAT, Clause 2 of the Bill be amended—

(a) in the interpretation of the word “information” by inserting the words “or a private body” immediately after the words “public entity”

(b) in the interpretation of the expression “personal information” by inserting the following new paragraph immediately after paragraph (g) —

(h) contact details of an individual.

(c) in the interpretation of the expression “public record” by deleting the word “writing” appearing immediately after the words “includes any” and substituting therefor the words “record in written or any other form”.

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, the effect of the amendment is to redraft the definition of the term “information” to include a private body. Further, the amendment redrafts the definition of the term “personal information” to include contact details of an individual. It also deletes the word “writing” and replaces it with the words “record in written or any other form” in the definition of the term “public record”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I see Hon. Priscilla Nyokabi.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairlady. I support the amendments as well as what the Committee has done in terms of processing. In terms of guiding our speed on this Bill, I want to say that we are in agreement. Most of these amendments are largely editorial amendments that aim at cleaning up the Bill and making it easier for implementation. So, there really should not be so much debate on the amendments.

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

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I just wonder. In this day and age, we need to be schooled on what the contact details of an individual mean because it can mean a lot of things. I tend to be from the old school with regard to the language of English. Should the wording be “record in writing” or “record in written?” Do they mean the same thing or different things? We seem to be drafting errors here. Should we talk of “record in writing” or “record in written or any other form?” I need to be schooled on this one. In my view, it should read “record in writing.”

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Committee Chair, do you want to answer that one?

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, this is a drafting issue. We can address it. I hope our drafters have picked it up.

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

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

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

(Senate Amendment to Clause 2 agreed to)

Clause 3

Senate Amendment

THAT, Clause 3 of the Bill be amended—

(a) in paragraph (b) by deleting the word “require” appearing at the beginning of the paragraph and substituting therefor the words “provide a framework for”;

(b) in paragraph (c) by deleting the word “create” appearing at the beginning of the paragraph and substituting therefor the word “provide”;

(c) in paragraph (d) by deleting the words “by public service and private service” appearing immediately after the words “information disclosure” and substituting therefor the words “by public entities and private bodies”; and

(d) in paragraph (e) by deleting the word “release” appearing immediately after the words “persons who” and substituting therefor the word “disclose”.

Hon. Kiptanui: I wish to inform the House that we do not have any objection as a Committee. What the Senate has done is just to reword some of those phrases. The amendment seeks to delete what has been used in paragraphs (b), (c), (d) and (e) and substitute them with other appropriate words which basically mean the same thing. We do not have any objection.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I can see a lot of cleaning up of language in the amendment. There is nothing major which has been added except cleaning up of the language.

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

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

(Senate Amendment to Clause 3 agreed to)

Clause 4

Senate Amendment

THAT, Clause 4 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause—

(3) Access to information held by a public entity or a private body shall be provided expeditiously at a reasonable cost.

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, this amendment seeks to delete the word “inexpensively” and substitute therefor the words “reasonable cost” which basically means the same thing. So, it is just rewording. We do not have any objection.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Kiptanui, repeat what you have said because we are not on the same page. What did you say?

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, I have said that the Senate amendment wishes to delete the word “inexpensively” and substitute with the words “reasonable cost” which means the same thing.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Are you reading from the Order Paper or from your own notes? Refer to the Order Paper.

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, the Senate amendment is deleting sub-clause 3 and substituting it with a new sub-clause 3.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): From what we are reading in the Order Paper, the clause is amended by deleting sub-clause 3 and substituting therefor the following new sub-clause 3:-

“(3) Access to information held by a public entity or a private body shall be provided expeditiously at a reasonable cost.

This is not in tandem with what you are saying.

Hon. Kiptanui: The Senate has replaced the word “inexpensively” in the original version of the Bill with the words “reasonable cost”.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I get you. I understand. Hon. Makali!

Hon. Mulu: Hon. Temporary Deputy Chairlady, the Mover should help the House because this new sub-clause is demanding. I do not know whether private bodies are required to give information in the original Bill. I thought this Bill was concerned with giving public information from public bodies. If I have a private company, will I be required by law to provide information about it? The Mover needs to help us understand because that might cause confusion. That is not the intention of the original Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, should I give the opportunity to Hon. Gumbo and then you respond to both comments? Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I have two problems with this proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair and Hon. Nyokabi, please, pay attention.

Hon. (Eng.) Gumbo: I know the spirit of this Bill is to do with public information and public entities. When we start talking about a private body, that will amount to intrusion of

privacy. From the background I come from, we say that if you cannot measure it, you cannot fix it. When you say at a “reasonable cost”, reasonable can be a function of time or quality. So, what are you talking about? What is reasonable to me may not be reasonable to the Chair. What are we talking about here when we say “at a reasonable cost”? This amendment is superfluous and I request the House to reject it. It does not help at all in enriching the Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Can we hear from the Chair of the Committee on the issues raised?

(Loud consultations)

Leader of the Majority Party, you are distracting the Chair as he attempts to answer. The Chair can hear you. You can approach him. He is on the Floor of the House. Go ahead, Hon. Chair.

Hon. Kiptanui: Hon. Gumbo seems to have a point. However, if you go through the Bill which we passed as a House on that clause, we approved that access to information of a public entity or private body shall be provided expeditiously and inexpensively. The Senate has redrafted the same clause and deleted the last word, “inexpensively” and replaced it with “reasonable cost”. We can pass the amendment as it is, but when we will be making the other policies, then we can specify what “reasonable cost” means.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nyokabi, please, add your voice. Have you completed Chair? Are you still contributing? Let him respond about access to information from a private body. I cannot see it in the Bill. Where did you get that one from, Hon. Makali Mulu? It is an amendment?

Hon. Kiptanui: It was there. Nothing has been amended on persons seeking information from either private entity or a public body.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): People should access information from both private and public bodies, Hon. Makali. Hon. Nyokabi.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairlady. Let me help in the definition of “private body”, which is already in the body of the Bill. First of all, the definition comes from Article 35 of the Constitution. It is the right of every citizen to receive information from public authorities, but where fundamental rights are concerned, he can get information from a private body, according to Article 35 of the Constitution. The private body defined here is the one that receives public resources and benefits, utilises public funds, engages in public functions, provides public services, and it has exclusive contracts to exploit natural resources. It is also in possession of information which is of significant public interest in its relation to protection of human rights. There are private bodies which are concerned with some of these matters. In fact, in this era, we have a lot of Government resources which are being used by private bodies. In that instance, then the private body has to comply with this Act.

On the matter of reasonable cost, that is a genuine concern which can be addressed by regulations. The language by the Senate is understandable. It is neater in law than the word “inexpensive” because a lot of court decisions have interpreted what is reasonable for the different categories of information and citizens, but all that would be in the regulations.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have canvassed that point sufficiently.

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

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

(Senate Amendment to Clause 4 agreed to)

Clause 5

Senate Amendment

THAT, Clause 5(1) of the Bill be amended—

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

(a) facilitate access to information held by such entity and which information may include—

(b) in sub paragraph (vi) of paragraph (a) by deleting the words “any guidance used by it in relation to” appearing at the beginning of the sub paragraph and substituting therefor the words “guidelines used by the entity in”;

(c) in sub paragraph (vii) of paragraph (a) by deleting the word “consulted” appearing immediately after the words “indexes to be” and substituting therefor the word “inspected”;

(d) in paragraph (e) by deleting the word “means” appearing immediately after the words “other suitable” and substituting therefor the word “media”; and,

(e) in sub paragraph (iii) of paragraph (e) by inserting the word “service” immediately after the words “name of the”.

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, I do not have to read the amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You do not have to read the whole amendment because Members have the Order Paper. They can follow.

Hon. Kiptanui: The amendment seeks to reword paragraph (a) and delete the words in paragraphs 6 and 7 and substitute therefor words which mean the same. For purposes of clarity, they have rephrased most of those sentences.

(Question of the amendment proposed)

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

Hon. Macharia: Hon. Temporary Deputy Chairlady, it is saying the same thing, only that they have included the word “entities.”

I support the amendment.

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

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

(Senate Amendment to Clause 5 agreed to)

Clause 6

Senate Amendment

THAT, Clause 6 of the Bill be amended—

(a) in paragraph (e) of sub-clause (1) by deleting the words “infringe on the” appearing at the beginning of the paragraph and substituting therefor the words “substantially prejudice the”; and,

(b) by inserting the following new paragraphs immediately after paragraph (g) of sub clause (2)—

(h) information between the national and county governments deemed to be injurious to the conduct of affairs of the two levels of government;

(i) cabinet deliberations and records;

(j) information that should be provided to a State organ, independent office or a constitutional commission when conducting investigations, examinations, audits or reviews in the performance of its functions;

(k) information that is referred to as classified information in the Kenya Defence Forces Act; and,

(l) any other information whose unauthorised disclosure would prejudice national security.

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, the effect of the amendment is to raise the threshold test for what information qualities to be withheld by a public or private entity as regards commercial interest. One needs to provide that information. For information to be exempted from being disclosed, there must be proof that its disclosure is likely to substantially prejudice the commercial interests of the company. This amendment includes more categories of information which can be termed as national security.

We support the amendment.

(Question of the amendment proposed)

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

Hon. Kubai Iringo: Hon. Temporary Deputy Chairlady, thank you for giving me this opportunity to contribute. I support the deletion of the words “infringe on the” and substituting it with “substantially prejudice the”. It will make the Bill stronger.

I support the amendment.

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

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, the words “national security” have very many connotations depending on where you stand. Remember our constitutional process was almost brought to a grinding halt when the words “national security” were sneaked in. I suppose the intention of these amendments is not to introduce mischief, so that you ride on

the vagueness of the term “national security” to deny people access to information which they ought to necessarily have. Otherwise, if that is the understanding, I would reluctantly support.

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

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Chairlady, I want to support the amendments as well in terms of the categories of information that are protected. It is, indeed, true that even as we seek access to information, there are particular categories of information that should be protected, at least, for sometime if not always or until decisions are made.

The inclusion of the areas that the Senate has brought in is quite useful in terms of the question of national security. Again, the Bill has a lot of interpretation of what is going to be captured under national security. These deliberations are used in interpretation of the law to add that its objective is to free information around Budget processes, how the public uses funds and much less, on what is going on with national security, but a lot more on what is going on with taxpayers' money.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I will now limit debate because we discussed this during the Second Reading. We will have explanations by the Chair and Hon. Nyokabi, so that we can move faster.

*(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)*

(Senate Amendment to Clause 6 agreed to)

Clause 8

Senate Amendment

THAT, clause 8 of the Bill be amended by deleting sub clause (2) and substituting therefor the following new sub clauses –

(2) Where an applicant is unable to make a written request for access to information in accordance with subsection (1) because of illiteracy or disability, the information officer shall take the necessary steps to ensure that the applicant makes a request in a manner that meets their needs.

(2A) The information officer shall reduce to writing, in a prescribed form the request under made subsection (2) and the information officer shall then furnish the applicant with a copy of the written request.

(Question of the amendment proposed)

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

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, what the Senate has done is to reword sub clause (2) with two sub clauses. It communicates the same thing as the amended sub clause in regard to application of access to information. We do not have any objection.

*(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)*

(Senate Amendment to Clause 8 agreed to)

Clause 9

Senate Amendment

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

(2) Where the information sought concerns the life or liberty of a person, the information officer shall provide the information within forty-eight hours of the receipt of the application.

(2A) The information officer to whom a request is made under subsection (2) may extend the period for response on a single occasion for a period of not more than fourteen days if –

- (a) the request is for a large amount of information or requires a search through a large amount of information and meeting the stipulated time would unreasonably interfere with the activities of the information holder; or
- (b) consultations are necessary so as to comply with the request and the consultations cannot be reasonably completed within the stipulated time.

(Question of the amendment proposed)

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

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, the effect of the amendment is to provide that where the information sought concerns life or liberty of a person, it shall be provided within 48 hours and not more than 14 days. The clause as provided by the House allowed for an extension of not less than 15 working days where the application is complex or relates to a large volume of information. We therefore, said if the information requires more time it can be extended by 15 days. What the Senate has done is to say the information must be available within 48 hours and if it requires more time then it be extended by 14 days. We have no problem with this. In fact, they have just reduced by one day.

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

Hon. Macharia: Hon. Temporary Deputy Chairlady, this Senate amendment makes it very clear because they have also added sub clause (2)(a)(b) and this is good. 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)*

(Senate Amendment to Clause 9 agreed to)

Clause 10

Senate Amendment

THAT, clause 10 of the Bill be amended in clause (3) by deleting the words “fifteen days” appearing immediately after the words “application within” and substituting therefor the words “twenty-one days”.

(Question of amendment proposed)

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

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, this amendment is to increase the period within which a public entity is required to make a decision on an application from 15 days to 21 days.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is straightforward.

Hon. Kiptanui: There is no objection, it is straightforward.

*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)*

(Senate Amendment to Clause 10 agreed to)

Clause 11

Senate Amendment

THAT, clause 11(1) of the Bill be amended in paragraph (e) by inserting the words “if any” immediately after the words “the payment”.

(Question of the amendment proposed)

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

Hon. Kiptanui: Hon. Temporary Deputy Chairlady, I want to request that I move this amendment and thereafter, Hon. Onesmus Njuki will proceed with the remaining clauses.

The effect of this amendment is to provide that an information officer shall send to the applicant a written response within 15 working days on receipt of the application, advising the proposed process of accessing the information once the payment if any is made.

It means if you need any information from a public or private entity once you write to that organisation or persons then the person or information officer must respond to you as an applicant within a specified number of days. We do not have any objection.

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

(Senate Amendment to Clause 11 agreed to)

Clause 14

Senate Amendment

THAT, clause 14 of the Bill be amended in sub clause (1) by deleting paragraph (f) and substituting therefor the following new paragraph –

(f) a decision relating to the remission of a prescribed application fee;

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair you are giving your role to a Member of your Committee.

Hon. Kiptanui: Yes, Hon. Temporary Deputy Chairlady. We had consulted earlier and agreed that I do part of it and he does the remaining part.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Njuki, is now standing in for Committee Chair.

Hon. Kiptanui: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Go ahead, Hon. Member.

Hon. Njuki: Hon. Temporary Deputy Chairlady, it is almost the campaign season and people want to move very fast. It is excusable for our Chair.

The justification for this is that, the amendment seeks to rephrase paragraph (f) but the importance is the same. It is just the question of semantics. There is really not much difference, just language.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I see, Hon. Gaichuhie of Subukia, you want to speak to this amendment.

Hon. Gaichuhie: Hon. Temporary Deputy Chairlady, not this one. I am sorry.

*(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)*

(Senate Amendment to Clause 14 agreed to)

*Clause 16**Senate Amendment*

THAT, clause 16 of the Bill be amended –

- (a) in sub clause (3) by deleting the words “the he or she” appearing immediately after the words “(1) or (2) where” and substituting therefor the words “such person”; and
- (b) in sub clause (4) by deleting the words “the other” appearing immediately after the words “to injure” and substituting therefor the word “another”.

(Question of the amendment proposed)

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

Hon. Njuki: Hon. Temporary Deputy Chairlady, we seek to support the amendment by the Senate and the justification is to ensure the use of gender neutral language and replace the words “the other” with “another” which is appropriate in this case.

*(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)*

(Senate Amendment to Clause 16 agreed to)

*Clause 23**Senate Amendment*

THAT, clause 23 of the Bill be amended in sub clause (8) by deleting the words “relevant private body or” appearing immediately after the words “public entity” and substituting therefor the words “or the relevant”.

(Question of the amendment proposed)

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

Hon. Njuki: Hon. Temporary Deputy Chairlady, we want to support this amendment and the justification by the Senate is that the amendment seeks to delete unnecessarily repeated words in this case being “relevant private body or” as used in the previous amendment by the National Assembly.

*(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)

(Senate Amendment to Clause 23 agreed to)

Clause 26

Senate Amendment

THAT, Clause 26 of the Bill be amended –

(a) in sub clause (1) by deleting the words “to the National Assembly” appearing immediately after the words “annual report” and substituting therefor the words “to Parliament”; and

(b) in sub clause (3) by deleting the words “the National Assembly” appearing immediately after the words “Commission before” and substituting therefor the words “Parliament

Hon. Njuki: Hon. Temporary Deputy Chairlady, we want to support Clause 26 (a) and (b) as proposed by the Senate. The justification for this is that the effect of the amendment is to re-align the clause with Article 254 of the Constitution which requires reporting by constitutional commission to be done to Parliament. The Commission on Administrative Justice is a constitutional commission under Article 59 (5) (c) of the Constitution. This is as was passed by the National Assembly.

(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)*

(Senate Amendment to 26 agreed to)

Clause 28

Senate Amendment

THAT, Clause 28 of the Bill be amended in sub clause (7) by deleting the words “under the Public Procurement and Disposal Act or any Act replacing that Act” appearing immediately after the words “with government” and substituting therefor the words “under the laws relating to matters of procurement and disposal.”

Hon. Njuki: The reason for this is that the amendment seeks to ensure reference to the relevant procurement laws in place. In any case, the relevant Act is the Public Procurement and Asset Disposal Act, 2015 and not the Public Procurement and Disposal Act as repealed as used in the clause.

(Question of the amendment proposed)

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

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chair, I find this proposed amendment by the Senate both timid and very ambivalent. It is timid in the sense that we only have one procurement law in the country and it governs public procurement. You cannot decide for individuals how they are going to procure.

It is ambivalent in the sense that if you look at the wording of this law, “and substituting therefor the words under the laws relating to matters of procurement and disposal,” procurement and disposal by who and of what or which? When we have this kind of wordings in our law, we just make the law not to tell us anything. We can only talk of public procurement.

If today I want to buy something from Hon. Njuki in his private capacity, the transaction is private, between him and I. Why should I be bound by laws on procurement which have nothing to do with the agreement between us? In any case, the law governing procurement in this country was passed in this House. It is Public Procurement and Assets Disposal Act, 2015 which the President assented into law. Why can we not say what it is instead of being timid and ambivalent for no reason at all?

I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nyokabi, speak to the concerns raised by Hon. Gumbo.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairlady. The Member has good points about the main law on public procurement. But the intent of the Senate is not to cover just the main Act but other regulations and other legislations that affect procurement matters in this country. It is indeed true that there is one major public procurement Act. But other than the Act, there are regulations, for instance, the 30 per cent for women and the youth procurement which was a presidential directive. So there could be other parts of legislation which may not be covered by the Act. I urge the Member, seeing the mechanics of the Mediation Committee and some of those other matters, it would be important for the House to agree with the Senate amendments and as we continue doing the regulations, some of these matters can be refined and cleaned up in the regulations. But for today, I urge the Member not to oppose but support the Senate amendments. At an appropriate time, more refinements can be done.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, do you have the original amendments? I thought that could help. I can lend you mine so that you can see where the amendment is coming in. I have looked at the original and what the Senate is proposing. I do not see a contradiction. They are actually opening up for space for any other Act that can be referred to.

Hon. (Eng.) Gumbo: That is okay. What I have a problem with and I wish my colleague Hon. Nyokabi would listen to me, when you see procurement, the ambit of this House is to confine itself to public procurement. So, are we saying that we are now going to infringe on private procurement? This is going to affect everybody. That is the concern I have really on the ambivalence of the law.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair of the Committee and then I will come to you.

Hon. Njuki: I would like to appreciate the goodwill. Of course, Hon. Gumbo is doing this because he wants to help in matters of the Public Procurement and Disposal Act now and in the future.

Hon. Temporary Deputy Chairlady, if you look at the Act, at any one time an Act can be repealed. If we anchor it in the law, and the laws relating to matters of procurement, whatever law, then that law is superior to an Act at any one time.

Secondly, my brother should have brought a substantive amendment in writing in this particular case rather than just opposing on the Floor of the House. I hope he knows that it can be changed.

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

Hon. Mulu: Hon. Temporary Deputy Chairlady, just as Hon. Gumbo has said, when you look at what the Senate is replacing the earlier statement with, it misses the word “public”. It says “matters of procurement and disposal”. The word “public” is missing. Even as we want to make sure that we do not go for mediation, it is also important that we get the editing and drafting of the Bill done correctly so that it does not go up and down. This could also mean private procurement. The issue Hon. Gumbo is raising is that when you leave out the word “public” then you do not qualify the kind of procurement we are discussing. It is important the word is included in the amendment by the Senate.

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

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

(Senate Amendment to Clause 28 agreed to)

Schedule

Senate Amendment

THAT, the schedule be amended –

(a) in paragraph 1(2) by deleting the words “Kenya Archives” appearing immediately after the words “the expression” and substituting therefor the words “Kenya National Archives”;

(b) in paragraph 2(2) by deleting the words “of the Freedom of Information Act 2012” appearing immediately after the words “section 6”;

(c) in paragraph 3(2) by deleting the words “of the Freedom of Information Act, 2012” appearing immediately after the words “section 6”.

Hon. Njuki: On the Schedule, we second and support the amendment as proposed by the Senate. The justification for this is that the amendment to the Schedule seeks to rename the Kenya Archives to the “Kenya National Archives.”

Secondly, it proposes to delete the words “freedom of information Act” as the relevant section shall be Clause 6 of the Access to Information Bill, 2015 once it is enacted into law. The Freedom of Information Act, 2012 is non-existent.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

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

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

(Schedule as amendment agreed to)

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

Hon. Njuki: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Senate amendments to the Access to Information Bill, National Assembly Bill No. 36 of 2015 and its approval thereof.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS AND THIRD READINGS

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We will first report on the Fisheries Management and Development Bill. Let us have the Chairperson.

Hon. (Ms) Kanyua: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Fisheries Management and Development Bill (National Assembly Bill No.18 of 2014) and approved the same without amendments.

I beg the Chair of the Committee to second.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): You do not need a seconder. Let us have the Mover of the Bill to move agreement with the Report.

Hon. Mbiuki: Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Muthomi Njuki to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Njuki: Thank you, Hon. Temporary Deputy Speaker. I beg to second the Motion.

The fishing industry has been underdeveloped because the devolved function has not taken root in the devolved units. This will improve the fisheries department, the economy and the diet of Kenyans who want to eat white meat.

With those few remarks, I beg to second.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will not put the Question, I will only propose it.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let us have Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. I just wanted to make a brief comment.

The Senate amendments highlight what some of us have complained about for a long time and that is the extremely poor quality of drafting in most of our Bills. Some of us have stood on the Floor of this House to say that our drafters should take their work seriously. There are statutes in this House whose drafting we complained about but were not corrected and they still carry those errors. Poor drafting can change the entire meaning of a piece of legislation.

Most importantly, most of fishery functions have been devolved to the counties. For the fishing industries in Kenya to work, the national Government must remain a key participant in the fisheries sector, through specialist standardisation and provision of support services. I have in mind the provision of electricity to fish landing sites, prohibition of wrong fishing gear and provision of specialised equipment so that our fisher-folk can exploit our blue economy in the deep sea. This remains a problem and hinders access to the resources of our seas, lakes and oceans because the gear that our people use is not suited for exploiting those resources through deep-sea fishing. Use of the wrong gear hampers access to this important resource.

Otherwise, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let us have the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. Today is a milestone for the 11th Parliament. This is one of the achievements of the Jubilee Government. It has come up with a legislative policy for the development of the fishing industry for those who engage in fish farming from the lake to the sea. That did not happen under the leadership of President Kibaki and Prime Minister Raila Odinga. That coalition Government could not even agree on a fishing policy. They could not even agree on a Bill to regulate the development of the fishing industry.

Today, most of the people who will benefit from this legislation are away. I can only see Hon. Gumbo. Even the Member for Othaya is not here. I am told there is a lot of fish in her constituency. This piece of legislation is one of the achievements of President Uhuru Kenyatta's Government. Unfortunately, it stayed in the Senate for one year. Ultimately, when the President appends his signature on this piece of legislation, he will go down in history as a President who cared about Kenyans who engage in fish farming in Lake Victoria, in Lake Turkana and at the Coast. He will be remembered for that.

I want to thank the Committee and the Members of both Houses for ensuring that the 11th Parliament and the Jubilee Government actualises this piece of legislation.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We will now move on to report on the amendments to the Access to Information Bill. Let us have the Chairperson.

THE ACCESS TO INFORMATION BILL

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Access to Information Bill (National Assembly Bill No.36 of 2015) and approved the same without amendments.

Hon. Kiptanui: Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Onesmus Njuki to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Njuki: Hon. Temporary Deputy Speaker, I beg to second the Motion. I congratulate Hon. Nyokabi for having worked so hard for so many days to ensure that Kenyans have a Bill that will ensure that we have civilised methods of ensuring that Kenyans can get relevant information to assist in the governance of this country and have effective communication in this era of technology.

With those few remarks I support.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will not put the Question at this time.

I want to quickly acknowledge in the Speaker's Gallery Mt. Kenya Baptist School from Laikipia East Constituency from Laikipia County and also St. Peter's Kisii Academy from Bonchari Constituency in Kisii County. You are welcome to the National Assembly.

Let us move on to the next Order. What can be out of order when it is only the Speaker who is speaking, Hon. Gumbo?

Hon. (Eng.) Gumbo: You did not propose the Question.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I proposed the Question. I will not put the Question for obvious reasons but I proposed the Question. Let us move on to the next Order.

(Putting of the Question deferred)

BILL

Second Reading

THE CIVIL AVIATION (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let us have the Leader of the Majority Party.

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

Hon. Temporary Deputy Speaker, this Bill is meant to amend the Civil Aviation Act, 2013. The objective of this Bill is to address the findings of International Civil Aviation Organisation (ICAO) audit and the United States (US) Federal Aviation Administration (FAA) Technical Review for International Audit Safety and Assessment Category. The investment that the Jubilee administration has made in the last three-and-a-half years at Jomo Kenyatta International Airport (JKIA) and other airports cannot stand the test of international standards of

the same audits carried out by the ICAO and the USFAA Technical Review if a legislative amendment is not made to the Civil Aviation Act of 2013. For us to attain the status of direct flights from Kenya to the US having all the infrastructural facilities, it became necessary after these audits were done that certain sections of the principal Act are amended, and that is why this Bill is before us.

The importance of this law in terms of the economic growth for the country cannot be underestimated. The gaps found in the aviation legal framework as currently existing in our country is one of the impediment to the much awaited direct flights between Kenya and the US. This Bill is so important and I would like to ask the House to ensure that we complete it before we go on recess. We would do the country great and contribute to the growth of the airport.

When we took over Government in 2013, JKIA was just slightly better than Wilson Airport, but when you now fly to and from JKIA, it is like you are flying out or into John. F Kennedy International Airport, Dubai International Airport or Oliver Tambo International Airport. Those who have no ears and eyes and do not like the way Uhuru Kenyatta looks like will never appreciate development in this country in the last three years. I can confirm that when President Obama came to Kenya in 2015 - the last time he was in Kenya was in 2008 - the moment he stepped out of the Air Force One; he asked whether he was in Kenya. He could not believe the transformation in JKIA between 2008 and 2015.

Because of that huge investment, increasing the number of passengers going through the airport, making JKIA an international hub, building more runways, improving customer care, improving safety and complying with international standards, the Kenya Airports Authority (KAA) and the Ministry of Transport and Infrastructure decided to engage ICAO and the USFAA Technical Review for an International Audit Safety and Assessment Category. That is the category that can put JKIA at the level of JF Kennedy Airport. It was found out that we must fill the gaps in the aviation legal framework that currently impedes the much awaited flights from Kenya to the US. This Bill is being waited for in Kenya and the US by many investors and airline carriers. If we pass this Bill, and what is anticipated happens, it will ensure that our aviation industry becomes highly competitive on the continent against the Ethiopian and the South African Airlines. In a nutshell, those are the objectives of this Bill.

Clause 2 of the Bill proposes to amend the Act by redefining some of the existing terms in line with audit findings and inserting new definitions. Certain definitions in the current principal Act are being replaced by new definitions because of the assessment done. This is mainly terms used for technical purposes.

Clause 3 of the Bill proposes to amend the Act by repealing Section 3(i) of the current Act and replacing it with a new sub-section. That gives room for expansion in the application of the Act. Some of the sections of the old Act are limiting in terms of application. The same clause further introduces Sub-section (4) which allows the Kenya Civil Aviation Authority (KCAA) to enter into an agreement with foreign civil aviation authorities. That did not exist before. That clause aligns the Act with provisions of the Chicago Convention which was signed by many airlines.

Security is an important component in the aviation industry. Clause 4 of the Bill recognises the important aspect of expressly proposing the expansion of the jurisdiction of the Authority to include aviation security in addition to the general principle of aviation safety. There is a new element under new Clause 4 that now deals with aviation security.

Of the USFAA findings, some of the important functions to be exercised by the authority include certification and surveillance of air navigation service providers, licensing, certification

of regulated agents, and enforcement of the provisions of the Act. Regulations issued under it were very minimal. Functions of the Authority were limited and that is why new sub-sections were introduced so that this expanded mandate is taken care of.

Clause 8 of the Bill proposes to amend the Act by inserting a new Sub-section 13A immediately after Section 13. This is to address conflict of interest among the board members when considering any issue within their mandate.

Section 13(a) criminalises the failure to disclose in respect of that member. In Kenya, people who own aircraft and hangars at airports are the same people who sit in the Kenya Civil Aviation Authority (KCAA) and Kenya Airports Authority (KAA) as board members. I am sure they are listening. I know them because we sometimes hire their aircraft after we collect some money for *Harambees* from friends. This will deal with those who fail to disclose their other side in the aviation industry. The law is going to catch up with them. As a departure from the present position, Clause 9 of the Bill proposes to amend Section 19(4) of the Act by requiring a person wishing to be appointed the Director-General to possess in addition to other qualifications, management and technical experience in the field of civil aviation of not less than 10 years. The clause also proposes to amend Section 15 by extending the term of service for the Director-General from three to four years. At the assent of this Bill, a new Director-General will be recruited by the KCAA. I want Hon. (Eng.) Gumbo to listen to me because he is specific about people's qualifications. The new Director-General of the KCAA, apart from whether he went to Maranda High School, Garissa High School or Mount Kenya University (MKU), must possess management and technical experience in civil aviation of not less than 10 years. If you were planning to take your cousin to be the Director-General, if this Bill is carried, then you have no chance.

I am happy that the Chairman of the Departmental Committee on Transport, Public Works and Housing is here. I do not understand why the Chief Executive Officer (CEO) of KAA is a white man. Somebody should tell me why that is the case. Are there no qualified Kenyans to head KAA and we have to look for a *mzungu* from the Scandinavian countries? With 54 years of Independence, this is very shameful. I have nothing against that *mzungu*. He might be very competent. That white man has not tax returns, he cannot fill the wealth declaration; and he did not get a certificate of good conduct because he is not a Kenyan. He has no clearance from the Kenya Revenue Authority (KRA). I do not know how he was recruited. That was an oversight. For one to be recruited, there are certain mandatory documents one must provide. I am sure Hon. (Eng.) Gumbo will agree with me that you must have a Kenyan identification document, clearance from the Ethics and Anti-Corruption Commission (EACC), and you must have filled a wealth declaration form, but this guy just sitting somewhere in Scandinavia during winter gets a job. I have nothing against those who recruited him. As a leader, I must be told how he was recruited.

Hon. Musimba: *(Spoke off record)*

Hon. A.B. Duale: Hon. Musimba, that is not part of my notes. This is a House of debate and what I have highlighted is part of aviation. Hon. Musimba is the only Member elected twice as an independent candidate in a region perceived to be locked.

Clause 9 of the Bill proposes to amend Section 19 of the Act. The new Director-General must have certain qualifications. One of the concerns by the audit team both from the US and the International Civil Aviation Organisation was that in our current set up, the Director-General lacks powers, mandate among others to establish a safety oversight system and search any aircraft to ensure compliance with documents stipulated under the Chicago Convention, and

impose operating restrictions and sanctions on the operators or holders of aviation documents in the event of non-compliance. The Director-General is just there earning salary but he has no powers. He cannot stop an aircraft or search it to ensure compliance with documents of an aircraft. He cannot establish a safety oversight system in case of an accident. His hands are tied. That is why he is being given extra powers.

Clause 10 of the Bill proposes to amend Section 20 of the Act by inserting a new Sub-section 3 to expand the powers to be exercised by the Director-General in the process of discharging his or her functions under this Act as pointed out by the audit.

The authority needs to be financially self-sustaining to reduce overreliance on the financial support from the national Exchequer, which is hardly visible given the current Budget. The authority must be financially independent. If they depend on the Exchequer, then they are at the whims of the Executive of the Minister. They can close their eyes on a very serious safety issue just because the guy who fills the pocket has an interest. I would like to urge Members to look at this Bill. I remember Hon. Pkosing did an amendment in 2014 to give them extra resources.

Clause 11 of the Bill proposes to amend Section 27(1) of the principal Act. For Members to understand this Bill, the Office of the Clerk needs to provide copies of the principal Act at the Table so that as Members go through this Bill, can know what we are amending. We are deleting Paragraph (1) and substituting therefor a new paragraph to expressly provide for the money collected under the air passenger service charge and landing fees as part of the funds. This is already being done because they get a share of the resources from the air passenger service charge and the landing fees.

Security is an integral part of civil aviation.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. A.B. Duale, for your information, the Acts being amended are at the back of the Bill.

Hon. A.B. Duale: It does not cause any harm to have the principal Act for tidiness.

With the advent of terrorism, security is an integral component of the aviation industry anywhere in the world. This recognition is further emphasised under Clause 12 of the Bill, which proposes to amend Section 30(3) of the principal Act by inserting the word “security” at the end of the sentence. This makes security part of the required standards in the preparation of business plans by the Authority. Every strategic plan the Authority prepares must have the component of security.

As I have said, financial independence is a major requirement proposal by the audit team, both from the International Civil Aviation Organisation (ICAO) and the US Federal Aviation Administration (FAA). They said financial independence is key if this Authority is to discharge its functions in an effective and expeditious manner. To this effect, Clause 13 of the Bill proposes to amend the Act by inserting new Sections 35A, 35B and 35C immediately after Section 35. All these new sections provide for the creation of a Fund to allow the expenditure of the Authority to be paid out of the Consolidated Fund. So, this is a money Bill and it has some aspect of a Fund for the effective and expeditious functioning of the Authority.

For the effective performance of the Director-General’s functions, Clause 14 of the Bill proposes to amend the Act by repealing and replacing Section 39, further empowering him or her to have unhindered access when inspecting any aircraft, premises, aerodromes or document used for civil aviation. The Director-General is being given direct access. He can walk to a hanger or an aircraft; he can look at your documents in as far as they are supposed to be used in civil aviation operations. Further to the power of the Director-General, there are many other

provisions I do not want to go into. This Section is important in enhancing security of any aircraft flying within the airspace of Kenya.

Clause 19 of the Bill proposes to amend the Act by inserting new Sections 46A and 46B immediately after Section 46. Section 46A is supposed to provide for the documents required to be carried on board. For an aircraft to fly over our airspace, the following documents must be available on board. They are certificate of registration, certificate of air worthiness, aviation personnel certificate of each of the flight crew members, journey logbook and aircraft radio licence. There are cases in Kenya where a trainee captain flies Members of Parliament from Nairobi to Mombasa. You will find cases where the aircraft logbook is not available because the aircraft is on loan and the logbook is held by a bank.

The new Section 46B proposes to prohibit any pilot in command of an aircraft in Kenya from flying over areas designated by the Authority as prohibited, restricted or dangerous areas. Which are the prohibited areas? Hon. Gumbo, you need to listen to me. If you are going to Siaya, you make sure you tell the captain not to fly over State House, not only the State House in Nairobi, but also the State Lodges in Nakuru, Kisumu and other towns. This is whether the President is there or not. Secondly, you should not fly over military bases. If you fly over Moi Airbase, you can lose your licence. This is good information. We, the Members of Parliament fly a lot. You will not be the victim but that captain will.

Clause 20 of the Bill proposes to amend the Act by repealing and replacing Section 49 to enable the Director-General to grant exemptions on special authorisation. I am sure a lot will be said by the able Chairman of the Departmental Committee on Transport and Public Works, Hon. Kamanda. I will just move briefly and finish.

Clause 28 of the Bill proposes to amend Section 82(2)(d) of the Act to expand the list of persons to be regulated to include catering and security operators. Catering and security operators and cleaners who access the airport and more so, the restricted areas of the airport must be vetted. They must go through serious security checks.

In 2012, I was coming from a Committee meeting in Mombasa and I left my wallet in the front pocket of where I was sitting. Before I left the airport, I realised my wallet was missing. When I came back, my wallet was not there because those who clean the aircraft decided to take it. The same characters can sneak in a bomb. All those who operate within the restricted airport areas must be screened. They also must go through security checks. That is what the Bill anticipates.

I think I have said much. This Bill is very comprehensive. It is a very important Bill. It is a Bill that the former President Moi's Government could not bring. The famous or infamous Grand Coalition Government could do nothing about it. Because this Government believes in a transformation agenda in all the sectors of our economy - we have to fix the airport, we have to build more runways, we have to build a modern airport and allow direct flights from Nairobi to Washington, D.C - Nairobi will become a hub like Dubai or Oliver Tambo International Airport.

The ICAO and the FAA carried out an international audit on safety. They realised that the Government had done everything. What is required is to fill the gap that is missing in policy and legislation. That is what brought this Bill. If we pass this Bill and it is assented to by the President before the end of the year, we can assure the country that direct flights will be available between Kenya and the US and that the economic growth that will be achieved through the expansion in infrastructure at our airports will benefit the people of Kenya at all levels, from taxi drivers, shopkeepers, pilots to crew.

I ask my colleagues to debate and pass this important Bill. I beg to move and ask the Committee Chair, my neighbour along Kiambu road, a former senior Minister in retired President Kibaki's Government and the Member of Parliament for Starehe, Hon. Maina Kamanda to second.

Hon. Kamanda: Thank you, Hon. Temporary Deputy Speaker. I beg to second the Motion on the Second Reading of the Kenya Civil Aviation Bill 2016. This matter was referred to my Committee. The Committee processed the Bill and invited all the stakeholders including the ministry and other citizens concerned. I commend the Leader of the Majority Party for what he has said; that we never got any amendments from all the stakeholders that came to our Committee. Why did we not get amendments? This Bill is critical in addressing the findings of the International Civil Aviation Organisation (ICAO) audit. It also incorporates articles of the Chicago Convention that had not been captured.

About two months ago, our delegation toured the United States of America (USA) with delegations from Uganda, Ethiopia, Rwanda and Tanzania. The concern of all those airports that we toured, which want to partner with our Jomo Kenyatta International Airport (JKIA) was this Bill that we have not passed in this House. It was a concern to all those airports that we passed by.

I assure this House that Kenya is a respected country more than any other country in the East African region. Their concern was about Kenya. I do not know how Ethiopia managed to pass their Civil Aviation (Amendment) Bill before us because they have a direct flight from USA to Ethiopia. It is the concern of many people who live in America and Europe who want to do business with this country.

The Civil Aviation Act is very important that nobody can touch when you have not agreed to all the conventions that have been passed by other countries. The most important is the Chicago Convention. I do not want to go back to what Hon. Duale has said because he has gone through the whole Bill.

If we pass this Bill, it will help us. Other countries have used this Bill as an excuse. Let us pass it and see if we will get another excuse. They have been talking about security. All those matters they have been talking about are addressed in this Bill. Once we pass this Bill, we may negotiate as a country.

I agree with the Leader of the Majority Party on how we have improved our JKIA. You may think we are a small country but when you go to other countries in the East African region, there is no airport like JKIA. One issue that the Leader of the Majority Party raised is on how a Managing Director of European decent was appointed to run our airport after more than 50 years of Independence.

Despite the fact that our Parliament is independent, it is only our Speaker and the Leader of the Majority Party who can interact with the President. These people meet the President any time they want and the appointment of a Chief Executive Officer (CEO) is the work of the Executive. I was waiting for my friend to tell me why that happened because I do not ask the President most of the things that happen.

The Leader of the Majority Party knows many things in this country. He is now referring this matter to the Committee. The Committee is equally concerned but I think he is hiding some information from this House. This is because when he is with the Executive all the time when approving the Bills, at least, he can whisper. He is in a better position to know this than the Committee Chair. I want to say that we interrogated this matter.

The Committee questioned the Cabinet Secretary why that happened. He told us that the advert was done locally and internationally. So, they had invited people from the international community to apply. We did not pursue that matter further because we thought we were going into a matter that is solely for the Executive. I will still pursue my friend, Hon. Duale, because he is asking those questions here and yet he has the answers on that matter.

When we toured Atlanta and Georgia, we found two Kenyan ladies who are very senior employees at the airport. For those who have travelled to Atlanta and Georgia, the airport normally handles more than one million people in a day. We have two Kenyans who are very senior employees at that airport. I hope they applied for the positions. They told me that they can only come and work as Managing Directors and not in any junior position. I do not know why they did not apply. I wish they can come back.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): The Chair of Committee, you are celebrating that we have two Kenyans working as senior employees in an airport in Atlanta and in the same breath, you are criticising that we have a CEO of European decent working in Kenya.

Hon. Kamanda: Hon. Temporary Deputy Speaker, I am not criticising that. It is the Leader of the Majority Party who criticised.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Actually, it was the Leader of the Majority Party. May be you should also give him that information.

Hon. Kamanda: Hon. Temporary Deputy Speaker, I was just trying to tell him that he should be the one to give us an answer. On that note, I agree with you, Hon. Temporary Deputy Speaker, that we have very senior ladies out there. They agreed that when Kenyans appreciate that even ladies can be Managing Directors--- We had one Managing Director, Lucy Mbugua, who did a very commendable job. They promised to partner with JKIA. I think the people who were in the delegation are still pursuing that agenda so that we can have a Memorandum of Understanding on how to run the airport. There is not a single day the media and the KCA have not asked me about this Bill. If we pass this Bill before we go for recess, which is on 4th September, it will be very good for this country.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let us now have Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to be the first one to second the Civil Aviation (Amendment) Bill.

At the outset, I want to say that this Bill has come a bit late. It is quite timely because these are the laws which are giving the previous Bill the strength to cope with the current changing times. Laws have changed and things change at the same time. We have to move in tandem with the same. Air travel has become quite complex. It has expanded very much.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, I am sorry for interrupting you. I can see Hon. Gikaria is on a point of order.

Hon. Gikaria: Hon. Temporary Deputy Speaker, I know we have passed some regulations and rules in the House so that each Member can contribute for 10 minutes. Will I be in order to request Members to contribute for five minutes?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gikaria, you are late.

Hon. Gikaria: I am asking whether I am in order to ask members to contribute for five minutes. It is true this is a House of debate, but after the fourth and the fifth speaker, we will start repeating ourselves.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gikaria, you are out of order because you are late. You could have brought it before we started the debate. Hon. Gikaria is saying that we keep our remarks clean and neat, so that more people can contribute. I am sure that you will leave enough time for others to contribute.

Go ahead, Hon. Iringo.

Hon. Kubai Iringo: Hon. Temporary Deputy Speaker, when I was interrupted by my brother, Hon. Gikaria, I was saying that air travel has become one of the most efficient modes of transport. It is used a lot by the people. Many people prefer to travel by air because it saves time and other complexities of the current world. Therefore, you find that the traffic in our airports is expanding by the day. This law will give us more room to expand and open up new routes or areas, so that we can, at least, catch up with the current mode of transport. These laws will also regulate the code of conduct.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, I have to interrupt you again. Let me recognise the school that is leaving the Speaker's Gallery. It is Kipkeino School from Eldoret West Constituency. Thank you for visiting the National Assembly and have a safe journey back home.

Hon. Kubai Iringo: Hon. Temporary Deputy Speaker, as the Mover was saying, some air travel agents or some aircraft operators have gone to the extent of running their businesses like *matatus* or the vehicles we have on the roads. Sometimes, people lose their luggage in those aircrafts and are delayed without any apparent reason. This is the case and yet there is no apology or compensation. Sometimes people are mishandled by the staff. With these new rules, we will need to put more professionalism in the operations of aircraft.

The opening of new routes, and additional direct routes, is also a very important aspect of these amendments. Most of the time, especially with the Kenya Airways (KQ), there are routes or destinations you have to detour or get a connecting flight to get there. Sometimes somebody takes almost 20 hours to get to his destination whereas if there was a direct route, you could take much less time or even half of that time. For example, if you are to fly to New York or Washington DC from Nairobi, you have to go through Europe or the Middle East. This takes a very long time. If you want to travel to Namibia and Botswana, you have to travel to Johannesburg and then connect to Windhoek or Botswana. If we pass this Bill, businesses will thrive. For example, we are looking for a market for *miraa*. We have managed to get some market in Namibia but we cannot transport the commodity there. We cannot transport *miraa* through Johannesburg to Windhoek because it is a perishable commodity. If we get a direct flight from Nairobi to Windhoek, which will be a two or a two-and-a-half hour flight, we will open that trade. We will also create business for our people.

I appeal to the new management, or whoever will be running our air travel, to open more domestic destinations. We have very few airstrips or airports in our country whereas people are travelling by air a lot. We do not have an airstrip in Meru. The nearest air travel facility, which is almost complete, is in Isiolo. We take four or five hours to get to Meru by road. Once the airstrip is opened, it will be a matter of being at home after 30 minutes and then being in Nairobi after 30 minutes to transact business in this august House. Therefore, I urge the directors who will be running this business to look at the possibility of expanding the local market. As we look for

more new routes and destinations, we should look at the domestic market because it is also very important.

With those few remarks, I support the Bill.

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

Hon (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. I wish my good friend, Hon. A.B. Duale, was here. I listened to him moving this Bill. I want to say that as a pitcher for the Jubilee government, he scores an “A+”. I hope that as his boss up the hill listens to some of the things he says, that should give him a lot of marks with the powers that be. However, sometimes pitching and facts are not necessarily brothers. Sometimes, it is doubtful whether pitching and facts are even distant cousins because facts tend to pitch for themselves. No matter how much you pitch, it does not change facts. It is true that there have been improvements at the JKIA but comparing that facility with the Dubai International Airport is overdoing the work of a village crier. That is what my good friend, Hon. A.B. Duale was doing here.

Anybody who has gone through the JKIA of late will appreciate the fact that the departing and arriving passengers do not meet while within the facility. It is a good thing. That was a major security lapse. It is also a fact that the departure and arrival lounges are much more ambient and clean. However, the attitude we should have is that the JKIA remains a work in progress because we are looking forward to have Terminal 2. We only have one terminal at the airport, and to be ambitious is a good thing. The programme that we have to build Terminal 2 is good for our country and everybody. No one can doubt the advantages of a direct flight. In fact, all you need to do is to get an opportunity to fly to the USA through Dubai. It takes you five hours to get to Dubai and if you are lucky you wait for seven hours there. Then you take another 13 to 14 hours depending on the aircraft. By that time, of course, you have flown through different time zones. You have gone east then west, past the Kenyan time zone and back again over the Kenyan time zone. By the time you come back, jet lag makes you a disoriented human being. Sometimes jet lag takes as much as a week for it to clear and suddenly one starts feeling sick.

Anything that can improve and make us have direct flights not just to America but to the major destinations in the world is a good thing and has to be supported. We have spoken about this before and I am glad that the Temporary Deputy Speaker and I were privileged to be in the last Parliament. One of the biggest problems that the KCAA has is less power and resources as the industry regulator than some of the entities it is supposed to regulate, like the Kenya Airports Authority (KAA). Even KQ had more muscle than the KCAA when it was doing well. That is a lacuna which is dangerous. This is because when an industry regulator seems to be powerless in regulating the entities it is supposed to then we have a problem.

We are not only seeing this at the KCAA but also at the telecommunications industry today. We would be lying to ourselves if we do not admit that some operators in the telecommunications industry like Safaricom seem to have more powers than the industry regulator, the Communications Authority of Kenya (CA). As we amend this Bill, I agree with the processes that have been put in place to ensure that the new CEO of the KCAA will be an aviation expert. That alone is not enough.

I hope my good friend Hon. Wambugu will get a chance to speak to this Bill being an operator himself. One of the biggest problems that the KCAA has is lack of contemporary equipment and high staff turnover. This is because remuneration and the working conditions are

such that it cannot attract and retain qualified staff. It is no secret that some of the operators like KQ today have better aircraft engineers and air-worthiness inspectors than KCAA. That is a dichotomy and inversion of things. It should never be that way. It is being rumoured that sometimes for the KCAA to do proper inspections they have to depend on experts from the same people that they are supposed to oversee. How then do you have an aviation industry that can be trusted?

In fact, Hon. Duale has just spoken to the fact that some Members of the KCAA Board are actually board members of these airlines. How then do you oversee yourselves? It is always dangerous when an operator appears to have more muscle than the industry regulator. We have argued about this on Floor of this House before. Remember in the last Parliament I brought an issue with an airline called “JetLink” which decidedly has gone under. One of the things we were questioning at that time is whether KCAA had the power and the capacity to weed out people who were putting defective aircrafts in our airspace like JetLink.

One of the things that we spoke about was the issue of landing fees. If you look at the proportion of the landing fees and how it is being shared between the KAA and the KCAA, you will find that it is inverted. This is because landing, as Hon. Wambugu will tell you, is a function of instruments. The KAA is just nothing but a facilities manager. It just provides the tarmac and all the other things that go with the facility. Why on earth would the KAA take more landing fees than the KCAA? If anything it should be KCAA which should decide on how much landing fees should be. Landing is a function of the instruments. If your radar is not working and your frequencies are not right, you will not land. The airplane will crash land. That is the least that can happen.

We also have the passenger service charge. How is it being shared between these two entities? I think the industry regulator ought to take most of that money. Air travel is growing very fast. The other day, I was discussing with a member of my family about when I first flew in the late 1980s. Those days, there was the Fokker F27 with a passenger capacity of 27. There were only two flights to Kisumu - that was in the morning and in the evening - and only five people would fly from Kisumu. Today, there are about four flights to Kisumu and three airlines and each of those flights are full. Air travel is becoming a mode of transport preferred by many because of our way of life.

This Bill is good, but let us strengthen the industry regulator so that we can be sure that the operators in this sector abide by the law and the rules of the game.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Gumbo. I now give the Floor to the Member for Mathioya, Hon. Clement Wambugu.

Hon. Wambugu: Thank you, Hon. Temporary Deputy Speaker for giving me a chance to contribute to this Bill. First and foremost, I congratulate the Leader of the Majority Party and even the Jubilee Government for bringing this Bill at this time.

The amendment Bill which is before us is on civil aviation and it is good to mention that within the aviation industry we have two sectors namely civil aviation and military aviation. We are dealing with civil aviation and we will talk about private operations, commercial operations, international air operations and international air navigation.

This Bill, as already stated, is trying to get Kenya to Category One status where we will be in conformity with most of the rules under the International Civil Aviation Organisation (ICAO). We will, therefore, be in line with other international bodies in other countries like the USA under the Federal Aviation Authority (FAA).

The enactment or passing of this Bill will give us an opportunity to have direct flights to places like the USA and the advantage with that is that air travel is going to be cheaper. It will also open up other things like getting better deals and signing more agreements with other airlines from other countries, the International Air Transport Association (IATA) and air service agreements with other countries. The USA direct flights will also strengthen Nairobi as a hub within this region.

Hon. Temporary Deputy Speaker, those people who have gone through the Vision 2030 know that it envisages to make Nairobi a hub within Africa. It is also good to say that Nairobi or Kenya, as a country, is well positioned or strategically placed. Because of this we can take up all the traffic that goes to Europe from this region. This is also possible because we have many highly qualified personnel such as pilots, engineers, radio maintenance engineers, flight dispatch and cabin crew. The passing of this Bill will act as a motivator for the growth of this industry within this region.

As we do that and because of the increase in air travel within this region, there are other challenges that will come into place. That is why a Bill like this needs to be enacted as soon as possible. Issues of security and air safety need to be looked at very critically.

When we talk about security, we mean the growth of terrorism in the aviation industry, hijacking, interference of ground equipment and interference of other facilities en-route as you fly. To enhance security, we need to install better equipment for civilians who go through airports. This is equipment that will detect harmful substances even before people get to airport areas. We even need equipment that can detect hijackers or terrorists before they get to an airport and when they are within towns. To do this, the country will require a lot of money especially for the KCAA. The introduction of the Civil Aviation (amendment) to allow the KCAA to have its own Fund is something which is very welcome.

There are very many functions that fall under the KCAA. We have air crew licensing; licensing of airdromes; inspection of airdromes which include international airports, airstrips and other privately owned airstrips; provision of air navigation services; air traffic management which is provided by air traffic controllers and installation of radars. As of now, the world is now moving from ground based equipment to satellite based navigation. That is where Kenya should be going.

I believe that if we allow the KCAA to control air passenger tax, it will boost it. Eng. Gumbo, in his contribution, talked about a very sensitive issue on the shortage of personnel within the KCAA. There is acute shortage of staff in the Airworthiness Division which carries out inspection. As a result some airstrips and airports in the country have not been inspected for a long time.

In the last Parliament, I came to this Floor to urge members to increase funding to the KCAA so that it could acquire an aeroplane which could take their staff to inspect airstrips. The Authority could also inspect the crew because we have some rogue crew members who operate without licenses. Unless we facilitate the KCAA to do that, our industry will go down the drain.

As I finish because most of the things have been mentioned by other speakers, it is good to correct something that came up when the Leader of the Majority Party was contributing especially on the documents carried on board an aeroplane and it is good to let members know them. One of them is the certificate of registration that serves as a logbook for the aeroplane. Others are the certificate of airworthiness that guarantees that the aeroplane is airworthy to fly and operate and the aviation personnel certificates and licenses - licenses for the crew and cabin crew members. The journey logbook that the Leader of the Majority Party touched on is only a

document where we enter information on the type of flight you are doing, the place of departure, destination and the time taken. This helps engineers as they plan for maintenance work.

Hon. Temporary Deputy Speaker, I take this chance to thank you and the Chairman of the Departmental Committee on Transport, Public Works and Housing for giving me an opportunity to lead a delegation to the USA and Montreal and Vancouver in Canada the other day to represent this House on International Civil Aviation Organization (ICAO) mission. Let me report at this stage that we were able to negotiate for a very critical seat in one of the global bodies called "Council". It is good to let you know that Kenya is now one of the members of the Council. It is a top position from which we are going to benefit a lot within this region.

With that, I beg to support.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to the Member for Kibwezi West, Hon. Musimba.

Hon. Musimba: Thank you, Hon. Temporary Deputy Speaker for this opportunity. This is a very important amendment Bill for this Republic and, indeed, the region because Kenya will emerge as a power house for the aviation industry with capability to have direct flights to the US, and more importantly to countries within East and Central Africa. Our neighbours, Ethiopia have been dominating that space.

What I want to say because the previous speakers have enumerated a lot on the amendment Bill is on the security aspect. A nation cannot thrive if our ports are not secure because everybody will have paramount feelings on what we experienced in Dubai the other day when one of their jets crashed at Dubai International Airport. You could see many passengers evacuated. This only led to further confidence in flying Emirates because you felt a great sense of safety. That is what this Bill is proposing in terms of empowering the KCAA Director-General to have control over safety issues. It is, indeed, important because it will ensure a lot of revenue flows in terms of tax contribution through the charges levied on passengers and landing fees. There is no point of having landing fees if you do not have a lot of traffic.

The able Chair, Hon. Kamanda, said that Atlanta receives a million passengers a day. There is a possibility of transforming the JKIA and, indeed, other airports like Moi International Airport in Mombasa to that level. In basic economics, the more the people use a service, the cheaper the flights. It is, indeed, possible to zero rate Nairobi as a transit destination where people even from Namibia--- I heard our able Member talk about the miraa incidences and their failure to access Namibia. This would go a long way. Coming back to security, it is important to know who is flying over our airspace, what could happen and what the competency of the captains on board is as it brings us to a really big stage more so, for training.

Today, internationally, there is a glut of 300,000 pilots. This is increasing because as China and nations in the Far East boom economically, those destinations open up to business people and leisure travel. As such, the countries which will emerge as huge powerhouses are those which have human capital competence like Kenya where our people can transform and become pilots.

We have Hon. (Capt.) Wambugu who was a pioneer in this industry and continues to plough back to the people of Mathioya by creating training opportunities for students in the aviation industry. Kenya needs to actively play this role. I look forward to when the KCAA will set up their flights school because we will leave a huge mark in the global game.

In terms of the Bill moving forward, we are taking Kenya to the 21st Century in terms of aviation and reaping the opportunities that are there for Kenya with regard to earnings. We all

talk about the diaspora earnings which are now at US\$1 billion. If we enhance our aviation space, this ought to triple or quadruple as opportunities for our infrastructure are growing and we talk about contributions to our Gross Domestic Product (GDP). This is one way. This should be followed by our maritime authority by proposing similar amendments which ensure that our port is developed. We are increasing the number of berths in Mombasa to ensure that we can receive many more leisure visitors and increase our capacity within the hospitality industry.

When we talk about Americas we are not capturing it adequately by just saying the United States of America (USA). Opening up our flights to the USA means opening up to South America, Mexico and further destinations. Right now, when someone thinks about coming on holiday to the Maasai Mara or to witness the Safari Rally or see our beautiful coastline in Mombasa, he or she thinks about having to endure a 20-hour flight. That is not an incentive.

This Bill and the proposals therein will go far to stimulate and achieve the Vision 2030 that we are dying to actualise and create opportunities which cascade from the upper levels downwards. We spoke about engineers all the way to the airside personnel. This will really grow Kenya. I do not want to belabour much on this.

In the area of security, this is a major transformation. Kenya has just been awarded the safety centre for East and Central Africa in terms of aviation authorities. This is a big accolade and a sign of the confidence that all our regional partners within the East African States have in Kenya.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Nakuru Town East, Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Speaker. I was trying to listen carefully to what Hon. Captain said. He is an expert in this area. When he talked about logbooks in a plane I wondered what he was saying. At least, he made it very clear what is supposed to be recorded in the logbook on the plane. It is a very interesting topic.

I rise to support the Civil Aviation (Amendment) Bill. The 10th Parliament and the former regime came up with something they called “the Greenfield Project” which was supposed to improve the JKIA to international standards. It is only that the project was later stopped due to some tendering problems.

This country has wonderful ideas and vision, and if we could see the Greenfield Project to completion, the JKIA can now be compared to Dubai International Airport. We should move in that direction. In the African continent, I think JKIA is one of the most improved airports. Movement in the airport is no longer confusing. People can now walk on their own without asking for directions. I want to thank the Government for the huge improvement at the JKIA. Those who tried to bring down the JKIA have not succeeded because we are moving forward.

I once visited Tanzania by road and I was supposed to have a yellow fever card. Unfortunately, I lost my card and on coming back, I was asked to produce it. I was curious because the attendant insisted that I have to get another jab, a week after the first one. We were around five and we were kept at the airport for quite some time. Our workers at the airport should try to understand travellers. We get fantastic services at the JKIA but it is unfair to keep visitors for more than five hours. It was a sad experience.

As we try to improve our airport, it is sad that the management of our national carrier continues to go down because of mismanagement. Of course, bringing in a new *mzungu* to be the CEO is a welcome move and we hope that will move our national carrier to greater heights.

Clause 9 of the Bill says that if you want to be a Director-General, then you must have 10 years working experience in the same industry. We need to understand the aspect of experience. For instance, if I serve in Parliament for 40 years, one might think I am a better debater than a person who has been here for one term, but that person might be a better debater than me. Is experience just a condition placed under Clause 9 of the Bill without looking at whether it will improve services of the institution and yield some fruits? As we improve our aviation industry, we should look at that aspect.

The security aspect has also been mentioned. It is very sad that in the recent attack in Ataturk Airport in Turkey, the terrorists went all the way to where the travellers were. At the airport, there should be some distance before you get to the booking level. So many people were killed in the recent attack at Ataturk Airport. Improvements should take into consideration the fact that airports are now targets from terrorists. This is meant to interfere with the smooth flow of a country's security. Airport safety should be our priority. These days, if you want to improve certain institutions, it is prudent that money collected by the institutions is left there. We need to be very careful. As we create a Fund for an institution, that Fund must present its budget to Parliament for approval through the National Treasury. If we allow institutions to collect and retain money without approval, we will be encouraging corruption. I would like to thank the Chief Justice because I wrote to him and he stopped county courts. Counties were collecting money from those courts. That was the case and yet that money was supposed to be reallocated to the counties. If we allow that to continue, we will encourage corruption. All public institutions should get their votes from Parliament through their respective ministries or Government departments so that we can curb corruption.

I do not want to repeat what has been said. I am a Member of the Committee on Implementation and the San Marco Space Station in Malindi, an institution managed by Italians has a lot of information on civil aviation, air control and navigation. This is the case and yet we do not get this information as a country. That information is sent somewhere and we have to purchase the same information. We have been trying to get the Cabinet Secretary in charge of that to tell us what the agreement says. It is unfair for us to purchase information concerning air navigation and yet it is coming from our country. It is very expensive and we get nothing in return.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for North Mugirango, Hon. Mong'are.

Hon. Geni: Thank you, Hon. Temporary Deputy Speaker for giving me a chance so that I can support the Civil Aviation (Amendment) Bill. I want to be gentle enough to also allow my colleagues to contribute. I will restrict myself to one or two points that make me support this Bill. If we pass this Bill, we will conform with existing conventions.

It is also important for us to increase our direct flights to various countries. With the passage of this Bill, we will have direct flights to the USA and we must appreciate the fact that President Obama has his parental roots from here. It is only fair that we pass this Bill.

Basing my thinking and observations on the relevant Committee's work, I find it very necessary to support the Bill so that we can have all that we have said accomplished.

With all that, I strongly support the Bill.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Gichugu, Hon. Njogu Barua.

Hon. Barua: Thank you, Hon. Temporary Deputy Speaker, for this opportunity to briefly comment on the Civil Aviation (Amendment) Bill, 2016. The key issues of this Bill are to conform to the findings of international bodies involved in air travel, that is the ICAO and the FAA on the technical review for international audit safety assessment category. It is very critical for the nation to have functioning air travel facilities, safe airports and increased connectivity, both internationally and within the country as we fight to have direct flights to the United States, Canada and other countries so that we do not always go through Europe whenever we want to go to these countries.

I also want to emphasise the importance of increased facilities that would facilitate air travel within the country. Of late, air travel has become the mode of travel of choice. It would also be very important if we are to open up this country and to have communities across the border connected, from the north eastern, western and southern parts of Kenya. We need to have these facilities, that is, airports and airstrips.

For this reason, I want to support this Bill strongly. Some of the issues of concern are consequential amendments which include definition of terms. This is because some terms have been used in the Bill and yet they are not defined. I think it goes without saying that we have to support that to make the Bill more understandable by the people who are going to use it and the implementers of the same.

Clause 4 talks about extending the jurisdiction of the Authority to include security. In this age of terrorism, it is good for us to have coordinated safety provisions. It is also good to have an organisation where the buck stops. An Authority that is in charge of an airport and is not directly in charge of security may not take responsibility in the event there is a problem of a terror attack or any other form of attack or accident. Expanding this jurisdiction is important because we are trying to make the airports within our country more secure and more usable by many people locally and internationally.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): What is out of order, Hon. Oyoo? Just a minute, Hon. Barua.

Hon. Oyoo: Thank you, Hon. Temporary Deputy Speaker. I just wish to remind the Member of Parliament for Gichugu that security is at risk because we have been told by none other than the Leader of the Majority Party that he is also consternated. He does not know how the new CEO of KAA was recruited when we know that the appointing authority is the President and he is supposed to advocate the interests of---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): You know I am just being kind, Hon. Member, because that is not a point of order. You have contributed.

Hon. Barua: Hon. Temporary Deputy Speaker, I think the Hon. Member, who is a good friend of mine, is directing his issues to the wrong person. When the Leader of the Majority Party was moving the Motion, my friend from Muhoroni was here. He should have been courageous to direct it to Hon. Duale. However, when Hon. Duale stands he freezes, I sympathise with him. I may not be keen to respond to what I call an interruption to my presentation.

All the same, I still have a lot of respect for my friend and we shall continue associating. I was emphasising the issue of security. I was not talking about power regiments because power regiments are done elsewhere. I ask the Member for Muhoroni to talk to the Cabinet Secretary who will help him.

The other point which makes me support this Bill is Clause 5 which talks about minimising disturbances. In most parts of Europe, there are some aircraft which cannot fly from Africa to Europe because they do not meet the internationally accepted environmental standards. Time has come for us in Kenya and Africa to also be selective in the types of aircraft which land in our airports. If the aircraft that come to our region do not meet the required safety standards, it is also good for us to demand for higher standards because Europe and other western nations demand the same from us. We should not accept aircrafts flying into Kenya from other areas which cause adverse atmospheric pollution and other impacts like vibrations. I support this Bill because of this issue of environmental consideration, which is an issue in the 21st Century. We must take care of our environment.

Clause 8 talks about conflict of interest among board members. This issue should be considered in all boards. All board members should be required by law to declare interest when they are making decisions. If this is done, we will reduce the level of corruption in this country. Corruption is not partisan. It is not for Jubilee Party supporters or supporters of the CORD. I suspect very heavily that my friend from Muhoroni may associate it with one side of the divide. If we declare our interest, we shall make very neutral decisions that will take this country forward. I support this item.

Finally, I support the Bill because of things like interruptions. If the Authority has the full mandate of management of activities taken at the airport, they will also be in charge of customer information and telling people what to do in case there is cancellation of flights. The last time I went to Paris for the COP 21, I went to the airport with a few parliamentarians and the flight was postponed several times until it was cancelled. There was no information. The staff of the KAA did not have any information because that was not within their mandate. So, this expanded mandate should also include customer information. It should ensure that in case of cancellations and delays, the passengers will be given dignified handling. By so doing, we are going to get a good name from our visitors who come here. There were very bad comments that evening. People from all parts of the world were forced to sleep along the corridors. I could hear them vowing not to come to Kenya again. It is for this reason that we should have a holistic approach towards management of our airports and across the country.

With those few remarks, I support this Bill.

Thank you for this opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to Hon. Nyamweya, the Member for South Mugirango.

Hon. Nyamweya: Hon. Temporary Deputy Speaker, thank you for giving me a chance to contribute to this Bill. It is a much improved Bill compared to the previous one. When we go to the Committee of the whole House, I would like Clause 7 of the Bill to be amended, for it to be more effective and serve its purpose.

Under Clause 7, the President appoints the Chairman, the Board appoints the Director-General, and the Principal Secretaries in charge of civil aviation, national security and the National Treasury are members. It also says that the Cabinet Secretary will appoint four other members. These positions are always given to people who have lost elections. We need professionals because this is a matter of security.

I propose these four people to be appointed or employed through the Public Service Commission (PSC). We should have a competitive process of the interview, and the best person qualifies to be a member of the board. If this is not done, we will end up with the system which we have currently, where board members are former Members of Parliament who have been

given jobs to get money to take care of themselves, but not to serve the Board. This is a very sensitive issue. The Bill is good but for it to have effect at the end of the day, we need the people who will be in the Board to be employed by the PSC, so that their qualification is assessed and the right person gets the job.

Another issue is about funding which is a key area for the CAA to effectively function. It has not come out very clearly on how it will share the revenue. Currently, we know that the KAA collects the revenue. The KAA is a landlord. When you go to the airport at the moment, the people who check on you come from the KAA. I do not know whether this function should remain with the KAA or should go to the CAA. The KAA checks the personnel who handle the aircraft and ensure that the passengers who have boarded the aircraft are fine. Unless the CAA gets funds and come out with a clear budget allocation on how it will operate, there will be no difference from what we have currently.

The Memorandum and Objectives in the Bill are very good. The CAA needs funds for it to get qualified manpower, attract the best manpower and handle issues of security. However, this Bill has not addressed how the CAA will be funded. It must come out very clearly on how it will be funded. Parliament will allocate it money but it needs to come out with clear guidelines on how it will be funded, so that it can be able to execute its mandate.

The Bill proposes to amend Section 7 of the principal Act by expanding the function of the CAA, whose current mandate is certification and surveillance of air navigation service providers. You cannot do this without equipment. You need to invest in modern equipment, so that you can be able to do this work. You also need qualified personnel to do the job and you cannot get qualified personnel because there are no funds. That is why the other day people were fighting over who becomes the KAA Managing Director.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Nyamweya, you will have a balance of four minutes when debate on this Bill resumes.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, the time being 6.30 p.m, this House stands adjourned until Tuesday, 16th August, 2016, at 2.30 p.m.

The House rose at 6.30 p.m.