

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 18<sup>th</sup> August, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### IRREGULAR TRANSFER OF MUIRI COFFEE ESTATE LIMITED PROPERTY BY KENYA COMMERCIAL BANK

**Hon. Speaker:** The Member for Gatanga Constituency, Hon. Humphrey Kimani.

**Hon. H. K. Njuguna:** Thank you, Hon. Speaker. I beg to present the following Petition.

I, the undersigned, on behalf of the residents of Juja Constituency, draw the attention of the House to the following:-

THAT, Muiri Coffee Estate is located in Juja Constituency, Kiambu County;

THAT, Benjoh Amalgamated Limited borrowed a loan from the Kenya Commercial Bank to a tune of Kshs9 million in April 1989;

THAT, in April 1989, Muiri Coffee Estate Limited acted as a limited guarantor to Benjoh Amalgamated Limited to a tune of Kshs11.5 million from the Kenya Commercial Bank at all times;

THAT, in December 1994, the late Mrs. James Muigai, on behalf of the guarantor, Muiri Coffee Estate Limited, paid Kshs6 million to the Kenya Commercial Bank towards offsetting the loan and the said bank acknowledged receipt of the payment leaving an outstanding balance of Kshs3.4 million;

THAT, in July, 1995, Mr. Muigai's widow, the late Mama Ngina Muigai, made an enquiry to the bank to confirm the outstanding balance owed to Benjoh Amalgamated Limited in order to clear the outstanding balance. Around March 1996, the bank responded indicating that the outstanding balance amounted to Kshs44.3 million;

THAT, in 2002, the bank advertised Benjoh Amalgamated Limited properties on public auction. Benjoh Amalgamated Limited moved to court and demanded that the bank produces statement of accounts. However, the bank did not provide the statement of accounts as requested, but instead advertised for auction of Muiri Coffee Estate Limited in June 2007;

THAT, despite this advertisement, no auction took place. Nevertheless, two months later, Muiri Coffee Estate Limited was transferred to Bidii Kenya Limited;

THAT, at the time of sale, Muiri Coffee Estate Limited was worth well over Kshs70 million while the two properties belonging to Benjoh Amalgamated Limited LR 12411/1 and 12411/2, Nyandarua, were also worth over Kshs70 million;

THAT, the Petitioner has established that there has not been any court order for the sale of Muiri Coffee Estate; and,

THAT, efforts to pursue this matter with relevant authorities has been fruitless.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Finance, Planning and Trade:-

- (i) Establishes why the Kenya Commercial Bank sold Muiri Coffee Estate Limited without the consent of the owner and before realising the securities offered by Benjoh Amalgamated Limited to parcel LR12411/1 and 12411/2 Nyandarua.
- (ii) Recommends that necessary action be taken against the bank if found culpable of the sale and transfer of Muiri Coffee Estate without following the due process.
- (iii) Makes any other orders as it deems fit in plight of the petitioners.

And your petitioners will forever pray.

**Hon. Speaker:** Very well, the Petition is committed to the Departmental Committee on Finance, Planning and Trade.

Next Order!

### PAPERS LAID

**Hon. (Dr.) Shaban:** Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

Report of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission (IEBC) consisting of:-

1. Volume I – Report with annexures;
2. Volumes IIA & IIB – Memoranda; and,
3. Volume III – HANSARD proceedings.

**Hon. Speaker:** I hope Members are paying attention and note the documents being tabled. They are not small. I have already started reading them myself. I have not finished, but will encourage every one of us to read them. Those who have problems can retire to the back seats and start reading as we head close to the Second Tuesday of August in the fifth year.

The Chairperson, Committee on Regional Integration, Hon. Kajuju, you are shown to be tabling a Report.

**Hon. (Ms.) Kajuju:** Hon. Speaker, we tabled it yesterday.

**Hon. Speaker:** This is the Report of the Committee on Regional Integration on a benchmarking visit to the Economic Community of West Africa in December.

**Hon. (Ms.) Kajuju:** Yes.

**Hon. Speaker:** Very well, next Order!

### NOTICES OF MOTIONS

#### APPROVAL OF DEPLOYMENT OF KDF TO SOUTH SUDAN

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

THAT, pursuant to Article 240(8)(a) of the Constitution and Section 18 of the Kenya Defence Forces Act, 2012, this House approves the deployment of the Kenya Defence Forces (KDF) for the purpose of regional peace support

operations following an urgent troops surge requirement under the United Nations Mission in South Sudan (UNMISS).

**Hon. Speaker:** Hon. Members of the Departmental Committee on Defence and Foreign Relations, the Motion whose notice has been given by the Leader of the Majority Party is indicated to be urgent. Therefore, you better be seized of what it is, so that by the time the Motion comes before the House next week on Wednesday or thereabout, you will have familiarised yourselves with what is intended.

No! This is not about regional integration. Deployment of troops is not a matter of regional integration. Regional integration, I am sure, emphasises on deepening and widening the integration. Deployment of Forces is slightly different from that.

Hon. Naomi Shaban.

#### ADOPTION OF JOINT PARLIAMENTARY SELECT COMMITTEE REPORT ON IEBC

**Hon. (Dr.) Shaban:** Hon. Speaker, as a Member of the Joint Parliamentary Select Committee on IEBC, I beg to give notice of the following Motion:-

THAT, pursuant to the resolution of the House on 6<sup>th</sup> July 2016 regarding the establishment of a Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission (IEBC), and Paragraphs 7 and 8 of the Houses of Parliament Joint Sittings Rules, this House:

- (i) Adopts the Report of the Committee laid on the Table of the House on Thursday, 18<sup>th</sup> August, 2016;
- (ii) Notes the recommendations of the Committee regarding:-
  - (a) allegations against commissioners and the secretariat of the Independent Electoral and Boundaries Commission, specifically on credibility, impartiality, integrity and independence;
  - (b) legal mechanisms for the vacation from office of the current commissioners and the secretariat of the Independent Electoral and Boundaries Commission, in accordance with the Constitution;
  - (c) legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner; and,
  - (d) legal, policy and institutional reforms to improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner.
- (iii) Resolves to establish a mechanism by which it shall oversee the implementation of the recommendations in the Report and the electoral processes until the 2017 General Elections.

**Hon. Speaker:** Order, Members! I think it is important that you understand the notice that is being given particularly because it is not the normal way. It is important for Members to appreciate the context of this Motion.

Very well, I am sure the Member for Borabu may have been listening even though he was just walking in. Before we go to the next Order, allow me to recognise the presence in the Public Gallery of students and pupils from the following institutions: Legacy Primary School, Kiminini Constituency, Trans Nzoia County; Sally Ann Academy, Bureti Constituency, Kericho County; Moi Tambach Primary School, Keiyo North Constituency, Elgeyo Marakwet County and Sangre Boarding Primary School, Uasin Gishu County. They are welcome to observe proceedings in the National Assembly.

Next Order.

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING  
23<sup>RD</sup> TO 26<sup>TH</sup> AUGUST, 2016

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of the Standing Order 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, 23<sup>rd</sup> August, 2016. The HBC met on Tuesday this week at the rise of the House and gave priority to the business, which is scheduled for debate next week.

Among them is the Motion by the Committee on Selection on appointment of Members to various Committees. The House will continue with the debate on the Universities (Amendment) Bill, 2015, the Betting Lotteries and Gaming (Amendment) Bill 2015, the Statute Law (Miscellaneous Amendments) Bill No.58 of 2015, the County Assembly Services Bill (Senate Bill No.27 of 2014) and the Public Fundraising Appeals Bill (Senate Bill No.28 of 2014) at the Second Reading.

On the same week, the HBC has given priority for consideration of the following Motions: One of them is the Ratification of the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of United Kingdom. Also to be considered is the Sessional Paper No.6 of 2014 on the National Children Policy and Sessional Paper No.1 of 2015 on National Policy on Elimination of Child Labour, if not concluded this afternoon.

On the same, I urge the Departmental Committee on Labour and Social Welfare to expedite the consideration of Sessional Paper No.6 of 2014 on National Children Policy and table their report to enable Members acquaint themselves on the same before commencement.

I wish to inform Members that I wrote to you seeking your indulgence to withdraw proposed amendments to Industrial Training Act as contained in the Statute Law (Miscellaneous Amendments) (No.2) Bill of 2015. This will allow for further consultations with the relevant stakeholders.

I am also aware that the Departmental Committee on Health is retreating this weekend and the agenda is to deliberate, among others, the proposed amendment to the National Hospital Fund Act No.9 of 1988.

Next week, we will also deal with the Joint Select Committee on IEBC Report which was tabled this afternoon. It is my hope that by Thursday next week, we shall have concluded all the

five constitutional Bills. I urge the Departmental Committee on Energy, Communication and Information and that of Environment and Natural Resources to expedite the tabling of Reports on the mediated versions of the Energy Bill, 2015, the Petroleum (Exploration, Development and Production) Bill, 2015 and the Forest Conservation and Management Bill, 2015.

On questions before Committees, the following Cabinet Secretaries are scheduled to appear before Committees on 23<sup>rd</sup> August, 2016:-

(i) Cabinet Secretary for Interior and Coordination of National Government at 10.00 a.m. before the Departmental Committee on Administration and National Security to answer Questions from Hon. John Waluke, Hon. Christopher Nakuleu, Hon. Zuleikha Juma Hassan, Hon. Sunjeev Birdi, Hon. David Gikaria and Hon. Francis Waititu.

(ii) Cabinet Secretary for Education, Science and Technology at 10.00 a.m. before the Departmental Committee on Education, Research and Technology to answer Questions from Hon. Abdullahi Diriye, Hon. Peter Kaluma, Hon. Kabando wa Kabando and Hon. Robert Mbui.

(iii) Cabinet Secretary for Land, Housing and Urban Development at 10.00 a.m. before the Departmental Committee on Lands to answer Questions from Robert Pukose, Hon. Ferdinand Waitutu, Hon. Charles Nyamai, Hon. Irshadali Sumra and Hon. Shakila Abdalla.

Finally, the HBC will reconvene on Tuesday, 23<sup>rd</sup> August, 2016 at the rise of the House to consider business for the coming week.

**Hon. Speaker:** I hope Members appreciate why I indicated that Members should take full advantage of the weekend to familiarise themselves with the contents of the Report by the Joint Select Committee. Perhaps you may not be able to get to go through all the exhibits or annexures because they are many, but it is good to see the basis and what informed the Committee's recommendations in various areas. It is a very robust Report. Take advantage of the weekend so that next week, you take as much time as possible to debate in an informed way.

Next Order.

## MOTION

### THE SENATE AMENDMENTS TO PROTECTION OF TRADITIONAL KNOWLEDGE AND CULTURAL EXPRESSIONS BILL

**Hon. A.B. Duale:** Hon. Speaker, I was still digesting the role of the regional integration in the deployment of forces to South Sudan.

I beg to move the following Motion:-

THAT, the Senate Amendments to the Protection of the Traditional Knowledge and Cultural Expressions Bill, 2015 be now considered

I agree with all the Senate amendments to this Bill. I am also aware that the Departmental Committee on Justice and Legal Affairs has concurred with all the Senate amendments. Clause 4 looks at the existing responsibilities of county governments in protecting and promoting traditional knowledge and cultural expression.

*(Hon. Ababu greeted Members)*

Hon. Speaker, can you allow the former Secretary General of ODM, now a Member of a third force, to greet the Members?

**Hon. Speaker:** Hon. Pius Ababu Namwamba, you are causing some consternation of sorts.

**Hon. A.B. Duale:** Hon. Speaker, he is engaged in early party hopping. That Clause 4 is considered because it protects and gives reasons for the role of county governments in protecting and promoting traditional knowledge.

The Senate proposed the following two new responsibilities for the county governments: The first one is the allocation of financial resources for the promotion of cultural activities and secondly, the establishment of mechanism for using culture as a tool for conflict resolution and promotion of cohesion.

Those proposed amendments from the Senate seek to impose an obligation on county governments to allocate certain resources from their budget to be used to promote cultural activities. For example, in Kakamega County, the county government can allocate some resources for the annual bull fighting festival. I am sure the bull fighter, Sen. Khalwale, wherever he is sitting, must have brought an amendment.

The other reason is to obligate county government to use culture as a tool for promoting cohesion. Clause 22, which the Senate has added, provides for the right of the owners of traditional knowledge and cultural expressions to assign or conclude licensing agreements provided that these grants give access to all stakeholders.

In Clause 25, again, they seek to introduce a new aspect of consultation with persons in charge of matters relating to traditional knowledge and culture. Consultation became a very serious term in the last Government. It is still in the minds of many people.

I beg to move and ask Hon. Kajuju, Member for Meru County, to second.

**Hon. (Ms.) Kajuju:** Thank you, Hon. Speaker. I beg to second these amendments from the Senate. We sat as a Committee and looked at all the proposals that had been made by the Senate. The Committee was in agreement with all the proposals from the Senate. They wanted to ensure that there is agreement between the national Government and county governments. As per the Constitution, cultural issues are devolved. Therefore, it would be important that there is consultation between the two arms of the Government in setting up institutions and structures.

I second and state that the Committee is in agreement. There was no opposition to any of it. I thank the Upper House for doing what it did to ensure that everything is done and sorted.

*(Question proposed)*

**Hon. Speaker:** Is it the desire of the House that I put the Question?

**Hon. Members:** Yes.

*(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]*

SENATE AMENDMENTS TO THE PROTECTION OF  
TRADITIONAL KNOWLEDGE AND CULTURAL EXPRESSIONS BILL

*Clause 4*

*Senate Amendment*

THAT, Clause 4 of the Bill be amended by inserting the following new sub-clauses immediately after paragraph (d)-

(e) the allocation of financial resources for the promotion of cultural activities; and

(f) subject to this Act or any other law, the establishment of mechanisms for using culture as a tool for conflict resolution and promotion of cohesion.

**The Temporary Deputy Chairlady** (Hon.(Ms.) Shebesh): Hon. Kajuju.

**Hon. (Ms.) Kajuju:** Hon. Temporary Deputy Chairlady, the Committee considered the amendment from the Senate and it is in agreement with it.

**The Temporary Deputy Chairlady** (Hon.(Ms.) Shebesh): Hon. Members, we are now in the Committee of the whole House. If you intend to contribute to the clauses that are being read out, please, insert your card. If not, remove it. I can see some Members are on interventions and others on requests. Please, remove your card and put them on request if you do not intend to participate. Did I hear a point of order? Yes, Hon. Makali. Please, give him the microphone.

**Hon. Mulu:** Hon. Temporary Deputy Chairlady, I just wanted to see if it is possible for the Mover to explain to us the import of some of these amendments. She says she agrees, but she leaves us behind in terms of following up the debate.

**The Temporary Deputy Chairlady** (Hon.(Ms.) Shebesh): Hon. Kajuju. No, it was the Leader of the Majority Party. Could you give us the import of the amendments on Clause 4?

*(Hon. Mulu answered a telephone call in the Chamber)*

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, the Senate has added two further new responsibilities. Hon. Makali Mulu is now talking on the phone and yet he asked me to explain.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Makali, you are not even supposed to be on the phone when in the House.

**Hon. A.B. Duale:** The Leader of the Majority Party has no time to waste. If you ask me to do something, I will do it.

*(Laughter)*

In Clause 4, the Senate has added two extra responsibilities for the county governments, namely, (e) and (f). On the first one, they are adding an obligation to allocate more financial resources for promotion of cultural activities.

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Hon.(Ms.) Shebesh): Hon. Members, please, lower your consultations so that we can hear the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, you know Hon. Elmi is dealing with clan nominations in northern Kenya. We are undergoing serious clan dynamics.

*(Laughter)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Leader of the Majority Party, go ahead.

**Hon. A.B. Duale:** On the first amendment, the Senate has given an obligation under (e). It gives a financial responsibility that county governments will create a fund for the promotion of cultural activity. In (f), they have established a mechanism for using culture as a tool for conflict resolution and promotion of cohesion. That is the input of that new amendment in a layman's language.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Wamalwa.

*(Question of the amendment proposed)*

**Hon. Wakhungu:** Hon. Temporary Deputy Chairlady, I rise to support the amendment. We know very well that as per the Fourth Schedule of the Constitution, culture is devolved and it is, indeed, important that county governments put some allocation for purposes of promotion of cultural activities. Recently, I was shocked when there was a court ruling that cousins can marry each other. In my community, this cannot happen.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Wamalwa, there is no time for debate. Speak on it.

**Hon. Wakhungu:** It is in line with this, I support. It is going to help in terms of resolving conflicts.

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

*(Senate amendment to Clause 4 agreed to)*

*Clause 22*

*Senate Amendment*

THAT, Clause 22 of the Bill be amended in sub-clause (3) by inserting the words "and the respective County Executive Committee (CEC) Member in charge of matters relating to traditional knowledge and culture" immediately after the words "Cabinet Secretary".

*(Question of the amendment proposed)*



**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, the Senate in Clause 22 provides for the right of owners of traditional knowledge and cultural expressions to assign and conclude licensing agreements and grant right of access, authorisation, assignment or licence which shall be in writing and a copy submitted to the CS. The Senate is proposing to provide document granting rights of access, authorisation, assignment and licence be submitted to the respective County Executive Committee members in charge of matters relating to traditional knowledge.

Nowadays, Kenyans are quacks. In the Coast, you will find members of the Kikuyu community or the Kamba community wearing Maasai *shukas* dancing and performing some traditional dances on behalf of the Maasai community. If you are not a Bukusu, you cannot perform the Bukusu circumcision rite. So, what Senate is saying is that you must first ascertain in writing and have a licence. There are too many quacks who masquerade as experts in Luo culture, on *tero buru* or even in Maasai culture. I think the Senate is trying to make sure that there is a licensing authorisation process.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member for Saku, do you want to speak to this? Are you in the House?

**Hon. Dido:** Of course, I am in the House.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Sorry, Hon. Member. It is just that I was looking for you that way.

**Hon. Dido:** Hon. Temporary Deputy Chairlady, I rise to support this particular amendment by the Senate. I think it is all about the ambiguity in law that has been there. By having the import of this amendment, we clearly know where the responsibility lies as opposed to thinking whether you go to the Ministry of Sports, Culture and Arts or to the specific person who is responsible for cultural matters at the county.

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

*(Senate amendment to Clause 22 agreed to)*

*Clause 25*

*Senate Amendment*

THAT, Clause 25 of the Bill be amended in sub-clause (3)(d) by inserting the words “after consultations with the person in charge of matters relating to traditional knowledge and culture in the relevant county” immediately after the words “relevant community”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon.(Ms.) Shebesh): Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, the Senate is proposing to introduce an aspect of consultation with the person in charge of matters relating to traditional knowledge and culture in the relevant county. So, there must be consultation with the relevant county CEC Member in charge of culture and tradition where monetary and non-monetary

benefits arising from the use of the traditional knowledge or cultural expression are transferred directly by the CS to the relevant community. Again, the county governments and national Government must consult. This consultation is not going away. We thought it would go away with the Government of national unity, but it is still with us even in culture.

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

**Hon. Makenga:** Thank you, Hon. Temporary Deputy Chairlady. I rise to support this amendment as proposed by the Leader of the Majority Party. Consultations are key in any event. The various CEC Members of the Cabinet in the county Government should consult. Thank you.

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

*(Senate amendment to Clause 25 agreed to)*

Clause 34

*Senate Amendment*

THAT, Clause 34 of the Bill be amended by deleting paragraph (h).

*(Question of amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, the Senate is asking for a deletion of the aspect of education and training as a requirement for an applicant as a term and condition in authorising user agreement. There are people who have never gone to school and they are expert traditional herbalists. So, the Senate, in its wisdom, says you do not need to have gone to school for you to be given a license or to sign an agreement.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member for South Imenti, Hon. Kathuri.

**Hon. Murungi:** Hon. Temporary Deputy Chairlady, I also want to support this amendment from the Senate. Traditionally, those people who actually perform these traditional rites, most of them have never been to school. Even the traditional medicinemen, since time immemorial were *wazees* in the villages who had no certificates. This amendment is catering for these classes of people. Now that I have the microphone, allow me to recognise the two schools from my constituency.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): You are not allowed to do that. Please bring me the list of those schools and I will recognise them on your behalf. Hon. Member for Bondo.

**Hon. Ogolla:** Hon. Temporary Deputy Chairlady, I support. Definitely, formal schooling is not part of culture. A lot of what we have in terms of cultural things does not need and have nothing to do with formal schooling. I support.

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

*(Senate amendment to Clause 34 agreed to)*

*Clause 43*

*Senate Amendment*

THAT, Clause 43 be amended by inserting the following new sub-clause immediately after sub-clause (2)-

(3) Whenever the Cabinet Secretary is required to make regulations or rules under this Act, the Cabinet Secretary shall make the regulations in consultation with the Council of County Governors.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, the Senate in its wisdom felt that the Cabinet Secretary is empowered to make regulations for effecting the provisions of this Act. So, the Senate is proposing that in exercising this mandate, the CS shall make regulations in consultation with the Council of Governors. Partly, I agree that it does not harm anything that they are asking the CS to make regulations. Of course, when those regulations come to the National Assembly, they will be tabled and the Committee on Delegated Legislation will deal with the matter. I hope they will consult and get the views of the Council of Governors.

**Hon. (Ms.) Kajuju:** Thank you, Hon. Temporary Deputy Chairlady. This is one of the proposals we looked at as a Committee and agreed with. Our agreement was also based on the fact that being a subsidiary legislation, it is important for the Government to be able to harmonise it between the various arms of Government. Whether it is the county government or the national Government, it is good so that there would not be any conflict of laws. Therefore, this is an important amendment that we took on board as a Committee and we agree with it.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Member for Saku, do you have a point of order?

**Hon. Dido:** Thank you, Hon. Temporary Deputy Chairlady. I do not have a serious disagreement with this particular amendment. We have two levels of Government, the national and the county Government. If you look at Clauses 4, 22, 25 and 35, they are clearly saying that within the county, the County Executive responsible for culture is the point of contact as opposed to having the Council of Governors. I think we should have county governments as the level the CS should be able to consult with. Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Leader of the Majority Party, did you hear the concern of the Member? Hon. Dido I am sorry. Could you repeat because you are raising a concern that I think the Leader of the Majority Party needs to hear?

**Hon. Dido:** Thank you, Hon. Temporary Deputy Chairlady. Looking at all the previous amendments, it is trying to point at individuals who will be responsible for the issue of culture at the county level and here we are saying the national Government, where we have the CS. So, that is one level. The second level we have is the county Government. As opposed to saying Council of Governors, I believe it is the county government that should be the point of consultation. Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, it is not about consultations. Before that, the only body that is recognised in law is the Council of Governors (CoG). Parliament or the CS cannot invite all the 47 counties. The views of county governments are carried by the CoG, but we need a further amendment to say “in consultation with the Council of Governors”, not “Council of County Governors.”

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

*(Senate amendment to Clause 43 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Mover, we have completed that Bill.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Senate Amendments to the Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015) and its approval thereof without amendments.

*(Question put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, we will now move to the next Bill. Before that let me recognise students from Rompo Primary School and Kuorone Primary School.

You are welcome to the National Assembly.

#### THE KENYA ROADS BILL

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, we are now considering the Kenya Roads Bill (National Assembly Bill No. 26 of 2015). This Bill is quite heavy with a number of proposed amendments to many clauses. So, we will not allow too many interventions during its consideration. We may allow just two interventions per clause so that we move faster.

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

#### PART II

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

THAT, the Bill be amended by deleting Part II and substituting therefor the following new Part—

PART II – ESTABLISHMENT OF THE PUBLIC ROADS STANDARDS  
BOARD

Establishment of the Board.

6. There is established a Public Roads Standards Board.

Composition of the Board.

6A. (1) The Board shall consist of a representative from each of the following bodies —

- (a) the State Department responsible for public roads;
- (b) the State Department responsible for matters relating to devolution;
- (c) the Inter-governmental Relations Technical Committee;
- (d) the Kenya National Highways Authority;
- (e) the Kenya National Urban Roads Authority;
- (f) the Kenya National Secondary Roads Authority;
- (g) the Kenya Roads Board;
- (h) the Institute of Engineers of Kenya;
- (i) the National Agency responsible for testing and research on roads; and
- (j) the National Transport and Safety Authority.

(2) The Principal Secretary for the State Department responsible for public roads shall be the chairperson of the Board.

(3) The State Department responsible for public roads shall provide the secretariat to the Board.

(4) The Principal Secretary for the State Department responsible for public roads may assign or appoint to the Board such support staff as may be necessary to effectively perform the functions.

(5) The Board shall establish and regulate its own procedures.

(6) The Board may co-opt any person to participate in the deliberations of the Board but the person so co-opted shall have no right to vote.

(7) The Board shall meet at least four times in a calendar year for the transaction of the business.

Functions of the Public Roads Standards Board.

6B. (1) The functions of the Board are to advise the Cabinet Secretary on—

- (a) standards for road and bridge materials, design, construction, maintenance and performance levels;
- (b) standard contract forms for works and consultancy services;
- (c) research and studies necessary for development and updating on public roads standards;

- (d) the types, sizes and usage of vehicles on roads and maximum vehicle and axle load limits for purposes of protecting roads from damage;
- (e) development and training of human resources required for the development, rehabilitation and maintenance of roads; and
- (f) monitoring system to ensure adherence to the standards.

(2) In the execution of the functions under sub-section (1), the Board shall take into account —

- (a) best international practices;
  - (b) input from the general public and experts;
- and

the capacity of the relevant entities to comply with the standards.

Roads Standards.

6C. (1) The Cabinet Secretary shall by regulations prescribe standards for testing, design, construction and maintenance of national trunk roads by the roads authorities and county roads by county Governments.

(2) The Cabinet Secretary shall publish in the Kenya Gazette the public roads standards formulated under this section.

(3) Each Authority and county Government shall comply with the public roads standards prescribed by the Cabinet Secretary under this Act.

This Part establishes the Advisory Board to advise the CS on regulations concerning roads standards. It also provides for the membership and functions of the Board.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I see 12 requests. I hope all of you want to contribute so that when I call upon you, you are ready to contribute. I begin with the Member for Rarieda.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, we do not have anything in Kenya called “the Institute of Engineers of Kenya”. We have something called “the Institution of Engineers of Kenya”. It keeps appearing in our Bills and laws but it is wrong.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Chair, pay attention to what the Member for Rarieda is pointing out. Let them settle down because I can see some movement there. There is information from Hon. Gumbo on the amendment.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, this mistake keeps appearing everywhere. We do not have anything in Kenya called “the Institute of Engineers of Kenya”. We have something called “the Institution of Engineers of Kenya”. Those are different things.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I think that is noted by the Chair. It is a typographical error that can be corrected.

The Member for Mount Elgon, Hon. Serut.

**Hon. Serut:** Hon. Temporary Deputy Chairlady, I would want to beg the Chair of the Committee to justify the amendment. He did not. He has only said he is deleting the clause and bringing in a new clause. What is the justification, first of all?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Chair, do you want to give a short justification.

**Hon. (Eng.) Mahamud:** Sorry, Hon. Temporary Deputy Chairlady. The original Part II has “the National Roads and Bridges Standards and Oversight”. The title has changed to “Establishment of Public Roads Standards Board”, which is wider. This Part also establishes the Advisory Board which is not in the original clause.

Thank you, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Serut.

**Hon. Serut:** Hon. Temporary Deputy Chairlady, I now support because it brings on board the Public Roads Standards Board.

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

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

*(PART II as amended agreed to)*

*(Clause 7 agreed to)*

#### Clause 8

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): There is an amendment by the Chair of the Committee.

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

THAT, Clause 8 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following—

(2) The Cabinet Secretary shall at least once in ten years publish the inventory in sub-section (1) in the *Kenya Gazette*.

The Bill leaves publication of the roads inventory to the discretion of the CS. The CS could decide not to publish the inventory or take a lot of time before publishing it. So, a timeline needs to be given.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member for Marakwet East, Hon. Kangogo.

**Hon. Bowen:** Hon. Temporary Deputy Chairlady, I stand to support the amendment. However, ten years for reviewing the gazettelement of the roads is too long. I wish the Committee would have reduced it to even five years because in case of classification or re-classification of roads, you do not need to wait for ten years.

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

**Hon. Oyoo:** Thank you, Hon. Temporary Deputy Chairlady. I had intended to raise something similar to what he has raised. As much as I support the amendment, I do not seem to be satisfied with its import. He has not given enough reasons more so to the recourse of the public if the Cabinet Secretary (CS) fails to publish this in the *Kenya Gazette*. I would therefore want a clarification on what recourse users like us have.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chairman, would you like to respond to those two comments before I put the Question?

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, roads normally take a lot of time to construct. Ten years is a very short period in the lives of the roads. So an interval of about ten years is reasonable. An interval of five years might be just the same as the one we had the other time. So, that is the reason we have ten years. The idea is that the CS must publish the inventory. So, we thought ten years was the most reasonable time; five years will be very short.

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

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

*(Clause 8 as amended agreed to)*

*(Clause 9 agreed to)*

**The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh):** Let me quickly recognise Kaptulwa cholwe High School from Sotik Constituency, Bomet County and Kathakanaro Primary School, South Imenti Constituency, Meru County. You are welcome to the National Assembly.

*Clause 10*

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

THAT, Clause 10 of the Bill be amended in sub-clause (2) by deleting paragraph (g) and substituting therefor the following new paragraph-

“(g) overseeing the management of traffic and road safety on primary national trunk roads, in collaboration with other agencies”;

We are trying to remove the aspect of road safety because management of road is the role of the National Transport Safety Authority (NTSA). We are deleting paragraph (g) and substituting it with the following: “overseeing the management of traffic and road safety on primary national roads in collaboration with other agencies.”

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Vice-Chairman, there is also an amendment on the Table which the Chairman of Committee has signed as urgent. Would you like to speak to this amendment as well?



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

THAT, Clause 10 of the Bill be amended in sub-clause 1 by deleting phrase (h) and (j) appearing immediately after the phrases “Classes S, A and B.”

The justification is that the management, development, rehabilitation and maintenance of the primary national trunk road class H and J have been assigned to the Kenya Urban Roads Authority. We are removing it from KeNHA.

I thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay, hon. Member.

*(Question of further amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I see the Member for Navakholo.

**Hon. Wangwe:** Thank you, Hon. Temporary Deputy Chairlady. I stand to support both amendments; the first and the second one. This is just to recognise the following institutions: The Kenya National Highways Authority, Kenya Urban Roads Authority and the National Transport and Safety Authority. Once we recognise these institutions then their functions will flow as per the amendment.

I, therefore, beg to support.

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

**Hon. (Ms.) Gathecha:** I support, Hon. Temporary Deputy Chairlady.

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

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

*(Clause 10 as further amended agreed to)*

#### Clause 11

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

THAT, clause 11 of the Bill be amended—

(a) by re-numbering the existing sub-clause (1) as sub-clause (2);

(b) by inserting the following new sub-clause (1) —

“(1) There is established the Board of the Kenya National Highways Authority.”

(c) by deleting the words “or (g)” appearing at the end of paragraph (a).

(d) in paragraph (f) by deleting the word “or” appearing at the end of sub-paragraph (v) and substituting therefor the word “and”.

First of all, we are establishing the Board of the Authority. It ought to be established by law before it is composed. We will start with composition, but we are putting the establishment of the Board first. We are also renumbering because there is no Clause 11(1)(g) in the draft, so we are deleting that one. This is just to correct a typo. Under Clause 11 the existing sub-clause 1 will now be sub-clause 2, but it will come after New Clause 1 which provides for the establishment of the Board of the Kenya National Highways Authority. We are also deleting (g) which was not there in the first place.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. T. J. Kajwang’.

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I have a small intervention to make here. I am trying to persuade my Vice-Chairman to look at Clause 11 and if he is willing then propose a further amendment.

What they have done is to create the Kenya National Highways Authority, which is a correct move. They have also put several members in it. However, there is what I think is an oversight because they have not prescribed who becomes the secretary to the Board. I was trying to convince him to move a further amendment that the Corporation Secretary becomes the secretary to the Board although things have moved a little too fast. I do not know if you could help me talk to my Vice-Chairman, who is an experienced engineer, so that this KeNHA is properly configured and has a secretary. In any case, this secretary has been employed by the Authority except that he is Corporation Secretary. If there is a clause which directly designates that the Corporation Secretary becomes a secretary--- The clause has not said that the Director-General, who is part of it, will be the secretary. So, you will have an Authority which will be in limbo. As you know, once the engineer is ready with his assignment, he will not want to be disturbed in his mind. I know he is almost picking it. You could ask my engineer here to accept to carry a further amendment which then becomes Clause 11(5).

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): What you are asking Hon. T. J. Kajwang’ is a further amendment. That can only be carried by the Chairman of the Committee.

**Hon. Kajwang’:** I am just seeking your authority to ask my Vice-Chairman, if he does not disagree completely with this proposal, to move the further amendment.

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

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, with due respect to my brother T.J. Kajwang, I do not think I will be able to propose that amendment at this stage. One, each of the Authorities has got a Director-General. However, I do not know whether they have Corporate Secretaries in their establishments. So, I will not float an idea on something I am not familiar with. For now we will proceed without me proposing that amendment. It is with all due respect to him.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I think that is valid point. I recognise the Member for Kitui Central, Hon. Makali. Do you want to speak to this?

**Hon. Mulu:** Hon. Temporary Deputy Speaker, I support this amendment. But even as I support it, what Hon. Kajwang’ has said makes a lot of sense. It will not be possible to have a board without a secretariat. It is important we have that clause clearly stating that the secretary will be the secretary of the board.

Thank you.

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

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

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

*(Clause 11 as amended agreed to)*

*(Clause 12 agreed to)*

*Clause 13*

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Gikaria, can you be the only one with a point of order?

**Hon. Gikaria:** Hon. Temporary Deputy Chairlady, it is about the procedure. I have something to inquire about Clause 11(A). When you say Clause 11, I thought we were going to Clause 11(A).

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Gikaria, that is a new clause. It will come at its right time. Hon. Chairman.

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

THAT, Clause 13 of the Bill be amended –

(a) in sub-clause (2) by deleting paragraph (f) and substituting therefor the following new paragraph–

“(f) overseeing the management of road usage on secondary roads in collaboration with other agencies”; and

(b) in the marginal notes by deleting the word “Kenya” appearing twice.

This is a new Authority. The initial one was the Kenya Urban Authority now we have the Rural Authority. So, this one is similar to the other one we had. We are just trying to clarify that together with the Transport Authority they can do the function given.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Gikaria, do you want to speak to this? Hon. Wandayi, do you want to speak to this? Why do you not then remove your card and make my work easier. You leave them there yet you do not want to speak!

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

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

*(Clause 13 as amended agreed to)*

*Clauses 14*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 14 of the Bill be amended-

(a) by re-numbering the existing sub-clause (1) as sub-clause (2);

(b) by inserting the following new sub-clause (1) —

“(1) There is established the Board of the Kenya National Secondary Roads Authority”.

(c) in sub clause (1) paragraph (f) by deleting the word “or” appearing at the end of sub-paragraph (v) and substituting therefor the word “and”;

(d) in the marginal notes by deleting the word “Kenya” appearing twice.

This is similar to what we had before. We are establishing the Authority before we talk about the functions. We are re-arranging Clause 1 and 2 accordingly by establishing the Authority and talking about the functions later.

*(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 of be inserted,  
put and agreed to)*

*(Clause 14 as amended agreed to)*

*(Clauses 15, 16, 17, 18, 19, 20, 21 and 22 agreed to)*

*Clause 23*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, we have two amendments. One is by the Chair of the Committee and another by Hon. Fred Outa. If the amendment by the Chair of the Committee is carried, then that of Hon. Fred Outa will fall. Hon. Chair of Committee.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 23 be amended in sub-clause (2)—

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

“(a) holds a Bachelor’s degree in Civil Engineering, a master’s degree from a university recognized in Kenya and is registered by the Engineers Board of Kenya.”

(b) in paragraph (b) by deleting the words “fifteen years” and substituting therefor the words “ten years”.

The draft Bill talks about the qualification of the managing director of the various authorities. In fact, all along it talks about somebody having a degree in engineering. In this amendment, we are just trying to make it stronger by strengthening that particular person.

In paragraph (b) we are deleting the 15 years’ experience and limiting it to 10 years’ experience. This position calls for somebody who has qualified educational experience hence the master’s degree and 10 years’ experience is considered adequate. These institutions or highway authorities have since their establishment in 2007 been led by engineers. I request Members to pass this because we need people who have the knowledge and experience to lead. If we have somebody with different qualification, it will be a difficult matter for somebody to lead the engineers. This is the only institution that has 100 per cent engineering function. So, let us not talk about other qualification.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Limo, Member for Kipkelion East.

**Hon. Limo:** Hon. Temporary Deputy Chairlady, as much as we appreciate the amendment by the Chair, in adding more qualifications like a master’s degree, I want to plead with him that this might not be necessary. In engineering, what is very important is, at least, the qualification which was in the original amendment and the experience. If you look at a paper and throw away the experience, there are very good engineer who cannot necessarily go to school but they have mastered the art, according to me. I urge the House to reject this amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Onyonka.

**Hon. Onyonka:** Thank you, Hon. Temporary Deputy Chairlady. I totally agree with my colleague. In roads construction, the fact that somebody has gone to school and got a master’s degree does not necessarily--- The only suggestion I will make in the amendment is that there should be a possibility that if somebody has an added advantage of a master’s degree that should be fine but there should be a limit, for example, of saying that somebody should have, at least, five years’ experience or eight years’ experience which would then moderate both sides. But to say that somebody who is going to be just a roads engineer must have a master’s degree, some people have not gone to school not because they are not smart but because of certain commitments and responsibilities.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Kangogo. I will give more Members because I see the interest on this amendment.

**Hon. Bowen:** Hon. Temporary Deputy Chairlady, I support the amendment by the Chair of the Committee. We should be setting precedent. We have seen in many cases people creating positions even for their people who are not qualified in those lines.

*(Applause)*

We do not expect the CEO of the Kenya National Highways Authority to be a social worker. He should be a civil engineer.

I also concur with my colleagues that the experience has to be reduced to even five years so that we have young people qualifying to be CEOs.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member, your point is made. Can I hear from the Member for Othaya?

**Hon. (Ms.) Munene:** Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment. If we are going to have an engineer who is not qualified, they will leave some things. We need to know that Kenya is going ahead. So, we need an engineer who has knowledge and experience. We cannot have an engineer who is a standard eight dropout leading the Kenya National Highways Authority.

*(Applause)*

It is good for us to accept the qualification of engineers who have a master's degree so that Kenyans can see their roads done properly. We cannot be hiring foreigners.

I support.

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

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, I support that we should have somebody with a master's degree. For experience, being an engineer and building a road is okay. However, when you are a Director-General you are at policy level. You will make policies that will guide other people who construct roads. Those with the experience can then work on the roads.

I support the amendment as proposed by the Chair.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Chair of the Committee, we have heard both sides of the argument. Hon. Members, I cannot give an opportunity to all of you. We have heard a balanced view from both sides. I want to give an opportunity to the Chair of the Committee.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I appreciate the comments by the Members. We have said that the Director-General should have at least 10 years' experience and a master's degree.

I stand by my position.

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

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): That means the amendment proposed by Hon. Fred Outa has been dropped.

*(Proposed amendment by Hon. Outa dropped)*

*(Clause 23 as amended agreed to)*

*(Clauses 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 agreed to)*

## PART VI

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

THAT, Part VI of the Bill be deleted and replaced by the following new part—

## PART VI—GENERAL POWERS OF AN AUTHORITY

Acquisition of land. No. 6 of 2012. 35. Where an Authority requires any land for its purposes, the Cabinet Secretary shall submit a request for the acquisition to the National Land Commission, and the provisions of Part VIII of the Land Act, 2012 shall apply, provided that an Authority may in consultation with the National Land Commission pay directly any compensation due to any person whose land or property is acquired under the Lands Act, 2012 for purposes of the Authority.

Power to enter and survey land. 36. (1) An authorized employee of the Authority may, for the purposes of this Act, enter upon any land and survey such land or any portion thereof.

(2) Where any damage on the land is caused by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to compensation in accordance with this Act.

Power to enter land to prevent accidents, etc. 37.(1) Any authorized employee of the Authority may, for the purposes of preventing the occurrence of an accident, preserving the safety of traffic or the safe operation of any service provided by the Authority, or repairing any damage caused by an accident, enter upon any land and—

- (a) cut down or remove any tree or other obstruction, not being a building, which obscures the view of any traffic sign, which is likely to cause any obstruction or any danger to the safety of traffic or of any such service; or
- (b) execute such other works as may be necessary to prevent the occurrence of an accident or to repair any damage caused as a result of an accident.

(2) If a tree or other obstruction cut down or removed under subsection (1) (a) came into existence subsequent to the erection of a traffic sign or to the service being provided at that place, compensation shall not be payable in respect of the entry, or the cutting down or removal of the tree or other obstruction.

Power to enter, and to alter position of pipes, etc. 38. (1) Subject to the provisions of this section, an Authority, or any of its authorized employees may, for the purposes of the Authority, enter on any land and alter the position of any electric, telephone, telegraphic, fibre optic or other wire of any nature, or the position of any drain or sewer.

(2) Where an Authority intends to exercise any power under subsection (1), it shall give reasonable notice of its

intention to do so to the person having control of the pipe, wire, sewer or drain and—

- (a) such person may authorize a representative to superintend such work, and may require the Authority to execute such work to the satisfaction of such representative; and
- (b) the Authority shall make arrangements for the maintenance of the supply of gas, oil, compressed air or electricity, for the continuance of the telephone, telegraph or other wire-borne communications or for the maintenance of the sewer or drainage, as the case may be, during period of execution of such work.

Power to remove pipes, etc. from within the road reserve.

39.(1) For purposes of this section—

- (a) “pipe-borne utilities” refers to any pipes, devices and fittings for the supply or transmission of gas, oil products, water, wastewater, compressed air and any material conveyed by means of piping;
- (b) “wire-borne utilities” refers to wires, devices and fittings for the transmission of electricity, telephone services, telegraph services, data, and any other service conveyed by means of conductive wire, fibre optic cable or other wire or cable of any nature which is placed on the road reserve; and
- (c) “infrastructure utilities” refers to pipe borne utilities, wire-borne utilities, covered or open drains, and any other physical device for the provision, conveying or supply of services.

(2) Where an infrastructure utility is located within a road reserve, the provider or operator of the infrastructure utility shall, on a written request by the respective Authority, relocate such infrastructure utility to a location or alignment approved by the Authority at no cost to that Authority.

(3) Where the Authority intends to exercise any power under subsection (2), it shall give reasonable notice of its intention to do so to the person having control of such infrastructure utility, and such person shall cause to be removed such infrastructure utility within sixty days:

Provided that service of the notice through a newspaper of wide circulation in Kenya shall be considered to be a proper notice under this Act.

(4) Where, under subsection (2) or (3), a person having control of an infrastructure utility fails to remove the infrastructure utility within the time stated in the notice, the Authority may remove such infrastructure utility at the cost of the person who was unable to comply with the notice under subsection (3).



Occupation of private land.

- 40.(1) A road Authority may –
- (a) in the development, construction, rehabilitation or maintenance of a road;
  - (b) in the construction of a temporary road for use by the public pending the carrying out of the road works under paragraph (a); or
  - (c) in providing a temporary road for use by the public where a road has become impassable,

use and occupy for such period as may be necessary for the carrying out of the road works, any land along or adjoining the road in relation to which the road works are to be carried out.

(2) A road Authority shall not occupy land under subsection (1) unless it has issued to the registered owner or occupier of the land, a notice of at least thirty days of its intention to occupy the land.

(3) A road authority shall not be required to issue a notice under subsection (2) where –

- (a) in the opinion of the road authority, it is necessary as a matter of urgency to use and occupy land that is more than fifteen metres from a dwelling-house for the purpose of reconstructing or repairing a particular road; and
- (b) the road authority gives the occupier of the land such notice as is practicable in the circumstances and, immediately after giving the notice, reports to the respective Cabinet Secretary the circumstances requiring such a notice to be dispensed with.

(4) A road authority shall not use or occupy land under subsection (1) where the land is located within fifteen metres of a dwelling house unless –

- (a) the occupier of the land has consented in writing to the use or occupation, or
- (b) if that consent is not given, the respective Cabinet Secretary has given written authority for the use or occupation.

(4) The road Authority shall compensate an owner of land for any loss or damage arising from the exercise of powers under this section.

Power to take water. No.8 of 2002.

41. An Authority may, for its purposes, take any water from any natural watercourse subject to the Water Act, 2002.

Access to material sites etc.

42.(1) Subject to the Constitution an Authority, by its agents and officers, for the purpose of the construction and maintenance of roads or the carrying out of any works which it is empowered under this Act or under any agreement, direction, delegation or transfer entered into, given or made under this Act to carry out, may enter upon land and remove there from any soil, clay, rock,

gravel, murrum, lime, sand, shale, shingle, slate or surface soil, and may carry across any land, by a route to be agreed between the owner and in the event of failure to agree, cause to be acquired compulsorily such land, and remove such material, and may provide within the land in connection with such functions labour or other camps, works buildings, access roads, and space for stockpiling, and may erect machinery and other gear for the purpose of quarrying any such material

(2) A county exercising its authority under subsection (1) may enter land only within the county.

(3) Before entering upon any land for the purpose of exercising any of the powers conferred by subsection (1), a road authority shall give not less than one month's notice by personal service or by registered post to the last known address of the owner or occupier of such land, of the intention to enter upon such land, the powers which it proposes to exercise, and the area of such land to which it will confine its activities.

(4) If the owner or occupier of such land is aggrieved by the proposed exercise by the road authority of the powers conferred by this section or by the proposed exercise of the powers in the area specified in the notice, he may, within one month from the service upon him of the notice under subsection (3), make representations to the National Land Commission thereon and shall within the same period inform the road authority concerned of the nature of such representations.

(5) Where representations are made to the National Land Commission under subsection (4), the National Land Commission may, after consulting the road authority concerned, give such direction to the road authority thereon as it thinks fit.

(6) Compensation shall be payable by a road authority to the owner or occupier of any land for any damage done to buildings, roads or crops, or otherwise, in the exercise by it of any of the powers conferred upon it by this section, and for any interference with the rights of occupancy of such land.

(7) If, as a result of the exercise of any of the powers conferred by this section, a danger to persons (other than employees of the road authority or of their agents) or to domestic animals is created, the road authority shall, at the request of the owner or occupier of the land, carry out fencing at its own expense to such an extent as adequately to guard against such danger.

(8) The sites for any labour or other camps to be provided by the road authority and the alignment of any roads of access shall be determined by the road authority only after consultation with the owner and occupier of the land on which

the same are to be situated.

(9) Any pit or quarry made in exercise of any of the powers conferred by this section shall, at the request of the owner or occupier of the land, be filled up or, in the discretion of the road authority, fenced, at the expense of the road authority, when the road authority abandons such pit or quarry.

(10) This section shall be subject to the Forests Act, the Environmental Management and Coordination Act and any rules made thereunder, and to the extent of any inconsistency between this section and that Act and any rules thereunder, the latter shall prevail.

(11) For the purpose of this section, the expression “owner or occupier” means in respect of Government land, the National Land Commission, in respect of Trust land (other than land the title to which is registered under the Land Consolidation Act) means the county, and in respect of forest areas, means the Chief Conservator of Forests.

Power to close a public road.

43. (1) An Authority may, for its purposes, temporarily close or divert a public road and similarly close or divert a road permanently.

(2) It shall be lawful for a road authority or its authorized representative, for the purpose of preventing damage being caused to any road or for the purpose of carrying out any works which it may consider necessary or desirable in connection with the maintenance or improvement of any road, to close the whole or any part of such road to all vehicles or any particular type of vehicles at any time for any period it may think fit.

(3) It shall not be lawful for the driver or person in charge of any vehicle to drive or haul the vehicle or cause it to be driven or hauled over any portion of a road which is closed to traffic and where a conspicuous notice is displayed to the effect that the road is closed, unless the driver or person in charge of the vehicle has received permission, in writing, from the relevant Authority.

Railway crossings.

44.(1) Subject to subsection (2), where a railway has been or is proposed to be constructed so as to cross a road, the Authority shall require the owner or operator of the railway—

- (a) to erect such gates and to execute such other works as may be necessary for the safety of the public;
- (b) in the case of national trunk roads, to construct the railway in such a manner that it does not cross the road on the level; and
- (c) the owner or operator of the railway shall comply with such requirements.

(2) The respective Authority shall, before making any requirement under this section, communicate with the owner or

operator of the railway and shall take into consideration any representations made by the owner or operator.

(3) Where as a result of a requirement made by the Authority under this section, any works are to be constructed by the owner or operator of the railway, the manner of construction of such works and the apportionment of the cost of construction and maintenance thereof shall be determined by an agreement between the owner or operator of the railway and the Authority, and if no such agreement is made, it shall be determined by an arbitrator appointed by the Cabinet Secretary.

Removing trees, etc.

45. An Authority shall have power to require the owner of any land to remove, lower or trim to the satisfaction of the Authority any tree, shrub or hedge overhanging or interfering in any way with the traffic on any road or with any wires or works within the road.

Inter-county roads and bridges.

46.(1) In this section—

“Inter-county road” includes a bridge, drain and other services associated with a road and that crosses or runs along the boundaries of more than one county government.

(2) Each county government shall be jointly responsible to maintain an inter county road.

(3) Where a county road crosses or runs along the boundaries of more than one county government, the concerned county governments may enter into an agreement stating the manner in which —

- (a) the inter-county road shall be constructed or maintained; or
- (b) costs for constructing or maintaining the road.

(5) Where the relevant county governments are not able to agree as provided under subsection (3), any county government may refer the matter to the Intergovernmental Relations Technical Committee under the Intergovernmental Relations Act for determination by the Council of Governors, on any matter including—

- (a) whether a road, bridge, drain or other service is required;
- (b) the standard of construction or maintenance;
- (c) each county government’s share of construction or maintenance costs; or
- (d) which county government should exercise management and control of the road.

Damage to road or bridge.

47.(1) A driver or a person in charge of a vehicle shall not drive or haul a vehicle or cause it to be driven or hauled over any bridge on or near a conspicuous notice which has been placed to the effect that such bridge is insufficient to carry traffic in excess of a specified weight, unless—

- (a) the gross weight of the vehicle and any trailer attached thereto is less than the weight specified; or
- (b) the driver or person in charge of the vehicle has obtained the consent, in writing, of the relevant Authority.

(2) Where a road or bridge is damaged—

- (a) by reason of a vehicle passing over it in contravention of the provisions of subsection (1) or of the axle load restrictions under the Traffic Act, East African Community Vehicle Load Control Act or the provisions of any regulations made under this Act; or
- (b) by reason of any vehicle passing over a bridge on the road or coming into contact with any portion thereof other than the surface of the road,

it shall be lawful for the Authority to make good such damage and to recover the cost thereof from the owner of the vehicle, and the person driving or hauling it shall be jointly and severally liable to the Authority for the damage.

(3) A certificate under the hand of any person authorized on that behalf by the concerned Authority stating the amount of the cost of making good such damage under subsection (2) shall be prima facie evidence of such cost.

National toll roads.

48. The Cabinet Secretary, in consultation with the Authority may declare a national trunk road or a portion thereof as a national toll road for purposes of this Act, and may make Regulations for the better carrying out of the provisions of this section.

National toll bridges.

49.(1) Subject to subsection (2), the Authority may establish and maintain national toll bridges, together with, approaches, ramps and other essential appurtenances, for the passage or carriage of passengers, animals, goods and vehicles on any road in which it is responsible under this Act.

(2) The establishment of a ferry boat service under subsection (1) shall require the approval of the Cabinet Secretary and the terms and conditions governing its operation, including the charges for use of the ferry, shall be provided by Regulations made by the Cabinet Secretary.

(3) An agreement in which a private party develops, operates or maintains a ferry boat service on behalf of the Authority or Kenya Wildlife Service shall be approved under the Public Private Partnership Act.

Road user charges.

50.(1) The Cabinet Secretary responsible for finance may, in consultation with the Cabinet Secretary, make Regulations in accordance with this section authorizing the imposition and collection of road user charges by the Authority in respect of

roads, including national and county roads.

(2) A road user charge shall be a charge levied in respect of the distance travelled by a vehicle on a road—

- (a) for the purpose of recovering the cost of maintaining, repairing and replacing the road; and
- (b) reasonably related to the impact of that vehicle on such cost.

(3) Regulations made under this section shall be tabled before Parliament for approval, and shall not take effect until such approval is obtained.

(4) The Regulations made under this section may provide for—

- (a) charges related to the weight of the vehicle, including exemption from charges for vehicles below a minimum weight;
- (b) exemptions for classes of vehicles whose purpose or design means they are unsuitable for regular road use, or for vehicles used primarily off-road;
- (c) any other provision necessary or desirable for the equitable distribution of the burden of the charge on road users;
- (d) a requirement that road users subject to the charge must be licensed;
- (e) the requirement that vehicles carry distance recorders;
- (f) the allocation by the Roads Fund of the net proceeds of the charges among national and county roads; and
- (g) any other matter necessary or desirable in connection with administration and imposition, collection and enforcement of charges.

We are just swapping part VI and part VII. We are swapping the two parts for logical flow so that all the administrative provisions are dealt with before the final provisions.

We are deleting it, but we will come back to it later. We are reorganising it.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I hope everyone has understood the Chair of the Committee. He is just swapping the priority of the Bill.

We have moved the financial provisions to appear after the general powers of an authority.

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

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

(Clauses 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45,  
46, 47, 48, 49 and 50 as amended agreed to)

## PART VII

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

THAT, Part VII of the Bill be deleted and replaced by the following new part—

### PART VII —FINANCIAL PROVISIONS

- Financial year. 51. (1) The financial year of each Authority shall be the period of twelve months commencing on the 1st of July in every year and ending on the 30th of June in the next succeeding year.
- (2) Without prejudice to subsection (1), the first financial year shall be the period commencing on the appointed date of this Act and ending on the 30th June subsequent to that date.
- Funds and Resources of the Authority. 52. The funds and resources of each Authority shall consist of —
- (a) monies paid to it from the Road Fund;
  - (b) any other monies appropriated by Parliament;
  - (c) funds accruing from investments made by the Authority;
  - (d) grants, loans, gifts or donations from the Government or any other source, made with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance;
  - (e) revenue earned from the activities of the Authority under this Act; and
  - (f) any other funds received by the Authority in the performance of its functions under this Act.
- Receipts, earnings and accruals for the Authority. 53. The receipts, earnings or accruals of each Authority and the balances at the end of each financial year shall be retained for the purposes for which the respective Authority is established.
- Investment of the Authority's Fund. 54. Subject to the written approval of the Cabinet Secretary and the National Treasury, an Authority may invest any part of its funds in such a manner as it may consider appropriate.
- Borrowing by the Authority. 55. An Authority may borrow money required for the exercise of its functions and for meeting its obligations after approval by the Cabinet Secretary.
- Annual estimates. 56. (1) At least three months before the commencement of each financial year, each Authority shall cause to be prepared estimates of revenue and expenditure for that year.
- (2) The annual estimates prepared under subsection (1) shall make provision for all the estimated expenditure of each Authority, for the financial year concerned, and in particular shall provide for the—

- (a) payment for the infrastructural developments and provision of services;
- (b) payment of salaries, allowances and other charges in respect of the employees and staff of the Authority and the members of the Board;
- (c) payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the Roads Fund;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance and the replacement of buildings or equipment.

(3) The annual estimates under this section shall be approved by the Board at least two months before commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for onward transmission to the National Assembly.

Accounts and Audit.

57.(1) Each Authority shall keep proper books of account of its income, expenditure, assets and liabilities which shall be subject to the provisions of the law regulating State Corporations.

(2) The annual accounts prepared under subsection (1) shall be audited and reported in accordance with the provisions of the law relating to public audit.

Annual Roads works programme.

58. Each Authority and each county government shall, not later than six months before the end of each financial year, cause to be prepared and submitted to the Kenya Roads Board for approval an annual road works programme based on the approved five-year road investment program in respect of the ensuing financial year, comprising estimates of expected maintenance, development and capital expenditure of the Authority or county government in the said financial year to be financed.

Road investment programme.

59. (1) The Cabinet Secretary shall, once in every five years, in consultation with the national and county government and the Kenya Roads Board, cause to be prepared a road investment program for approval by the Cabinet Secretary responsible for finance.

(2) The road investment programme prepared under subsection (1) shall outline development and maintenance priorities costed with respect to stated sections of the road, and also aggregated by class, traffic loading or such other detail as may be specified.

Principles of operation.

60. Each Authority shall perform its functions in accordance



with the financial principles and shall ensure, as far as reasonably practicable, that its expenditure is chargeable on its revenue.

Fees and Charges.

61. Each Authority may, subject to the approval of the Cabinet Secretary, impose any levy, charges or fees for any of its services or for the use of road reserves under their jurisdiction.

Charges and fees to be Gazetted.

62.(1) Where an Authority, pursuant to section 45 imposes levies, charges or fees for any of its services or for use of its facilities, the schedule of charges shall be published in the Gazette.

(2) The schedule of charges published under subsection (1) shall come into operation on a date specified on the Gazette, which shall be at least thirty days after publication.

(3) If any amount due and payable under this section is not paid by any party after demand by the Authority, and remains unpaid beyond the time specified for payment, the Authority may seize the vehicle or other property of the debtor after giving reasonable notice of such seizure, and may detain such vehicle or property until payment is made.

*(Question of the amendment proposed)*

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

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, this is a very good amendment but I would request the Chair to consider a further amendment to Clause 47. One of the biggest problems we have in this country is improper loading through which people damage road surfaces. We have cases where somebody is carrying reinforcement bars and he scratches the road surface hence damaging the road.

Another cause of road damage is where people erect illegal bumps. I wish the Chair would consider including those offences here. I speak from experience because we have just had constructed roads in our constituency. Because of cases of people dragging reinforcement bars on the road and improper loading, the roads is damaged. People are erecting illegal bumps and damaging the road. This should be made an offence so that those responsible can be penalised.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member, I wish you had approached the Chair of the Committee in time as is the procedure during the Committee of the whole House. You would have considered that as a further amendment. The good thing is that you have been heard. Chair, would you like to comment on what he has said?

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I comprehend what my colleague is saying. We will not consider it now because this Bill went through a lot of consultations in our Committee. It is a very long one. We will leave it for the time being. At an opportune time, during the miscellaneous amendments, we will deal with 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)*

*(Clauses 51, 52, 53, 54, 55, 56, 57, 58,  
59, 60, 61 and 62 as amended agreed to)*

*(Clauses 63, 64, 65, 66, 67, 68 and 69 agreed to)*

*Clause 70*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 70 of the Bill be amended in subsection (1) by inserting a proviso-  
“provided notification of the actions or powers intended has been provided and consented to by the National Agency with delegated powers over the road.”

This is to provide for checks and balances in the exercise of power to ensure that the National Agency is involved before the power is used.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member of Parliament for Kesses, do you want to speak to this?

**Hon. J.K. Bett:** Hon. Temporary Deputy Chairlady, I wanted to contribute to another amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member of Parliament for Ol Kalou, do you want to speak to this?

**Hon. Kiaraho:** No, Hon. Temporary Deputy Chairlady.

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

*(Clause 70 as amended agreed to)*

*(Clauses 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81,  
82, 83, 84, 85, 86, 87, 88, 89, 90 and 91 agreed to)*

*Clause 92*

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Speaker, I beg to move:-  
THAT, Clause 92 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (k) –  
“(l) road numbering and signage system.”

We are saying that the Cabinet Secretary (CS), may in consultation with the respective Authority, make regulations. Without prejudice of Section 1, the regulation may provide for road numbering and signage system.

*(Question of the amendment proposed)*

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

*(Clause 92 as amended agreed to)*

*(Clauses 93, 94 and 95 agreed to)*

*Clause 96*

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

THAT, Clause 96 of the Bill be amended—

(a) in sub-clause (1) in the definition of “former Authorities” by deleting the word “Kenya” appearing before the words “Kenya National Highways Authority.”

(b) in sub-clause (4) by deleting the words “Kenya Regional Roads Authority” appearing in paragraph (d) and substituting therefor the words “Kenya National Secondary Roads Authority”

The word “Kenya” has been repeated.

*(Question of the amendment proposed)*

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

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

*(Clause 96 as amended agreed to)*

*(Clause 97 agreed to)*

*Clause 98*

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

THAT, Clause 98 of the Bill be amended by deleting the word “First” and substituting therefor the word “Third”.

The amendment is for correct referencing since consequential amendments are provided for under the Third Schedule and not the First Schedule.

*(Question of the amendment proposed)*

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

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

*(Clause 98 as amended agreed to)*

*New Clause 11A*

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11—

Establishment of the Kenya National Urban Roads Authority. 11A. (1) There is established the Kenya National Urban Roads Authority.

(2) The Authority established under subsection (1) shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other things or acts as may be necessary in furtherance of its purpose and functions.

(3) The headquarters of the Authority shall be in the Capital city, and the Authority may establish such administrative offices in each county, as may be necessary for the furtherance of its functions under this Act.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Vice-Chairman, are you through?

**Hon. (Eng.) Mahamud:** Can I move them all together?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): No. let us first deal with New Clause 11A, and then we will come to the others. We have to pass each one of them.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, Clause 11A establishes the Kenya National Urban Roads Authority whose headquarters will be in the capital city of Kenya.

*(Question of New Clause 11A proposed)*

*(New Clause 11A read the First Time)*

*(Question, that New Clause 11A be read a Second Time,  
proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. (Eng.) Gumbo.

**Hon. (Eng.) Gumbo:** I would like to commend the Committee under the able Chairmanship of Hon. Kamanda. Major road works in our urban areas are done by the Kenya Urban Roads Authority (KURA). When this Bill was being drafted, this Authority had been left out. The fact that they have brought in the Kenya National Urban Roads Authority into this Bill is an example of a Committee that looks into the actual needs of the people and takes care of them.

I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member for Narok South, you have the Floor.

**Hon. ole Lemein:** I support this amendment.

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

**Hon. Gikaria:** I want to thank the Committee for bringing this Authority back. It was a concern for us in the urban areas because these roads are important for the growth of our economy.

It is also a good amendment because the Kenya National Urban Roads Authority can now borrow money as an institution to fund some roads in the urban areas that are vital because sometimes the Budget is not enough.

*(Question, that New Clause 11A be read a Second Time,  
put and agreed to)*

*(New Clause 11A was read a Second Time)*

*(Question, that New Clause 11A be added to the Bill,  
put and agreed to)*

#### *New Clause 11B*

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11—

Functions of the Kenya  
National Urban Roads  
Authority.

11B. (1) The Authority is responsible for the management, development, rehabilitation and maintenance of primary national trunk roads Classes H and J as described in the First Schedule Part A of this Act.

(2) For the purposes of discharging its responsibility, the Authority shall have the following functions and duties,

- (a) constructing, upgrading, rehabilitating and maintaining roads under its jurisdiction;
- (b) controlling primary national trunk roads Classes H and J and road reserves and access to roadside developments;
- (c) implementing road policies in relation to primary national trunk roads Classes H and J;

- Cap. 403.
- (d) ensuring adherence to the rules and guidelines on axle load control as prescribed under the Traffic Act and any regulations made under this Act;
  - (e) ensuring that the quality of road works is in accordance with such standards as may be prescribed by the Cabinet Secretary;
  - (f) overseeing the management of traffic and road safety on primary national trunk roads Classes H and J, in collaboration with the National Transport and Safety Authority;
  - (g) collecting and collating all such data related to the use of primary national trunk roads Classes H and J as may be necessary for efficient planning under this Act;
  - (h) monitoring and evaluating the use of primary national trunk roads Classes H and J;
  - (i) planning the development and maintenance of primary national trunk roads Classes H and J;
  - (j) advising the Cabinet Secretary on all matters relating to primary national trunk roads Classes H and J;
  - (k) preparing the sector investment programme road works programmes for all primary national trunk roads Classes H and J;
  - (l) liaising and coordinating with other road agencies in planning and on operations in respect of roads; and
  - (m) performing such other functions related to the implementation of this Act as may be directed by the Cabinet Secretary.

This Clause lists the functions of the Kenya National Roads Authority.

*(Question of New Clause 11B proposed)*

*(New Clause 11B read the First Time)*

*(Question, that New Clause 11B be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, I support. For some mischievous reasons, someone in the Ministry of Transport and Infrastructure decided to leave out the existence of Kenya National Urban Roads Authority. How do we deal with urban cities? I am a Member of Parliament of a constituency in the urban area, and so is Hon. Mulu. There are settlements. Why do you only create highways and rural roads? So that we create an institution

that will deal with urban centres and settlements, the existence of the Kenya Urban Roads Authority is important.

I support.

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

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Chairlady. This is a very important amendment. We have been wondering what has been happening to the KURA. We know that there are very many roads in urban areas. We were shocked that someone wanted to abolish it without this House's knowledge. People should not be doing things behind the back of this House. We know that people scheme things out there but there is no way they are going to get away with it. It is very clear.

We have three Authorities namely the Kenya National Highways Authority, the Kenya Rural Roads Authority and the KURA. If this one is left out, the roads in urban areas will be totally dilapidated. In fact, we will be driving on potholes. The mere attempt to remove them has resulted in potholes on Uhuru Highway. I hit one of them and my vehicle is still recovering.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Your point is made. Hon. Nyikal, you have the Floor.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, it is extremely important that this Authority exists. The biggest problem of transport in this country is in urban areas that are emerging. Nairobi, Nakuru and Kisumu have massive congestion. It is not only about construction of roads but it also has to do with the planning of these urban areas. It is important that we have that Authority.

Therefore, I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, I want to put the Question.

**Hon. Kajwang':** Hon. Temporary Deputy Chairlady, the last one.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Kajwang', the manner you are using it is unorthodox but I will allow you.

**Hon. Kajwang':** Thank you for giving me this opportunity, Hon. Temporary Deputy Chairlady. I speak for you because you are unable to speak. You are chairing the session.

This thing needs to be very clear. I wish the Committee Vice-Chair could hear us here. Fortunately, the Chair of the Committee is a Nairobi man. However, the Vice-Chair, who is now holding brief for him, may not necessarily understand the issues we have in the City. Can the Vice-Chair rise and tell us the roles of KeRRA and KeNHA? This is because the only highway in Nairobi is the Thika Superhighway but all the roads that are in Nairobi are built because KeRRA is able to give us some little money out of 22 per cent. If they are saying that KeRRA will only go to the rural areas, it means nothing is going to happen in Nairobi and we will have to go back to Kidero. What will happen is that we will have to go to the county and the experience we have is that the county has never built even an inch of any road in Nairobi. So, if you want to bring down Nairobi, Nakuru, Mombasa, Kisumu and Garissa, then say clearly that KeRRA will deal with the rural roads. We will be left with highways and no road will be built. Can the Vice-Chair rise and tell us that very clearly?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member for Ruaraka, thank you for speaking on my behalf.

Departmental Committee Vice-Chair, by having the amendment here, it is proof enough that they have looked at the issue but go ahead.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, for the information of Hon. Kajwang', I was responsible for the three Authorities when I was the Permanent Secretary (PS) in the Ministry. I know how roads are organised in this country. I unbundled the road sector when I was the PS then. We have now brought in three authorities again. There will be the KURA, the KeNHA and what used to be called KeRRA, which has a different name. The roads are classified. There are new Classes S, A and B, which are for the KeNHA while Classes H and J are for the KURA. The KeRRA will deal with Classes C and D. So, the classification is there. Read it. We are now in the Committee of the whole House. I do not know why you are bringing those things. You are debating. For clarity, the roads sector is properly organised and all roads in this country will be taken care of. We also add the county governments.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Thank you, Vice-Chair. I think the matter is now clear.

*(Question, that New Clause 11B be read a Second Time,  
put and agreed to)*

*(New Clause 11B was read a Second Time)*

*(Question, that New Clause 11B be added to the Bill,  
put and agreed to)*

#### *New Clause 11C*

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11—

Board of the Kenya  
National Urban Roads  
Authority.

11 C. (1) The Board of the Kenya National Urban Roads Authority shall consist of the following members—

- (a) a non-executive Chairperson to be appointed by the President from amongst the members appointed under paragraph (f) or (g);
- (b) the Principal Secretary in the ministry or State department responsible for matters relating to roads;
- (c) the Principal Secretary in the ministry or State department responsible for matters relating to transport;
- (d) the Principal Secretary in the National Treasury;
- (e) the Director-General of the Authority, who shall be an ex officio member;
- (f) six persons, nominated by the following organizations—
  - (i) Institute of Engineers of Kenya;
  - (ii) Institute of Certified Public Accountants of Kenya;
  - (iii) Law Society of Kenya;
  - (iv) Institute of Surveyors of Kenya;



- (v) Kenya Institute of Physical Planners; or
- (vi) Chartered University

(2) The members of the Authority under paragraphs 1 (b) to (d) may designate an officer from their respective Ministry or State department to represent them.

(3) The nominating organizations specified under subsection (1) (f) shall submit three names of the candidates approved at their respective annual general meeting for appointment by the Cabinet Secretary:

provided that only one candidate shall be eligible for appointment by the Cabinet Secretary in accordance with subsection (1) (f)

(4) Despite subsection (1), the Principal Secretary in the ministry or State department responsible for matters relating to roads and the Principal Secretary in the ministry or State department responsible for matters relating to transport or their alternates may both not be members of the Board if they serve under the same Cabinet Secretary.”

Hon. Temporary Deputy Chairlady, New Clause 11C sets out the Board of the Kenya National Urban Roads Authority. The Board will consist of members who are listed there. It basically talks about who the members are. I need not read the whole of it.

*(Question of New Clause 11C proposed)*

*(New Clause 11C read the First Time)*

*(Question, that New Clause 11C be read a Second Time, proposed)*

**The Temporary Deputy Speaker** (Hon. Cheboi): I recognise Hon. Sakaja.

**Hon. Sakaja:** Thank you, Hon. Temporary Deputy Chairlady. I agree with this proposal. It is just setting up the membership of the Board. Even as I do so, I concur with the wisdom of the Vice-Chair, who is holding brief for the Committee Chair. He oversaw the setting up of these Authorities. Indeed, what Hon. T.J. Kajwang’ has said is true. If we do not have such an Authority, especially in the City of Nairobi, we will see the terrible roads we see today. Previously, this was not the case. However, through the Temporary Deputy Chairlady, I want to tell Hon. Kajwang’ that he should not be very worried because in the next 354 days and 13 hours when I will be the Governor of Nairobi, roads will all be *nywee*. So, do not worry about it. This is just a temporary problem.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Birdi, you have the Floor.

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Temporary Deputy Chairlady. I want to add my voice to this very important amendment in this Bill. As we know, the road situation in our country is reaching a stage where we feel handcuffed. We also feel that we are being sabotaged. So, I congratulate the Committee and everybody who has supported it.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, the Member for Sabatia.

**Hon. Masadia:** Thank you, Hon. Temporary Deputy Chairlady. I support the amendment but I wanted to talk on the Schedule. I am waiting for the Schedule.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member for Rarieda, take the Floor.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, this amendment is very good. I only have two problems with it, if the Chair could take note. He should change the “Institute of Engineers of Kenya” to “Institution of Engineers of Kenya”.

As engineers, we are always concerned why we must always give lawyers a chance in the institutions which are basically engineering institutions. This is one area we have to address. When we constitute bodies like the Kenya National Commission for Human Rights (KNCHR), engineers have no place there. So, why should we give lawyers a chance in the Board of Engineers? It is basically an engineering function. I urge my friend, the Vice-Chair, to be courageous and kick out the lawyers from the boards of organisations which are largely engineering in nature.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Nyikal, do you want a clarification from the Chair? Hon. Chair, listen to Hon. Nyikal.

**Hon. (Dr.) Nyikal:** Hon. Deputy Chairlady, whereas I support this, could the Chair clarify to me how 11(C) and (1)(f) will be appointed under “Chartered University” because I do not know which university will now be “Chartered University” to give the three names from which one will be appointed? That seems not clear.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon Vice-Chair, could you clarify the issue of “Chartered University” in 11 (C)(1)(f)?

**Hon. (Eng.) Mahamud:** *Daktari*, that is a good one. On “Chartered University”, we will expect the Ministry of Education, Science and Technology to give us a member of one of the universities. We will get somebody who is known from the universities in Kenya, but I agree there is an ambiguity here.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Vice-Chair, there is ambiguity. It is something that you can look at and make it clearer in terms of which institution should do that.

Yes, Hon. Serut.

**Hon. Serut:** Hon. Temporary Deputy Chairlady, could you protect me from the two Members?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, let Hon. Serut speak without disturbance.

**Hon. Serut:** Hon. Temporary Deputy Chairlady, there is a lot of ambiguity in this. By putting here “Chartered University” it means it is that “Chartered University” as an institution which is appointing but we have a number of chartered universities. If it is education, let them qualify and say it is the Ministry of Education, Science and Technology which will do whatever they want done.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Gikaria, listen from one more person.

**Hon. (Eng.) Mahamud:** Let me correct him.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let Hon. Gikaria speak and then you will reply because I am sure it is on the same thing.

**Hon. Gikaria:** Hon. Temporary Deputy Chairlady, not basically on the same but I am on 11(C)(3) where the nominating organisation will send three names and the CS will only pick one.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I think it is also cumbersome for an organisation to send three names. Let them just be allowed to send a name because they are only five. Instead of sending three names and the CS selects one, let it be one name. I am pleading that they make a further amendment to allow the organisation to send a name.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): That is okay, Hon. Vice-Chair.

**Hon. (Eng.) Mahamud:** On “Chartered University”, the intention here is that I want to make a further amendment. “Chartered University” is offering engineering courses in Kenya

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I am sorry. Chartered---

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, Chartered University will be offering engineering courses in Kenya.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Vice-Chair, of course you know the procedure.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I want to propose from here.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): If you are proposing, you need to write it quickly in the manner you want it to be read and bring it to the Table. Maybe I can give a few more Members a chance to speak on it as you do that the Vice-Chair.

**Hon. (Eng.) Mahamud:** That is okay, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Member for Ol Kalou.

**Hon. Kiaraho:** Thank you, Hon. Temporary Deputy Chairlady. I support the New Clause 11(C). If we look at the provision of the Kenya Urban Roads Authority *vis-a-vis* the technicality which is involved in coming up with a road network within urban centres. I will give an example of Nairobi City. We know coming up with most of these roads is a major challenge because we have underground cables and other services. So, it requires a very well established set up and people who can be able to match the challenge.

More importantly, we know that coming up with these roads set up in urban centres, because of all these complexities, is capital intensive, requires highly trained personnel and very experienced people in that perspective. So, if you look at the composition of the proposed Board, you will find that it is well balanced and it will be up to the challenge.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Thank you, Hon. Member. Let us have the Member for Balambala

**Hon. Aden:** Thank you, Hon. Temporary Deputy Chair. I support.

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Please, let us have consultations done in a better way so that we can hear the Member.

**Hon. Aden:** I want to help the Chair on the issue of Chartered University, and now that he wants to make an amendment, I would rather that we propose that it be “Chartered Public University” because there are very many chartered institutions and universities. That will also still be ambiguous in the sense that you will get three nominations from Kenyatta University

(KU) and three from the University of Nairobi (UoN). Say “as proposed by the PS for Higher Education”. Give the authority to an individual responsible who will pick from one of the chartered public institutions. It will be clearer that way.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let us now hear Hon. Makali Mulu

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I want to support New Clause 11(C). This is important because we have already set up a board under New Clause 11(A). You defined the roles of the Board under New Clause 11(B). So, it is important that we have the membership of the Board.

So, I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Nakara, the Member for Turkana Central, do you want to speak on this?

**Hon. Nakara:** Thank you. I was just worried about the number of people. We have 11 of them, and maybe this may hinder the Board from making quick decisions. I wish he can reduce the number to a minimum of nine so that they can make decisions very quickly.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Isaac Mwaura, you have the Floor.

**Hon. Mwaura:** Thank you. I would like to give my input since there are many universities in this country that are chartered. The Commission for University Education is the body that oversees universities and I think it will be the best to pick these people. This is because if you say the PS for Higher Education, tomorrow that department may be collapsed to basic education. I think it should be the Commission for University Education.

Just to make a general comment, we need to look at this country and see how we can reduce the cost of building roads. I think it is exponentially very high with a kilometre consuming up to Kshs 40 million. There is a better way to build cost-effective and affordable roads so that we can increase the road network in this country.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I am giving the Chair of the Committee time. I will revert to you when you are ready. So, I will give other Members who have interest a chance.

Yes, Hon. Wandayi.

**Hon. Wandayi:** I wish to also support the New Clause 11(C). I generally agree with the composition of the Board. It is also important to note that the Board is basically a policy making body. The problem we have in this country is that members of boards of various parastatals transform themselves into executive officers wanting to perform tasks which are better left to the management. So, if the role of this Board remains that of policy and oversight, then it is perfectly in order.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Thank you, Hon. Member let us have Hon. Kangogo.

**Hon. Bowen:** Thank you, Hon. Temporary Deputy Chairlady. There is a point which was raised by Hon. Abdikadir and I hope the Chair got it very well, that it must be chartered public university. I also have an issue with the composition of the Board. What does the Law Society of Kenya (LSK) have to do with Kenya Urban Roads Authority? We should have the National

Transport and Safety Authority (NTSA) instead because it is a roads issue. We should have the NTSA or the Traffic Department of Kenya being part of this.

I also want the Chair to clarify what the role of the NTSA is in relation to the traffic police because there is serious confusion on the roads. This is because you will find the NTSA and traffic police there. We have traffic lights which are not working or if they are working, the police make them not to work. That is the confusion we want the Chair to clarify and make sure that we have a working body.

Thank you, Hon. Temporary Deputy Chairlady

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I will give this opportunity to one more person. The Committee is almost ready.

Proceed the Member for Baringo Central.

**Hon. Mwaita:** Thank you, Hon. Temporary Deputy Chairlady. I want to support the amendment which proposes to nominate a person to the Board from a chartered public university which offers engineering courses. I also wanted to talk about the New Clause (1)(e), which says that the Director-General of the Authority shall be an ex-officio member of the Board. The Chair should consider saying that the Director-General shall be the Secretary to the Board. I wonder whether the Chair of the Committee is listening.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I am sorry, Hon. Member.

**Hon. Mwaita:** Hon. Temporary Deputy Chairlady, I was making a proposal to the Chair of the Departmental Committee.

*(Hon. (Ms.) S.W. Chege consulted loudly)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Sabina, please let me have a discussion between the Chair of the Committee, who is in front of you, and the Member.

**Hon. Mwaita:** Hon. Temporary Deputy Chairlady, I was proposing a further amendment on New Clause (1)(e). I do not know whether the Chair of the Committee can take it up. The Director-General of the Authority shall be an ex-officio member and Secretary to the Board. I request him to look at that.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, the Committee is ready. Hon. T.J. Kajwang' and Hon. Chepkong'a are two lawyers. Who is senior? Let me give the opportunity to the senior lawyer and then I will come to the other one.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Chairlady. I would like to disagree with Hon. Mwaita.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Mwaita, you are being responded to through the Chair.

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, it is unlawful to make the CEO the Secretary to the Board. We have professional certified public secretaries who are supposed to be company secretaries. They are trained in writing minutes and keeping books. You cannot make a CEO the Secretary to the Board. It is an anomaly.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): He has heard that. Hon. T.J. Kajwang', you are the last one to contribute before I give the Chair a chance.

**Hon. Kajwang':** Hon. Temporary Deputy Chairlady, allow me to address the Chair and the Vice-Chair because we are helping them. We want to make a good legislation. We know that

you have discussed this Clause at the Committee level. However, if you are too tight to pick some of our proposals, you will find us coming back to these things.

We saw the Order Paper today. We did not know what your Committee was presenting until we saw it in the Order Paper. That is why we are frantically trying to enrich what you have. I agree with my learned friend, Hon. Chepkong'a. You need a clause which specifically says there will be So and So who will be the Secretary to the Board. Otherwise, you will have a Board with a Chairman, but it will not have a secretary. It is different from what Hon. Mwaita is saying.

Hon. Mwaita is saying that the Director-General should be the Secretary to the Board. My learned friend, Hon. Chepkong'a, says it much better that the Corporation Secretary shall be the Secretary to the Board. When the Board meets the first day, it will not select a secretary, but it is the choice you will make. If you are tight to pick some of our proposals, we will come after six months and make those amendments.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member, let me quickly recognise a school in the Public Gallery before the pupils leave. The pupils are from Irindi Primary School, Othaya Constituency, Nyeri County. You are welcome to the National Assembly.

*(Applause)*

Proceed the Vice-Chair of the Committee.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, after consideration, I want to propose a further amendment.

I beg to move:-

THAT, new Clause 11C of the Bill be amended—

(a) in sub clause (1) (f) by deleting the word (vi) and substituting therefor the word (v) and deleting sub paragraph (vi);

That consequential amendment will be effected in all the other clauses which refer to “chartered university” in the document. There are two other places in the document which refer to “chartered university”. We want them to be deleted. The words “chartered university” should be deleted from this Bill.

I thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, before I put the Question, I give the opportunity to the Departmental Committee Vice-Chair to read out the new text without explaining so that it is clear. Members have heard that the Committee has removed the word “chartered university” from the Bill, and that the institutions which will nominate people to the Board have decreased from six to five.

Go ahead, Hon. Member.

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

THAT, the proposed amendment to the New Clause 11C be amended in sub-clause 1 by—

(a) deleting the word (vi) in paragraph (f) and substituting therefor the word (v); and,

(b) deleting sub-paragraph (vi).

These consequential amendments will be effected on all the other clauses so as to delete the representative of the chartered university.

*(Question of the amendment proposed)*

Yes, the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, procedurally, we must deal with every clause that touches on chartered university. There is no way you can do guillotine. Hon. Mahamud has said the further amendment should have an effect on all the other clauses.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): We have done it many times. This is through the guidance of the Office of Clerk. On procedure, the last sentence which the Chair has read will affect consequentially any other place where “chartered university” appears. It will subsequently be deleted. That is why I asked the Chair to clearly read the text. I want to allay your fears the Leader of the Majority Party that procedurally, we are okay.

Hon. Nyikal, you have the Floor.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Speaker, I stand to be corrected if I am wrong. I understand that to mean that we will not have any representative from any chartered university. I do not understand why we will not have somebody from a chartered university undertaking civil engineering and yet you are putting the LSK there. We need universities, which are training civil engineers to be represented. That is a more important contribution than what other Members are proposing, unless I am not getting it right. Our issue with this was on the process of selecting them, but it is important that somebody is there.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let us hear the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, this will make Hon. Nyikal understand what a chartered university is. There are over 60 chartered universities in Kenya. Are you telling us that all the 60 chartered universities will nominate one representative to the Board? It is not relevant because we have the Institute of Engineers of Kenya. If you want a representation from the engineers, that is the body which is recognised. I support that we remove the words “chartered university”. You will have over 60 universities nominating one person. The further amendment is in order.

I support it.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I am trying to remember who raised the issue of chartered university. Was it Hon. Makali or Hon. Nyikal? I want to give enough time to the Member who raised the matter.

Hon. Nyikal.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, the issue that we have is the number of chartered universities that exist. I understand that bit. Therefore, we wanted a process of nominating one person from the chartered universities. There was a suggestion that the Ministry of Education, Science and Technology can pick one of the chartered universities. To have an institution of higher learning in a place like this is extremely instructive and useful. It will bring in new ideas and how curriculums are developed. It is important to have a link with the universities. It is important to have a link between operations and ongoing academic work. I see no problem here. The only thing would be how one chartered university or that one person will be appointed. However, we should not say that there is no need for representation at that level. That is the amendment which the Chair should bring. He should not exclude it because it is difficult to pick a representative from the chartered universities.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Nyikal, from my understanding, it seems that there is no organisation that represents chartered universities. The

public universities have their own organisation and private universities have their own. I think the Committee has relooked at that issue and realised that it will be very difficult to identify an organisation. Am I right or wrong, Hon. Chepkong'a? I will come to you, the Member for Navakholo because you sit in that Committee.

**Hon. Chepkong'a:** Thank you very much, Hon. Temporary Deputy Chairlady. First and foremost, I totally agree with the proposed deletion. There is nothing called "chartered universities". We just have public and private universities.

Secondly, this business of identifying institutions is very discriminative. In fact, I am going to request Mr. Omtata, who has been litigating generally, to challenge this law if it is passed. It is very discriminatory. When you enumerate the institutions that will nominate people to be directors in certain institutions, what are you telling other Kenyans who do not belong to these institutions?

The Institute of Certified Public Secretaries of Kenya is not represented here. The Kenya Bankers Association is also not represented here. Why is the Kenya Medical Practitioners, Pharmacists and Dentists Union (KPPMDU) not here? Who says these other professions are better than other?. For example, why should the LSK nominate a person to a technical field? Let us be fair.

In my view, this is a very unconstitutional recommendation because it locks out other Kenyans. It is very discriminatory that you can say that such institutions will nominate representatives. What about others?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chepkong'a, as the Chair of the Departmental Committee, do you understand the import of your speaking on HANSARD that we could be passing an unconstitutional amendment?

**Hon. Chepkong'a:** It is very true, Hon. Temporary Deputy Chairlady. Once you say certain institutions must provide people, what about other Kenyans? We have proposed an Elections (Amendment) Bill in which we seek to provide educational standards for Members of Parliament. One of the issues that Members of Parliament are raising is that it is discriminatory because anybody, including a tout, should qualify to become a Member of Parliament.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let me hear from a member of the Committee.

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, let me just conclude. There are people who have Bachelor of Arts or Bachelor of Science degrees. Are you saying those people cannot qualify to sit in this Board?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Okay. We have heard you. Let me hear Hon. Wangwe and then I will go to the Member for Teso South.

**Hon. Wangwe:** Thank you, Hon. Temporary Deputy Chairlady. I just want to clarify to Hon. Nyikal, through you, that the problem is the ambiguity 'chartered university' bears. The issue is not underscoring that university is not important, but the ambiguity in the wording is what we have said as a Committee that we would rather do away with rather than include it in the Bill. If we avoid that, it will place us in a safer place.

There is the issue raised by my colleague that we are discriminating against some persons. I do not think so because the law allows us to select the kind of people who are supposed to sit on various bodies, just the same way the institutions listed in (a) to (f) have been selected. Therefore, it is very much in order.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Mary Emaase, you have the Floor.



**Hon. (Ms.) Otucho:** Thank you, Hon. Temporary Deputy Chairlady. I want to add my voice to that argument. I beg to disagree with Hon. Chepkong'a, as long as the Committee is able to justify the rationale behind identifying those professions. There has to be relevance. What value is the Board member adding? I think it is in order.

On the issue of university representation, it would be ambiguous for us to legislate in anticipation. There is no existing association of chartered universities. I support the position of Hon. Duale as well. In the absence of an association of chartered universities, it would be difficult for them to identify a representative. So, it would be better to pick an engineer from the Institution of Engineers of Kenya which is already in place.

Thank you, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, we are about to open this to a Second Reading debate and yet we are in the Committee of the whole House. We have heard both sides of the debate. I will now give opportunity to the Chair of the Committee to have the last word before I put the Question.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, while I appreciate the concerns of the members, I think we have taken a lot of time going through this. We have decided to delete 'chartered university' because it is ambiguous. In fact, when we were discussing it in the Committee, it was ambiguous for us. As far as the academia is concerned, all the professions are represented. So, we leave it at that.

On the issue of the LSK, I think it is a lawyers' institution. Let them be there. We have no problem with it. I will not take any amendment from any Member. I will go by the amendment of the Committee.

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

*(Question, that New Clause 11C be read a Second Time,  
put and agreed to)*

*(New Clause 11C was read a Second Time)*

*(Question, that New Clause 11C be added to the Bill,  
put and agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

### *Third Schedule*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): There is an amendment by the Chair of the Committee and other two amendments by Hon. Abdullahi Diriye and Hon. Agoi Masadia. If the Chair's amendment is carried, the amendment by Hon. Agoi will fall, but we will consider the one by Hon. Abdullahi Diriye as a further amendment. I hope that is clear. Is Hon. Diriye in the House? We will start with the amendment by the Chair of the Committee.

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

THAT, the Third Schedule of the Bill be amended —

(i) by deleting the consequential amendment to section 2 of the Kenya Roads Board Act, 1999 and substituting therefor the following —

“Delete the definition of “Highways Authority”, “Rural Roads Authority” and “Urban Roads Authority” and substitute therefor the following new definitions in their proper alphabetical order—  
“Highways Authority” means the Kenya National Highways Authority; “Secondary Roads Authority” means the Kenya National Secondary Roads Authority; and  
“Urban Roads Authority” means the Kenya National Urban Roads Authority;”

(ii) by deleting the consequential amendment to section 6(2)(d) of the Kenya Roads Board Act, 1999 and substituting therefor the following —

“Determine the allocation of the Fund to ensure that not more than—

- (1) thirty eight (35%) per centum is allocated to the Kenya National Highways Authority in such proportions as the Board may determine with the approval of the Cabinet Secretary in respect of primary national trunk roads Classes S,A and B;
- (2) thirty (30%) per centum is allocated to the Kenya National Secondary Roads Authority in respect of secondary national trunk roads and the said per centum shall be equally distributed to the constituencies;
- (3) ten (10%) per centum is allocated to the National Urban Roads Authority
- (4) fifteen (15%) per centum is allocated to the county governments equally in respect of county roads;
- (5) one (1%) per centum is allocated to the Kenya Wildlife Services in respect of roads in national parks and reserves;
- (6) six (6%) per centum is allocated annually by the Board with the approval of the Cabinet Secretary to priority projects derived from the road investment programmes including support road standards, technical assistance and shall include—
  - (a) one (1%) per centum for material development; and
  - (b) one (1%) per centum for research and testing.
- (7) one (1%) per centum to be allocated to the National Transport and Safety Authority to support road safety programmes; and
- (8) two (2%) per centum to the Kenya Roads Board in respect of the recurrent expenditure of the Board.”

(iii) in the consequential amendment to the Third Schedule of the Kenya Roads Board Act, 1999 by inserting the following new paragraph immediately after paragraph (1)—

“(1A) Kenya National Urban Roads Authority”

(iv) by deleting the consequential amendment to section 2 of the Physical Planning Act, 1996 and substituting therefor the following—

“Delete the definition of “Kenya National Highways Authority”, “Kenya Rural Roads Authority” and “Kenya Urban Roads Authority” and substitute therefor the following—

“Highways Authority” means the Kenya National Highways Authority established under section 9 of the Roads Act;

“Secondary Roads Authority” means the Kenya National Secondary Roads Authority established under section 12 of the Roads Act;

“Urban Roads Authority” means the Kenya National Urban Roads Authority established under Section 11A of the Roads Act”

(v) in the consequential amendment to section 8(1) of the Physical Planning Act, 1996 by inserting the following new paragraph immediately after paragraph (nb)—

“(nc) the Director-General of the Kenya National Urban Roads Authority established under section 11C (1) (e) of the Roads Act.”

(vi) by deleting the consequential amendment to section 8(3) of the Physical Planning Act, 1996 and substituting therefor the following—

“Insert the following new paragraph immediately after paragraph (e)—

“(ea) a representative of the Kenya National Urban Roads Authority;”

Delete paragraph (f) and substitute therefor the following new paragraph—

“(f) a representative of the Kenya National Highways Authority;”

*(Loud consultations)*

**The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh):** Please, lower the level of your consultations so that we can hear the Vice-Chairman.

**Hon. (Eng.) Mahamud:** Protect us from Hon. Chepkong’a!

**The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh):** Go ahead, Vice-Chairman.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, this is a consequential amendment because it is to align the provisions of the Bill to the existing laws.

*(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)*

*(Third Schedule as amended agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members the import of passing the amendment on the Third Schedule by the Chairman of the Committee is that there is no further amendment and the amendment proposed by Hon. Agoi is thus dropped.

*(Proposed amendments by Hon. Mohamed Diriye and Hon. Masadia dropped)*

Hon. Members let me acknowledge the teachers and members of the Parents-Teachers Association of Mwithagi Primary School of Tigania West Constituency, Meru County. You are welcome to the National Assembly.

*Clause 2*

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

THAT, Clause 2 of the Bill be amended by—

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

No. 2 of 2012

“Intergovernmental Relations Technical Committee” means the Intergovernmental Relations Technical Committee established under section 11 of the Intergovernmental Relations Act;

No. 7 of 1999.

“Kenya Roads Board” means the Kenya Roads Board established under section 4 of the Kenya Roads Board Act;

(ii) deleting the definition of “Board” and substituting therefor the following new definition-

“Board” means a Board of an Authority established under Sections 11, 11C and 14;

(iii) deleting the definition of “Authority” and substituting therefor the following new definition-

“Authority” means the Kenya National Highways Authority, the Kenya National Urban Roads Authority or the Kenya National Secondary Roads Authority established under Sections 9, 11A and 12, respectively.

This is basically to define the terms used in the Bill. The term “Board” includes the Board of the Kenya National Urban Roads Authority which was not in the original Bill. We propose to establish this under New Clause 11C of the Bill. The term “Authority” includes KNURA which is proposed under New Clause 11A. These are definitions that are necessary because of the amendments.

*(Question of the amendment proposed)*

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

**Hon. Gikaria:** Hon. Temporary Deputy Chairlady, it is not about this one but on the other Schedule. I had proposed some amendments which I took to the Clerk’s Office, but I cannot see them here. I remember last week Hon. Gumbo was complaining that there was an amendment that was never included in the Order Paper. I had brought mine as well and it was an amendment on the Third Schedule.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Was it officially received by the Committee?

**Hon. Gikaria:** Well, we take our amendments to the Clerk's Office.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Was it received at the Clerk's Office?

**Hon. Gikaria:** Yes, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Maybe I should ask the Chairman of the Committee if, indeed, he received any amendment proposal by Hon. Gikaria.

**Hon. Kamanda:** Hon. Temporary Deputy Chairlady, let the Member be honest. He has just hinted to me that he had never written such an amendment. He is just taking us round in circles. That matter was not even brought to our Committee. Hon. Gikaria has just whispered to me that he had not written anything.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Gikaria, please, do not mislead the House because you will be in danger of being ruled out of order. I will put the Question.

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

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

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

*(Clause 2 as amended agreed to)*

### *Long Title*

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

THAT, the Long Title of the Bill be amended by inserting the words "Kenya National Urban Roads Authority" immediately after the words "Kenya National Highways Authority".

Hon. Temporary Deputy Chairlady, we did not have the Urban Authority in the original Bill. That is why the Title is changing.

*(Question of the amendment proposed)*

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

*(Title as amended agreed to)*

*(Clause 1 agreed to)*

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Kenya Roads Bill (National Assembly Bill No.26 of 2015) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Let us have some order please.

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Kenya Roads Bill (National Assembly Bill No.26 of 2015) and approved the same with amendments.

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

I request Hon. Mahamud, the Vice-Chairman---

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** He wants to recommit.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, we have Members who have asked for recommital and so when you move, you need to acknowledge that we will be going back to recommital.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, procedurally, the recommital anticipates a further amendment. Has the Chairman accepted it? Were those amendments approved by the Speaker?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party---

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, may I, please, proceed.

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

I request Hon. Mahamud to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I want to give the Floor to the Member for Ruaraka.

**Hon. Kajwang':** Hon. Temporary Deputy Speaker. We have been in consultation with the Office of the Speaker. We have also consulted with the Clerk-at-the-Table.

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

THAT, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words “subject to recommital of New Clause 11A and Clause 14.”

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Where is the Chair of the Committee?

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chepkong’a, let me hear your point of order.

**Hon. Chepkong’a**: Thank you, Hon. Temporary Deputy Speaker. It is important that when we pass a Bill, we do not pass it when there are certain dissenting voices.

We are here as law makers. As law makers, we must be given an opportunity to prosecute that which we think is in line with the Constitution. So, I have requested that New Clause 11(C) be recommitted because it is unconstitutional in nature. If you look at Article 232 of the Constitution on values and principles of public service include, it says:-

“(g) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;

(h) representation of Kenyan’s diverse communities; and

(i) affording adequate and equal opportunities for appointment, training and advancement, at all levels in the public service, of-

(i) men and women;

(ii) the members of all ethnic groups; and

(iii) persons with disabilities.”

If you were to consider people with disabilities, you would ask how they have been accorded an opportunity here. How have women been accorded an opportunity here, so that we can take into account Article 27(8) of the Constitution? These are mandatory terms of the Constitution and this is a House of rules. We cannot just wake up one day and make rules that are inconsistent with the Constitution. You want to send me, as the Chairman of the Departmental Committee on Justice and Legal Affairs, to go and sue the National Assembly when we can sit here and agree.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chair, your fears are allayed because already the Member for Ruaraka, Hon. T.J. Kajwang’ has moved for recommital.

**Hon. Chepkong’a**: Hon. Temporary Deputy Speaker, I have also requested for recommital of New Clause 11(C).

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): What is your point of procedure, the Leader of the Majority Party?

**Hon. A.B. Duale**: Hon. Temporary Deputy Speaker, the last word is yours. However, let me go on HANSARD on procedure of this House. This House is run by Standing Orders, practices and traditions. Amendments to this House are submitted 24 hours prior to the Committee of the whole House. Those amendments are on the Order Paper. Any further amendments can only be done with the concurrence of the Mover and the Chair of the Committee. If that is broken, it is going to be a precedent.

I have no problem with Hon. T.J. Kajwang’ doing a recommital. However, the recommital entails a further amendment which at one stage in this afternoon’s deliberations, the Chair and the Vice-Chair redirected. We cannot bring it in. The Hon. Chair has asked Hon. T. J.

Kajwang' to declare his interest. He must declare his interest on this amendment. This is a House of rules and there is a procedure. Before Hon. T.J. Kajwang' moves the recommittal, whether you allow it or not, he must declare his interest in any of the---

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party, I would not like you---

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I wanted you to rule on two issues. I have not finished.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): I am on my feet! My point is this, Hon. Leader of the Majority Party. Let me make it clear. First of all, Members have a right for recommittal of a clause.

**Hon. Member:** Yes!

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): It is not the first time it is happening. It has happened many times. The issue you are raising on declaring interest is another matter altogether. So, Hon. T.J. Kajwang' can be requested by any Hon. Member, including yourself, to declare his interest. But on matters recommittal---

*(Hon. T.J. Kajwang' stood up in his place)*

Hon. T.J. Kajwang', just relax. On matters recommittal, Hon. Leader of the Majority Party the procedure for recommittal has been followed. The Members who want recommittal namely Hon. T. J. Kajwang' and Hon. Chepkong'a have approached the Table. As the office, we have looked at the recommittal and approved it.

That is why I am going to move--- We will call for recommittal and go back to the Committee of the whole House to look at the clauses the Members have asked. What is even fundamental are the remarks by the Chair of Departmental Committee on Justice and Legal Affairs. That is the most fundamental thing from the debate we have had today. We cannot have a Chair of a Committee that is mandated by this House to look at the constitutionality of the work we are doing raising concerns and we ignore him. That is not possible.

So, I will put the Question and we will go to the Committee of the whole House for recommittal.

*(Question proposed)*

*(Question put and agreed to)*

*(New Clause 11C and Clause 14 recommitted)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE



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

THE KENYA ROADS BILL

*(Recommittal of New Clause 11C and Clause 14)*

**The Temporary Deputy Chairlady** (Hon. (Ms. Shebesh): Hon. Members, let us now go back to the work that we are given as a dignified House. Chair of the Committee, remember you still have a role to play when it comes to re-committal. We would like you to express your opinion on the recommittal and the reasons for recommittal.

*New Clause 11C*

**Hon. Kajwang’:** Hon. Temporary deputy Chairlady, I beg to move:-

THAT, New Clause 11(C) be further amendment in sub-clause (1) by inserting the words “and Secretary to the Board” at the end of paragraph (e)

This recomittal is very simple. It tries to clean up what the Chair has done. They have done a lot of work. If you look at the Bill as it is, you will see that they have proposed several members to the Board. On oversight, they have not assigned any of these people the duty of being the Secretary to the Board. Before it was assumed that the Director-General is always the Secretary to the Board. Even in those circumstances, those pieces of legislation clearly spelt out that the Director-General will be the Secretary to the Board. I am reminded about the Mwongozo Code which is part of the working manual in this sub-sector. It says that the Corporation Secretary, therefore, becomes the Secretary to the Board.

I know that the Leader of the Majority Party wants me to declare my interest which is not very difficult for me to do. Even if my wife is working there, she is a Kenyan. She also happens to be a voter in Ruaraka Constituency. So, I am working here for the people of Ruaraka. If I am working for my wife, I am working for the people of Ruaraka. Yes, this is on HANSARD. She is a registered voter in Ruaraka Constituency and I am working for the people of that constituency. There is nothing wrong in working for the people of Ruaraka Constituency. In any case, who does not want somebody to have a job?

Anyway, what I am saying ---

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

**The Temporary Deputy Chairlady** (Hon. (Ms. Shebesh): The Chair of the Committee, Hon. Kamanda, what is your point of order?

**Hon. Kamanda:** Hon. Temporary Deputy Speaker, with all due respect, I thought my good friend, the Hon. Member for Ruaraka should have, first, declared his interest on this matter. Personally, I know where he is coming from. He could have actually requested me or another Member to move that amendment. His wife is the Legal Officer or the Corporation Secretary. He is now fighting and hunting for that position for his wife but there is nothing wrong with fighting for your wife or daughter. However, it is good to declare your interest. We cannot be taken round in circles in this House just because of one person’s interests. What about other Kenyans who are not represented here or those who do not have their relatives serving as Members of Parliament?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Your point of order is valid Hon. Chair. I am sure the House is now seized of the interest of the Member for Ruaraka.

Let us have the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, with regard to procedure, when you are told to declare your interest with regard to an amendment or a further amendment, you have declared your interest and it has been confirmed that the amendment you are moving and your interests are related, it is better for another Member or the Chair to move the amendment and not you. That is the procedure.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party, your words are taken seriously in this House because you are an authority. Once a Member has declared interest, he or she has fulfilled the mandate of the Standing Orders. It is now upon members, having listened to the interest that has been declared by the Member, to decide on their own volition, whether they will support that amendment or not. You cannot stop the Member from proposing a further amendment or recommitting a clause as long as he has declared his interest. If he had not declared his interest, then he would be putting himself in a very precarious situation.

Hon. Members, let us now consider the substance of the amendment, having in mind that Hon. T. J. Kajwang' has moved for recommitment of Clause 11.

*(Question of the amendment proposed)*

I will start with Hon. Serut, the Member for Mt. Elgon.

**Hon. Serut:** Thank you, Hon. Temporary Deputy Chairlady. Any amendment or creation of any law is to cure a mischief. Irrespective of whose interest this amendment is being proposed, the substance of the amendment is what we are trying to address as a House. Is there any mischief? Is there any gap? It is my considered opinion that we look at the current operational principal Act. Who is the Secretary to the Board? That will inform whether or not we need to create the slot of the Corporation Secretary. That is my opinion.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I will start with Hon. Mbadi and then I will come to the rest.

**Hon. Ng'ongo:** Hon. Temporary Deputy Chairlady, first of all, you know that these positions that people hold are not permanent. Let us look at this amendment on the basis of merit. If we add the position of Secretary to the Board, is it bringing an issue or is there anything that it creates that is not good for the organisation? I thought the amendment was that the Director-General of the Authority shall be an ex-officio member and Secretary to the Board. That is harmless in my view. However, if there is an issue that we feel needs to be corrected in that Hon. Kajwang' is trying to create a position for his wife that is of no benefit to this country then we should know.

I did not even know what Hon. Kajwang's wife does. I am happy that this legislation is here. Today, I know what the wife of my friend does. Hon. Kajwang' is very secretive. Whoever occupies that position at the moment should not preoccupy our minds. Hon. Kajwang's wife can lose that position this evening. Let us look at this amendment on the basis of merit.

I support the further amendment.

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

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, when this amendment was brought to the Floor earlier, my good friend, T.J. was all over the place. I was very confused because I had the whole Bill to deal with. There is merit in designating a secretary. Are we together?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I am sorry, I was consulting with the Clerks-at-the-Table.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, there is merit in designating a secretary to the Board. In the principal Act, which we are amending, there was no secretary. While discussing here, we thought that we should designate the Director-General as the secretary to the Board. I do not think there is anything that limits the Director-General from becoming the secretary. In any case, because there are three bodies, I propose the Director-General to become the secretary to the Board. Let him have the proper draft from the Clerk.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chair of the Committee, do you agree with the amendment that has been proposed by Hon. T. J. Kajwang'?

**Hon. (Eng.) Mahamud:** Yes, I will designate a secretary and not a Corporation Secretary. The Director-General becomes the secretary to the Board.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Nobody has said the "Corporation Secretary". Look at the Clause that we have amended.

**Hon. (Eng.) Mahamud:** He gave me a draft earlier on, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Have you seen what he is proposing?

**Hon. (Eng.) Mahamud:** I saw that earlier on, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Do you have a problem with that?

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, I have a problem. I want the Director-General to be the secretary to the Board.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Let me read the Clause for you, Hon. Chair. It read: "The Director-General of the Authority who shall be an ex-officio member and Secretary to the Board."

**Hon. (Eng.) Mahamud:** That is okay, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): That is what Hon. T.J. Kajwang' has proposed.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, will that be for all authorities?

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

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Chairlady, it is not only Clause 11.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): We are coming to the other amendments. We are just dealing with the first one under Clause 11, then we will go to Clause 11 A then Clause 11C.

**Hon. (Eng.) Mahamud:** No! Hon. Temporary Deputy Chairlady, the substantive Clause 11 has the Director-General of the Kenya National Highways Authority (KeNHA). New Clause 11 has the Director-General of the Kenya Urban Roads Authority (KURA). Substantive Clause 13---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): We are coming there.

**Hon. (Eng.) Mahamud:** There is only one clause being recommitted. When will you go there?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Vice-Chair, relax. I read clearly that we are going to consider recommittal on Clauses 11, 11A, 11C and 14. That is

what I moved and the House agreed. We are now coming to Clauses 11A, 11C and 14. Right now, we are just finishing with Clause 11. Are we together now? Let us have Hon. Makali.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I plead with my colleagues to listen to me. This House has a tendency of character assassination.

As leaders in this country, it is important that we avoid saying things which portray our colleagues in bad light. This was a very simple amendment and we even discussed it in the first debate. There is no way you can have a board and not state clearly who the secretary to the board is.

Now, we have even dragged Hon. Kajwang's wife, who is not in this House, into this debate. This is a very simple thing. She is not even the Director-General of KURA. I have been to KURA very many times and I have never seen her. As Hon. Members, let us respect ourselves. Sometimes we take ourselves to a level where Kenyans start doubting whether we are really leaders.

I want to stop there, Hon. Temporary Deputy Chair.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I totally agree with what you have said.

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

*(New Clause 11C as further amended agreed to)*

#### Clause 14

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

THAT, Clause 14 be amended in Sub-clause (1) by inserting the words "and Secretary to the Board" at the end of Paragraph (e).

Thank you, Hon. Temporary Deputy Chairlady for guiding us correctly. It is a pity that some people are bringing politics to very clear things.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, it will now read: "The Director-General who shall be an *ex-officio* member, and Secretary to the Board."

Hon. Vice-Chairman, any comment on this?

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

**Hon. F.K. Wanyonyi:** I think it is the right thing to do. I do not understand why we are taking so much time. The Chief Executive Officer (CEO) who in this case is the Director-General, is supposed to be the Company Secretary. In this case, the Company Secretary is the assistant to the Director-General. We have wasted so much time on this. That is the true position because that is how governance is in this country.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): This Bill does not create the position of a Company Secretary. You cannot assign a Company Secretary a role that does not exist in the Bill. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, it is in our Standing Orders that the Leader of the Majority Party must declare his interest where he is involved. In legislation, are

we saying that the Director-General will be an *ex-officio* and Secretary to the Board, or are we creating a new Secretary to the Board? This should go to the HANSARD. Are we creating another position of a Secretary to the Board, or are we retaining the Director-General of all these three organisations to be the *ex-officio* and Secretary to the Board? If the latter is the position, then I have no problem. It is a precedent of all Parliaments that when there is a conflict of interest, a Member has to declare. It is part of leadership and integrity.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. A.B. Duale, we have moved on from the issue of declaring interest. We do not have the position of a Company Secretary in this Bill. The conversation cannot even exist because that position is not provided for. The new amendment by Hon. Kajwang' proposes the Director-General as the Secretary to the Board.

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

*(Clause 14 as further amended agreed to)*

*New Clause 11C(f)*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 11C(f) be amended as follows:-

(f) Five persons to be recruited competitively, and candidates shall possess the following qualifications:-

Must possess a university degree from a recognised university.

(i) Meets the requirements of Chapter 6 of the Constitution.

(ii) be deleted.

The reason is that Article 232(1) of the Constitution is very clear. It is on values and principles of public service.

“(g) Subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions.”

If you enumerate that, it will be from various bodies and you will lock out some people. According to Case Law, bodies like the Law Society of Kenya (LSK), Institute of Engineers of Kenya and Institute of Surveyors of Kenya (ISK) are private clubs. They are not open to other people. They are all closed bodies. What happens to people who studied Bachelor of Science (BSc), Medicine, Bachelor of Arts (BA) or Economics? Those people are also responsible Kenyans. Are we saying that they do not have an opportunity to participate in the management of parastatals in which they pay taxes to? The drafters of the Constitution were very clear.

I would also like to talk about Article 232(1)(h) which is on representation of Kenya's diverse communities. If you look at all these ones here, and ask those bodies to give you the names, how do we know that they will not give us all Kalenjins? We are not sure. They will not be representatives and in any case, they would have exercised their right in law to give us the names. If people apply competitively, then the shortlisting body will ensure that there is diverse interest across the country.

Article 232(1)(i) of the Constitution states:-

“Affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service; of,

- (i) men and women;
- (ii) the members of all ethnic groups; and,
- (iii) persons with disabilities.”

If we carry the amendment as it is, then we will not afford the opportunity to all the ethnic groups and people with disabilities. Article 100 of the Constitution is clear on having all groups represented.

**Hon. A.B. Duale:** The youths are not represented.

**Hon. Chepkong’a:** In fact, the Leader of the Majority Party is telling me that the youths are not represented here. Where are the youth in these institutions? You will end up appointing people who are over 35 years. When they compete, they have to spend money and the youth do not have money to compete to get into LSK and Institute of Certified Public Secretaries of Kenya (ICPSK). More often than not, we know that it is only senior people like me who can canvass, and we end up locking out deserving people.

I would like to ask the Leader of the Majority Party to second.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, the Chair of the Justice and Legal Affairs Committee has given the constitutional interpretation. The Constitution talks about parameters. When you are making appointments, you must consider gender, regional diversity, youth and people with disability. Institutions like the Institute of Engineers of Kenya, the Institute of Certified Public Accountants of Kenya and the Law Society of Kenya have been given slots. Let the Cabinet Secretary (CS) be given the discretion to appoint a young man who is a lawyer or a Kenyan of the female gender who is an engineer. However, when you give an organisation a chance to micro-manage, then what is the essence of us having board members? We must not ring-fence positions for public appointments outside what the Constitution anticipates. If the CS feels that he can appoint Hon. (Eng.) Gumbo, who is the Member for Rarieda, he should appoint him. Why should the Institute of Engineers of Kenya come and present a list? So, I support and hope that the Chair and the Vice-Chair of the Departmental Committee on Transport, Public Works and Housing will create another further amendment.

Finally, the amendment by Hon. T.J. Kajwang’, which brought chaos, is not the one that has been passed.

**Hon. (Dr.) Nyikal:** On a point of order, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, I ask for your patience because we are at the stage of passing the Bill. Everybody has to calm down so that we can move consequentially. Let me start with the point of order by Hon. Nyikal. I ask everybody to calm down, including the Leader of the Majority Party.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, I also indicated that I want to make an amendment on New Clause 11C, under recommittal. I actually put the recommittal there. Now, there is another amendment that has been brought. What is the way forward? What about the recommittal that I asked for, before we discuss the merits?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Nyikal, with all due respect, we are on Hon. Chepkong’a’s recommittal that was brought to the Table and approved. It was announced to the House that we are coming back to the recommittal on Clause 11C. So, your amendment is late. Hon. Chepkong’a, can we give you a few minutes to consult?

Let us hear Hon. Wandayi.

**Hon. Wandayi:** Hon. Temporary Deputy Chairlady, I am happy that I got the opportunity to speak to this matter.

First, I oppose very strongly the amendment proposed by Hon. Chepkong'a. The reason why there are designated institutions under sub-clause (f), which are to nominate members to the Board, is because those institutions have certain expertise and technical knowhow that they will bring to the Board of that very critical institution. I read mischief in the blanket provision proposing that the CS be given the latitude to nominate. That is what will perpetuate tribalism and nepotism, which we have seen is very rampant in this regime. Therefore, I oppose in totality this amendment. In fact, if Hon. Chepkong'a was sincere and he wanted to bring in the members of the public who do not belong to those institutions, he would have, perhaps, proposed an additional clause, say sub-clause (e), to give room for nominees from the general public in addition to those institutions.

Therefore, with those very few words, I oppose.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chepkong'a wants to take the Floor. Let me give him an opportunity because this is his amendment.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Chairlady. I thought Hon. Wandayi had seen the light but since it appears he is still operating in darkness, he does not know that the Constitution is very clear.

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

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I have given you a chance, Hon. Wandayi. Let Hon. Chepkong'a give his contribution.

**Hon. Chepkong'a:** I have stated what is in the Constitution. He has not reverted to what is contained in the Constitution. I stand by what I have just said, but I have been persuaded by the leadership of this House to withdraw the amendment. We will consider it after six months.

*(Proposed recommittal of Clause 11C(f) by Hon. Chepkong'a withdrawn)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, the only amendment that we are looking at on Clause 11C is that brought by Hon. T.J. Kajwang'.

**Hon. (Dr.) Nyikal:** On a point of order, Hon. Temporary Deputy Chairlady.

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

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, it is not fair. I raised the issue of chartered university first and I indicated that I am going to place a recommittal. I approached the Table and the clerks helped me to draft the amendment. As we were drafting it, they told me quietly that even though I was drafting the amendment, Hon. Chepkong'a had already drafted another one, which may overtake mine. So, my amendment, which had already been passed, is now late. The one that was drafted while mine was already there is on time. It cannot be fair. I would not mind if mine was put on the Floor and the House rejects it. It would be in order so that I can execute mine.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Nyikal, can you please clarify what your amendment was on?

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, it was an amendment to Clause 11C, which reads as follows:-

That the New Clause 11C be amended in Sub-clause (1) by inserting the following new paragraph immediately after paragraph (f)–

One person from a chartered university offering a degree course in civil engineering appointed by the Cabinet Secretary;

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Nyikal, we have already dealt with the issue of chartered universities. We have deleted from the Bill anything that touches on chartered university. Please, calm down. The House has deleted any referral to chartered university.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairlady, Clause 11C was recommitted.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): It was recommitted on that other issue that Hon. Chepkong'a had raised, and not on the issue of chartered university.

Hon. Members, we are guided by the Standing Orders and rules. Let us follow them. It makes our work much easier. This Table is for guidance. It is not for sabotage, preference or anything else. It is for guidance of the House.

Hon. Gikaria!

**Hon. Gikaria:** Hon. Temporary Deputy Chairman, I agree with you. In my understanding, the recommittal was requested by Hon. Chepkong'a regarding the issue of constitutionality of that clause. Since Hon. Chepkong'a has withdrawn his recommittal request, as you rightly said, Hon. Nyikal needs to understand. In my understanding, we have come back to the Committee of the whole House to deal with the aspect of the constitutionality of that clause. I totally agree with you and ask Hon. Nyikal to hold his horses.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): This is the end of the clauses we were committing. We have already dealt with Clause 14. So, we have finished with the recommittal and we are moving to the House. Hon. Members, please stand.

*(The House resumed)*

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

## REPORT AND THIRD READING

### THE KENYA ROADS BILL

**Hon. (Ms.) Shebesh:** Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Kenya Roads Bill (National Assembly Bill No. 26 of 2015) and approved the same with amendments.

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

**Hon. Kamanda:** Hon. Deputy Speaker, I second. I thank the Members who have contributed to this Bill and I want to say to my friend Hon. Kajwang' that there is no ill motive from the Chair of the Committee. We are one and brothers in this House and there is no big issue. If you think this Chair has offended you, I apologise on behalf of the House. Thank you and I support.

*(Question proposed)*

**Hon. Deputy Speaker:** You will have ample time in the Third Reading to make the comments. So, allow me to put the Question.

*(Question put and agreed to)*



**Hon. A.B. Duale:** Hon. Deputy Speaker, I beg to move that the Kenya Roads Bill (National Assembly Bill No. 26 of 2015) be now read the Third Time. I also request the Chair, Hon. Kamanda to second.

**Hon. Kamanda:** Hon. Deputy Speaker, I beg to second.

*(Question proposed)*

**Hon. Deputy Speaker:** I will give Hon. Kajwang' the first opportunity.

**Hon. Kajwang':** Hon. Deputy Speaker, I thank you as the Speaker and the Chair and all the Committee Members that have laboriously worked on this Bill to reach where we are. I also want to thank my wife for whom I have really worked for today. If I cannot work for my wife, then I cannot work for anybody else.

**Hon. Deputy Speaker:** Could you explain the meaning of your statement? I thought you were working for all Kenyans, but where is your wife coming in?

**Hon. Kajwang':** Hon. Deputy Speaker, you were not around, but my wife became the symbol of the great women of this country that their husbands must stand for and fight for when their offices are under siege.

However, I want to speak on two things here. First, the boards of those organisations are now complete. You have a chairperson and members. You have an Act which designates very clearly who the Secretary shall be and who the Director-General of those institutions is. So, it is very clear since it is not left for adventure or speculation. The other thing I like about this Bill is the fact that we have recognised that, without assistance or development from those organisations, we can never ever have roads in our places which we represent. If all the roads were to be done in the rural areas; if all those classifications were about the rural areas, then all the cities and towns would not have anybody. My friend Hon. Sakaja has told me that I can wait when he becomes the governor of Nairobi so that he will disburse those things properly. However, as we are right now with the governor and the assembly that we have, we have seen that nothing happens if the Kenya Urban Roads Authority (KURA), Kenya Rural Roads Authority (KeRRA) and Kenya National Highways Authority (KeNHA) do not do their jobs.

**Hon. Deputy Speaker:** Okay. Thank you. Please make very short comments. Remember this is not debate time. I see Hon. Isaac Mwaura. Is it on this?

**Hon. Mwaura:** Yes.

**Hon. Deputy Speaker:** We will have Hon. James Nyikal. These are the ones who have put their cards in the intervention slots because there is a long list in the request list, but we are just making very brief comments.

**Hon. Mwaura:** Thank you, Hon. Deputy Speaker. I rise to support this Bill. It puts to rest the various contestations that have been evidenced between the national and county governments. I visited Tana River County sometime last month and I saw the county government there has done the first 15 kilometres within the Central Business District (CBD) of Hola, clearly demarcating the CBD there. Many county governments have failed to do that job of tarmacking roads for Kenyans. The institutional memory that has been created by the three institutions, KeNHA, KURA and KeRRA, has been properly protected by this new Bill. I hope and believe that they will discharge their mandates. Where I come from in Ruiru Constituency, people are still suffering from poor roads and I think we need to do more. Mothers and youth are suffering. There is a lot of dust and we can do much more with this new Roads Bill. The only challenge that we face---

**Hon. Deputy Speaker:** Hon. Mwaura, as I said, remember it is not debate time. Just one

last comment, please. Others want to speak.

**Hon. Mwaura:** Thank you, Hon. Deputy Speaker, the issue of the cost of building roads is critical. Roads are very expensive since one kilometre of road costs Kshs40 million. There is a better way of building roads and I am sure we can build one kilometre of road using about Kshs15 million. So, we need to cut down on the cost so that we can extend this great service to Kenyans.

**Hon. Deputy Speaker:** Okay. Thank you, Hon. Nyikal, comment on it.

**Hon. (Dr.) Nyikal:** Thank you. Hon. Deputy Speaker, I must join the others in expressing appreciation. This is an important Bill that has been passed. There has been confusion between county roads and national roads and these authorities are now clearly organised and are going to take us a long way.

However, as I accept that my commitment came in late, I accept indifference to the authority of the Chair will not bring order in this House. We must realise that what we lack most is the link between academic work and practical life of the people. We have a lot of findings in universities lying there and not being utilised. Having people from the academic background into those organisations will ensure that the research that is being done will be utilised immediately by the people. Otherwise, we will continue with the gap, where there is a lot that is known and nothing is being done.

So, it is in that context that I felt that we need to have that input and in future, we should look at how we put academia into practical areas so that knowledge from universities is translated into practical life work to benefit our people. Thank you.

**Hon. Deputy Speaker:** Thank you. Let us have Hon. David Gikaria and then Hon Wangwe.

**Hon. Gikaria:** Thank you, Hon. Deputy Speaker. I also thank the Committee led by Hon. Kamanda for the good work that they have done. The only issue we want to raise here is in the Third Schedule. Counties need to learn from the Kenya Urban Roads Authority and the newly established Kenya National Secondary Roads Authority (KeNSRA). The small roads in the counties have been classified, but the classification has been done in a very poor way. The quality of the works, like murraming and drainage, because of flooding, is poor. I wish the Senate would take up this matter and provide oversight to the county governments, instead of the county assemblies. These are issues we need to address.

We also need to look at the formula of making the amendments. Hon. Outa had brought a very important amendment. When the Committee's amendment was carried, Hon. Outa's amendment was defeated. So, it is important to look at what the other Members have brought. Some people take a long time to prepare the amendments, only for them to be defeated because the Committee's amendment has carried the day. It is important to look at the individual Members' amendment and pick the ones that are good. We can use them to improve the Bill.

With those remarks, I support the Bill.

**Hon. Deputy Speaker:** Hon. Members, make a very brief comment.

**Hon. Wangwe:** Thank you, Hon. Deputy Speaker. I want to thank my colleagues from both sides of the House for the good work they have done. Whereas the Bill is here with us and we are praying that the President signs it, there is also the *Kenya Gazette* that re-classified the roads. I urge my colleagues to read the Bill and the classification of roads, so that they can know the county and national roads. We have set up the institutions in order to understand and do what is meant of us.

There is also the element of emergency which is the fund we have left with the Cabinet Secretary. That is very critical. Most of the time we have been experiencing damages on our

roads, the rains are too much, and we are not able to get assistance from the Kenya Rural Roads Authority (KeRRA). I wish that the National Treasury makes that money available immediately, so that we can construct our roads. Most of us who come from rural constituencies should approach the Director-General of KeRRA, so that we can be assisted.

With those few remarks, I support the Bill.

**Hon. Deputy Speaker:** Hon. (Eng.) Gumbo, are you a civil engineer or a mechanical one?

**Hon. (Eng.) Gumbo:** I am an engineer at large. Hon. Deputy Speaker, thank you very much for giving me the opportunity to make my comments in the Third Reading. First of all, I want to thank my good friend, Hon. Kajwang', for the valiant fight he has put. I hope his spouse was listening. I am also hoping that later tonight, he will be rewarded handsomely both through the lights on and off.

*(Laughter)*

Let me also thank the Chair of the session, Hon. Shebesh. She valiantly stood her ground. That is what we need. It was not an easy session. Discussing roads in this country is very emotive, but Hon. Shebesh steered the session very well. On my own behalf and that of the great people of Rarieda, I want to thank you. Let me also thank the Committee. When this Bill was drafted, the Committee left out a very major component of our roads - that is the urban roads. Without that amendment, we would have had major conflicts with the county governments and the national Government. The Committee has done good work.

Clause 47 of the Bill is on damage to roads. There are Kenyans who are very careless. They drag improper loads like reinforcement steel which damage roads. They also erect illegal bumps on our roads, which damage the roads. I have already talked to the Director-Generals of the roads authorities. They must put this in the regulations, so that people who deliberately damage our roads are punished.

Lastly, let the lawyers get out of the management of the boards of roads. That is an engineering function. Thank you.

**Hon. Deputy Speaker:** Hon. Barua Njogu.

**Hon. Barua:** Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute. I will make three brief comments. I will start with the frustration by Hon. (Dr.) Nyikal. This refers to the universities. Without any fear of contradiction, the universities in this part of the world do not have interface with what is happening in the communities. If this country and counties have to progress, especially the great county of Bomet when you become the governor, it will be important for you or for anybody leading an institution to have the university involved because they have expertise and research.

If the University of Washington closes today, there could be a problem in the United States of America (USA). Even if you close our universities today, the only problem we can have is a backlog. That is because in the process of legislation, we have not put that connection. I want to move that in the future, we should move that amendment to have the respective and relevant department of the university having a nominee in this Act when it is signed into law, and also other Acts to have such representation.

Finally, the debate we had about Director-General and Company Secretary touching on my friend's wife is very healthy. That is because it is showing the importance of governance. If

we put our debate on personalities, we shall be judged harshly. Let us work on merits and demerits of issues and remove personalities. Let us stop humiliating our comrades.

Thank you.

**Hon. Deputy Speaker:** Hon. John Mbadi. I said that you make a brief comment, but not comments.

**Hon. Ng'ongo:** Thank you, Hon. Deputy Speaker. I will be brief. I will take one-and-a-half minutes. First, I want to support this Bill at this Third Reading. It is important. The road sector has challenges, especially aggravated when counties came into place. There has been this tug of war between the national Government and the counties. It will be clear which roads follow where, and the classifications are clear. Given that we have allowed the Ministry to clearly define roads and re-classify them, there is need to be careful in the classification of roads. One of the reasons why Suba Constituency is seeing tarmac road for the first time in over 50 years is because of classification. The main road passing through my constituency linking major centres, was classified as Class "D". It is a challenge. Right now, that road has been upgraded to Class "B". I am very happy. This should have been seen earlier because we would not be where we are.

That is my comment. I support the Bill.

**Hon. Deputy Speaker:** Hon. Clement Wambugu. Members, you should now feel sufficiently represented by the other Members.

**Hon. Wambugu:** Thank you, Hon. Deputy Speaker. I also want to give a brief comment to thank my fellow Committee members, because of the work they have put in this Bill. It has been quite a lot of work to make sure that the Bill comes to the Floor of the House, and to the Members who came up with the various amendments.

I want to speak briefly on re-classification of roads. This is one issue which we need to take very seriously as a country. That is because some of the roads were under-classified. One of the conditions which have been used to classify roads is the traffic on various roads. Some of the roads that are leading to very productive areas have been neglected for a long time because there was no access to some of those areas. An example is in Nyandarua and some areas in Murang'a, especially on the northern side.

As I conclude, I believe through this Bill and others that will be coming in and other amendments, it is good for the country to start thinking seriously of pumping in a lot of money into areas of research, especially within infrastructural sector. We need to know the causes of accidents in this country, and the unnecessary traffic jams that Kenyans are subjected to. Like Hon. Barua has said, we need to engage our institutions of higher learning to assist us in doing some of that research and giving us proper solutions.

With those few remarks, I support the Bill.

**Hon. Deputy Speaker:** Thank you, Hon. Member. Hon. Opiyo Wandayi.

**Hon. Wandayi:** Hon. Deputy Speaker, thank you for giving me this opportunity to contribute. I want to start by thanking Hon. Maina Kamanda's Committee. It has been doing exemplary work in all aspects. It is because of the maturity and sobriety of the Chairperson of that Committee. If other committees would emulate Hon. Maina Kamanda, I am sure we would go a long way. Having said so, this is a very important day in the sense that we are aware who is responsible for which roads. We have established authorities responsible for the various roads in the country. I only want to urge that in the process of budgeting, let the Committee responsible appropriate monies to those authorities directly. Let us give them some autonomy in the way they manage those authorities. There has been a trend which is very worrying in this day and

age, of Members of Parliament going to queue in the Office of the Cabinet Secretary (CS) or at State House. I have seen my colleagues moving with letters from State House to the CS and the authorities lobbying for construction of roads. In a working system, we do not need that kind of movement by Members of Parliament. I only pray that sanity prevails going forward.

Thank you.

**Hon. Deputy Speaker:** Hon. Lomwa.

**Hon. Lomwa:** Thank you, Hon. Deputy Speaker. I rise to support this Bill. It clearly states the different classes of public roads and puts to rest the confusion between county and national governments. It also defines the responsibilities and functions of different roads authorities. As a member of this Committee, the most difficult part was to find the balance between the financial provisions of the two levels of government. Now the Bill has gone through. I support it.

Thank you.

**Hon. Deputy Speaker:** Hon. Sara Korere, can we hear the fairer gender?

**Hon. (Ms.) Korere:** Nashukuru, Naibu Spika. Ni kitu cha maana kwamba katika Mswada huu, tumeeleza jinsi ujenzi wa barabara utakavyotekelezwa. Imekuwa taabu kubwa sana hasa kuhusu jinsi ambavyo serikali za kaunti zinajenga barabara. Kwa hivyo, nataka kupongeza Kamati iliyowasilisha Mswada huu. Ni matumaini yetu makubwa kwamba mahali kulikosahaulika kutakuwa na mabadiliko hivi karibuni.

Nashukuru.

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

**Hon. A.B. Duale:** Thank you, Hon. Deputy Speaker. It is a good day for Members of Parliament who represent constituencies in cities and urban centres. The original Bill left out the Kenya Urban Roads Authority. I want to thank the Chair and the Committee for bringing back that element.

Finally, I thank all the Committee members and the House for dealing with this Bill which has stayed in this House for over one year and a half. I hope the Senate will not keep it for another two years because we have less than a year to elections.

I beg to support.

**Hon. Deputy Speaker:** Members, we will proceed as we have done in the past since we are not properly constituted.

We will now move to the next Bill and ask the Chairman to report to the House.

*(Putting of the Question deferred)*

## REPORT

### SENATE AMENDMENTS TO THE PROTECTION OF TRADITIONAL KNOWLEDGE AND CULTURAL EXPRESSIONS BILL

**Hon. (Ms.) Shebesh:** Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015) and approved the same without amendments.

**Hon. Deputy Speaker:** The Mover.

**Hon. (Dr.) Shaban:** Hon. Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I request Hon. Barua to second.

**Hon. Barua:** Hon. Deputy Speaker, I second.

**Hon. Deputy Speaker:** I am waiting for those who are leaving to leave. I want to propose the Question.

*(Question proposed)*

Hon. Members, we cannot put that Question. We will do it at the appropriate time.  
Next Order.

*(Putting of the Question deferred)*

### MOTION

#### ADOPTION OF PIC REPORT ON FINANCIAL MISMANAGEMENT OF YOUTH ENTERPRISE DEVELOPMENT FUND

*(Hon. Keynan on 17.8.2016)*

*(Resumption of Debate interrupted on 17.8.2016)*

**Hon. Deputy Speaker:** This debate was ongoing. Hon. Grace Kiptui had a balance of nine minutes. If she is not in the House, then the first Member on my list is Hon. Ferdinand Wanyonyi, who is also not in the House.

**Hon. F.K. Wanyonyi:** I am here.

**Hon. Deputy Speaker:** Alright you are there, Hon. Member.

**Hon. F. K. Wanyonyi:** *(Off record)*

**Hon. Deputy Speaker:** You will pass on this one?

**Hon. F. K. Wanyonyi:** *(Off record)*

**Hon. Deputy Speaker:** We have other Members who want to contribute on this. Hon. Njogu Barua.

**Hon. Barua:** Thank you, Hon. Deputy Speaker. First and foremost, I would like to thank you for giving me this opportunity to contribute to this Special Report on Youth Enterprise Development Fund (YEDF). The YEDF was meant to play a critical role in empowering the youth.

Secondly, I would like to commend and congratulate the Members of Public Investments Committee (PIC) for a job well done. The Committee has exposed some of the anomalies in our institutions and by so doing, has made us aware of what is ailing our economy. In matters conservation, where I am an expert, when you talk about elephant and rhino conservation, we put them under Annex 1 or Appendix 1. It means that those are very critical species that must be protected under all circumstances. What comes out from this Report is that we should do the same on corruption. Corruption should be given the most important priority that must be tackled in this country, if we have to make any progress on any front. If I was asked, I would put corruption in the first annex of the first appendix. Every member of this country, regardless of the political persuasion, should join hands together to fight it.

When the Chairman of the PIC was moving the Report, I was shocked to learn that a Chief Executive Officer (CEO) can have the mandate delegated to her by a Board, which is supposed to be competent, to be the sole signatory. As much as the report put a lot of blame on the CEO, I would also like this House to consider evaluating the competence of the members of the Board, which should not only be based on academic qualifications. We can have people who are qualified but, based on the fact that maybe they lacked the will to play patriotic roles and functions as leaders, that could make them incompetent.

Hon. Deputy Speaker, the Board should not have taken that long to discover the disappearance of Kshs180 million. If the Board was, indeed, performing its oversight and policy roles the way it is supposed to do, it should have stopped this thing early. This country would have lost less money than it did.

Anybody who is appointed or elected bears some responsibility. We need to examine those who are responsible from across all the Ministries, including the parent Ministry. If I am appointed as a Cabinet Secretary (CS) or as a Permanent Secretary (PS), I would make it my business to understand what is happening to the institutions under my docket. Somebody somewhere in the Ministry and in the organization must have slept on his or her job, and it is for that reason that I would like to place the blame much deeper even upon other persons.

The Chairperson of YEDF, who was described properly yesterday in many adjectives, is a good example of somebody who has taken political privileges too far. He was not an executive Chairman. His work was to give leadership to the Board and this did not happen. For us to stop those things from happening in the future in other institutions, we have to bite the bullet. I would like to recommend that we need to have a public hearing where the people who commit those types of heinous acts are put to the public and answer to the public because sacking them is not enough.

Hon. Deputy Speaker, the other issue that arose from the Report is the minimum qualifications. When members are appointed to the Board - for continuity and sustainability of this nation - I support the views of the Chairman that qualification should be observed. There are some people who have below minimum qualifications. In my opinion, the appointing authority should look for other jobs to give them; jobs they can do better, as opposed to being used as rubber stamps in some institutions. What happened at the Youth Enterprise and Development Fund is almost similar to what happened to *Kazi kwa Vijana* Programme. Money for youths has been squandered from one Government to another. This is not only a case for Jubilee Government alone. *Kazi kwa Vijana* was in the *nusu mkate* Government. The money for the youth was misused.

When you establish a fund for the youth, we should not do it with a single intention of keeping the youth busy and keeping them away from interfering with the ruling class or the *bourgeois*. Those programmes must be well thought-out. The first and core principle that should lead to the formation of such funds will be on the empowerment of the youth. We need to have a well-defined way of advancing those funds so that we can promote good ideas in the youth. That way, we can have good business start-ups that graduate from micro to small and from small to medium. It is only after doing that, that those funds will have any meaning. Otherwise, if we establish funds and give people money which we do not monitor, and the money is squandered not because we do not want to be better but because they do not have skills, it is going to be a waste of time.

So, I would like to encourage the Government to ensure that, that is done for parastatals as well. We cannot keep on funding parastatals day in, day out. The Government may fund them

for the first three to four years. From studies which have been done, it is clear that the turn-around or the break-even period for a start-up business is between 36 and 48 months. So, parastatals should not be funded longer than that. They should get money through the spirit of entrepreneurship from within to generate their own income and capital, and move to sustainability. The idea of sinking money into parastatals is like sinking money into bottomless pits and it is not going to help us to achieve sustainable development goals.

I would like to conclude by quoting Mahatma Gandhi who said:

“There is enough for everybody’s needs, but there is not enough for everybody’s greed.”

We have a problem in this country where, either as prominent or rich, we are still operating at the basic level of needs. We are not going to the higher level needs. We are always looking for money after money and money after money. How does it make me different to get Kshs1 billion more if I have Kshs50 billion in my account? Let us aspire to help institutions grow so that we can help others. The ultimate goal of Vision 2030 is to ensure that everyone is living above the poverty line and in human dignity. We cannot achieve that if we all practise corruption. Those practising corruption should know that they are taking us backwards. They should be put to order and given the toughest punishment applicable for that offence.

I support the Report.

**Hon. Deputy Speaker:** Let us have Hon. James Nyikal.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Deputy Speaker for giving me an opportunity to contribute to this.

I stand to support the Report. It gives a sad story because it points out two of our greatest problems in this country. The miasma of corruption with its spaghetti-like nature is convoluted, contorted and spread everywhere. In this case, it is laced with an incredible level of impunity. Kshs180 million was purposely looted systematically without any care. The Report states that the officer involved had the audacity to even repeat the same statement before the Committee and nothing has happened.

Yesterday, Hon. Ng’eno said that the seeds of this level of impunity seem to have been planted in this country in the years of Youth for KANU and it seems to have matured to a level that seems to be sanctioned everywhere, from the top to bottom. We have to do something about this corruption.

The second issue is that this affects the youth. They are the most disadvantaged people in our country. They are our potential. We make efforts like setting up the Youth Enterprise Development Fund (YEDF) with the sole purpose of supporting our youth to find ways of helping themselves. We even go on with affirmative action and make sure that the leadership of that organization is the youth themselves. The same thing happens and, once again, our youth are let down. This is a clear case of collusion between the officials. There was collusion between the Chairman, Mr. Odhiambo and the Acting Chief Executive Officer (CEO), Madam Namuye. I cannot exclude the Bank from this collusion and also a Mr. Ngamau who is some unknown accomplice in this matter.

The Chairman appointed one person to be the sole signatory of the organisation. How can this happen? All banks in this country are aware that it is never like that. One person cannot be the sole signatory for a whole organisation. Once that happened, Madam Namuye and Mr. Odhiambo went on to violate all the known rules. These include public finance management rules, the directions from the Treasury and the presidential circulars. He forged board minutes and violated all the procurement rules. He terrorized all the officers and staff who would have,



otherwise, raised issues and nothing happened. In those circumstances, how can we ignore the role of the Board? Where was the Board in all this? How can the Board not be aware that there was only one person acting as the signatory? How can the Board not be aware that officers were being terrorised and terminated? How can the Board not be aware that Treasury directions and presidential circulars were all being violated? In this case, the Board also stands to answer questions. You even wonder how is it that a person of that nature was appointed and the Board was not aware. The Report says that there was no policy. Can a whole fund be set up and not be backed up by a policy and yet the Board exists?

This brings us to the question of the role of our boards in management. We tend to look at boards as places of privileges and, where we are appointed, as rewards for our political allegiance and this is what happened. If you look at this Report, Kshs180 million was lost but, worse still, where this money was lost to is known. Those people took the money to the bank and distributed it among themselves, including bank officials. This is a scenario of perfect collusion where everybody who was given the responsibility to look after our resources, turned around to loot.

In my view, this Report must be appropriately implemented. The Report notes that His Excellency the President moved quickly to remove Mr. Odhiambo. If it takes a presidential action to remove an officer, where was the Board? If the President is concerned enough to order the removal of Mr. Odhiambo, where were the systems that ensure that all other issues related to that were addressed? Yesterday, we discussed that there seems to be some gap in the structure of Government at a very high level. It was noted here that the position of the Secretary to the Cabinet is still vacant or, at least, no one has been vetted here for that position. I expected that, by the time the President was taking action, he must have written some circular. The same circular should have prompted all the other appropriate arms of Government to act.

Mr. Odhiambo, Ms. Namuye, Mr. Ngamau, the Board Members and officials of Chase Bank should not be on the streets. They should be in prison. The Committee recommends that they should be investigated and prosecuted. The information in this Report is adequate. We should expect that, as soon as it is passed here, we shall see people in courts, in handcuffs and sooner or later, in jails. We cannot do this to our youth. We cannot make corruption our way of life. What are we telling our youth when people involved in corruption are walking around in big cars? Action must be taken on those people. The structures and management of the Youth Enterprise Development Fund (YEDF) must be streamlined so that the youth can get their monies. This morning, there was a launch of the renewed Fund and the strategies it intends to implement. The people mentioned in this Report and the Board should take responsibility for their negligence and impunity on the funds for our youth.

**Hon. Deputy Speaker:** Hon. Samuel Moroto.

**Hon. Chumel:** Thank you, Hon. Deputy Speaker, for giving me the opportunity to join my colleagues to support this Report. I come from a region where youth are struggling to earn a living. They are starting families and want to equate themselves to other youths in other parts of the country.

When the initiators of this programme started it, they had that good heart of improving the living standards of the youth and also empower Kenyans economically. That is because those are energetic people. I also know that the intention of that programme is to challenge and change the minds of youth who are all seeking white collar jobs after school. Somebody is learning in class with a mind that he has to be in that big chair seated in a suit and tie. When the programme was started, the directors and the people in charge were not youth. They had made their way, but

they now want to destroy the lives of others. Their motive is also to destroy the intentions of the good Government that wants to ensure that its citizens do better, especially on the economy.

We should support this Report as a House and ensure that the implementation is done. Let us see those people in jail. Let them also serve as an example so that others cannot do that. It was so good when the NYS issues were brought up by the former Cabinet Secretary (CS) for Devolution and Planning. When you go to Lang'ata and parts of Sigor where the people from the Pokot community were fighting with the Turkana all the time, you will find that the youth who were engaged in NYS programmes in that place are now busy working and fending for their children and families. In fact, it has attracted more youth to go for identification cards. Those who had no identification cards and were aged over 18 years are now rushing to get them because they know that is where they can get something. We should not allow the menace of corruption to continue as it is now.

I thank His Excellency the President, the Deputy President and the team that came up and rescued the situation. Now, it is taking up. The other day, two CSs in charge of water and devolution went there and they assured people. Kenyans have a lot of hopes in this House. There are so many reports which have come to this House, but there is no action that has been taken at all. The Chairman of the Fund was removed through the initiative of the President, Hon. Uhuru Kenyatta. However, nobody in this House has brought that issue and yet, some come from around there. We need to support this Government and get rid of the rotten groups which want to bring us to that waste and ensure that we put people who can work and raise the living standards of Kenyans. I support.

**Hon. Deputy Speaker:** I give the Floor to Hon. Wandayi.

**Hon. Wandayi:** Hon. Deputy Speaker, I will be very brief. Yesterday, when I listened to the Chairperson move this Report, I imagined I was watching a movie from Hollywood. What happened at the Youth Enterprise Development Fund (YEDF), if we are to be honest with ourselves, was not in isolation. It basically falls within that pattern of outright plunder of public resources. In fact, you can draw a parallel between what happened at YEDF and what happened at NYS.

Sometimes, we wonder why it is that institutions which have been created to empower the youth are the ones which are targeted by political brokers for plunder in broad daylight. In certain jurisdictions and, more so, in countries in South Asia, what happened in those institutions would be categorized together with crimes such as high treason. That is because, clearly, this was pure economic sabotage.

In those jurisdictions, the punishment for economic sabotage is public execution by a firing squad. The individuals who are culpable are lucky that they are operating in Kenya. If it was other jurisdictions, they would be dead and buried. It is clear that Bruce Odhiambo and his cohorts were not acting on their own. They were acting with impunity with the knowledge that they were having protection. Unless we deal with this element of protection for public theft, we shall not go far as a country. But, more importantly, it is the practice of rewarding cronies, political hirelings and political wheeler-dealers with State jobs. People who were never vetted by anybody and whose credentials were seriously in doubt were made in charge of serious institutions. As we speak, those individuals are walking on the streets freely.

Yesterday, we heard that some fellows who stole some Kshs30 million shillings from National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) were taken to court and released on a bond of Kshs1 million and yet, the individuals who stole Kshs180million are still roaming the streets freely. Those who stole billions from the national

youth fund have been charged with some funny charges. This country needs redemption and that will not come from the political class. This country, perhaps, requires a revolution for things to be put back on track.

Hon. Deputy Speaker, in the interest of time, I will not go on. But I must also point out the fact that banks were an integral part in that devious scheme. That is why you see banks are continuously remaining arrogant as they continue to fleece Kenyans in the name of high interest rates. We need a mechanism to rein in those banks because the reason why a bank such as Chase Bank got involved in that kind of scheme was the fact that they knew that, at the end of the day, they were in bed with the political class and nothing would happen to them.

With those few remarks, I support this Report and I hope that it will be fully implemented. Thank you.

**Hon. Deputy Speaker:** Hon. Ferdinand Wanyonyi, I believe you are not interested in contributing to this one. I had already given you an opportunity which you declined.

**Hon. (Ms.) W.K. Njuguna:** Thank you, Hon. Deputy Speaker for giving me this opportunity. I want to support the Report of the Committee and condemn the vice of fraud and mismanagement of the youth fund. Hon. Deputy Speaker, this Fund was not there in the previous governments. The Fund was created after realising that the youth, women and people with disabilities were vulnerable and needed to be assisted.

The youth population in this country is the highest and they are the most unemployed.

#### ADJOURNMENT

**Hon. Deputy Speaker:** Hon. Winny, it is now 6.30 p.m. You will have a balance of eight minutes when this is next in the Order Paper. It is now time to adjourn the business of the House until Tuesday, 23<sup>rd</sup> August, 2016, at 2.30 p.m.

The House rose at 6.30 p.m.