

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 5<sup>th</sup> December, 2012

The House met at 2.30 p.m.

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

### PRAYERS

### QUESTION BY PRIVATE NOTICE

#### IMMINENT EVICTION OF MPEKETONI FARMERS BY EGERTON UNIVERSITY

**Ms. Shakila Abdalla:** Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

- (a) Is the Minister aware that about 50 farmers and their families are about to be evicted from land they have occupied for close to 15 years by Egerton University in Mpeketoni, Lamu?
- (b) How did the University acquire the land and from who?
- (c) Could the Minister provide copies of ownership documents by the University?

**The Minister for Lands** (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

- (a) There are no plans to evict 50 farmers and their families from land they have occupied for close to 15 years by Egerton University in Mpeketoni, Lamu.
- (b) The University owns about 170 hectares for agricultural research allocated to the university by the Commissioner for Lands following recommendations made by the District Development Committee (DDC), Lamu.
- (c) The land was allocated to the Egerton University by letter of allocation Ref. No.2099163D of 30<sup>th</sup> November, 2001.

Mr. Temporary Deputy Speaker, Sir, just for purposes of record, I want to table a copy of the letter of allotment together with the relevant correspondences between the university and the Commissioner's Office, and a copy of receipt for payment made by the university to the Commissioner of Lands.

*(Mr. Orengo laid the documents on the Table)*

**Ms Shakila Abdalla:** Mr. Temporary Deputy Speaker, Sir, it is not true that there is no intention of evicting these people. I have a letter from the Divisional Officer (DO), Mpeketoni, which is telling these people that they should have been evicted from April. It warns them that they will be forcefully evicted any time. There has been a problem. The Minister says he allocated that land 11 years ago to Egerton University, but those farmers have been living there for last 15 years. What criteria did the Ministry use to allocate land to university which was

already occupied by poor Kenyans? Is there a way that he can revoke this allotment and, probably, allocate the land to those people and then look for another land or give the remaining portion of land Egerton University?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, there are two questions here; the first is about the letter from the DO threatening evictions. That is irregular and unlawful. The DO has no such authority. Once the Government has allocated the land, the person claiming ownership is the only authority which can attempt an eviction. That eviction must be done in accordance with the law. So, I would ask the hon. Member and the people involved to disregard the letter from the DO. There is no such authority unless it is backed by a lawful order.

Secondly, Egerton University itself also cannot carry out an eviction without following the law. There is a law in regard to the question of adverse possession. If the residents want to claim such a right of ownership, then the law is also clear that they can use the law of adverse possession. On record, what I can say before the House is that it looks like the University has not gone ahead to process the documents of title deed. They do not as yet have the documents of ownership. Until they actually get those documents of ownership, which is what they should be doing first before making attempts to enforce and eviction, the land technically still belongs to the Republic and the national Government.

**Mr. Lekuton:** Mr. Temporary Deputy Speaker, Sir, I would like the Minister to clarify the following. Now that we are going to devolved governments and we can be sure that there are a lot of land disputes in this country, could he assure this House that proper mechanisms will be put in place, so that institutions of higher learning and those in the various counties that are involved in research activities are properly secured?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, first of all, institutions of higher learning are advised to procure documents of title deed. There are some of these institutions which sit on land without securing title deeds. They presume that once they get a letter of allotment, then that is a document of title deed. That is the case with some of the institutions, for example, Kenya Agricultural Research Institute (KARI). So, I would want to use this forum to communicate to them that they must secure title deeds for the parcels of land.

Secondly, despite the form of government which will be in place after the elections which gives certain categories of public land to devolved governments, I want to assure the hon. Member that if you look at the sections dealing with land in Chapter 5 of the Constitution, it is clear on which categories of public land are assigned to the county governments. So, land which is already in the hands of the institutions of learning as part of national Government cannot be land that will be in the domain of devolved governments.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, noting the good answer given by the Minister, what plans is he making to make sure that these families who have children to feed and even to educate are settled elsewhere?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, the Government cannot promise land to every Kenyan. All the Government can do is promise everybody access to land. If we are going to give a blanket promise that the Government will have the capacity to settle everybody who does not have land, I think that will be impossible. There are people who were evicted or displaced during the colonial days. For example, if you go to Central Province, there are many people who were displaced after their villages were destroyed by the colonial Government. However, the Government has not been able to deal with that problem. So, I do not want to give a blanket promise to the hon. Member that the Government will be able to settle everybody.

What we can say is that an environment must be created where everybody can have access to land because it is important to everybody. But it is important---

**Ms Shakila Abdalla:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that they cannot settle squatters who they are creating themselves? If that is the case, they should not have allocated that land to Egerton University 11 years ago whereas it has been occupied for 15 years.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! What is your point of order? You stood on a point of order and I have not seen any point of order from what you have said, so far.

**Ms. Shakila Abdalla:** Mr. Temporary Deputy Speaker, Sir, my point of order---

**The Temporary Deputy Speaker** (Mr. Imanyara): You are out of order!

Mr. Minister, continue.

**Mr. Orengo:** I think I have already given a sufficient answer to the hon. Member.

**Mrs. Noor:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to appreciate the answer given by the Minister. I have been with hon. Shakila and we even went to that particular site. Egerton University, as the Minister has confirmed, does not have legal documents, but they have already fenced off the land and displaced people. They have marked out 50 more houses together with the Lamu District Lands Officer. So, we are telling him that some damage has already been done and there are people who have been displaced through the fencing. His Ministry officials are on the ground and they have mapped out 50 more households in Lamu. What is his Ministry doing to stop the 50 households from being displaced? How will they handle the other people who have already been displaced after being fenced within the compound by Egerton University?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, according to the information I have and which I have faithfully given to the House, there are no plans to evict. If the squatters or the people who are already on that land find themselves within the land which has been fenced, then they should take legal action against Egerton University. I had given the hon. Member a lead that they do not, as yet, have documents of title deed. All they have is an allocation and payment to the Commissioner of Lands. But, more importantly, I think the 50 farmers stand on very firm ground because the Constitution now sets out the provisions which clearly indicate that you cannot just evict people without showing them where they are going, particularly when they have been living on that land for a long time. This is the case with regards to these farmers in Lamu. The Constitution also protects occupants in good faith although they may not have title deeds. But if they are occupants in good faith and I would assume that these farmers are, then the hon. Member should seek legal advice on how to deal with that situation. This is because, as far as evictions are not concerned, I do not have the mechanisms to stop evictions if they have not been ordered or directed by me. I have said in this House so many times that I am against forceful and violent evictions. I am totally against that. Anybody who does that in this new dispensation is violating the Constitution.

**Mr. Koeh:** Mr. Temporary Deputy Speaker, Sir, in the recent past, we have witnessed Kenyans being displaced left and right. Listening to the Minister, he seems to be helpless and yet, he is the Minister for Lands. Could he give an assurance to the people of Lamu that they will not be evicted? are not about to be evicted and that they are not going to be evicted? These are very poor Kenyans who cannot afford any legal fee. Can the Government protect these poor Kenyans? What does the law say about people who have lived in one piece of land for more than 13 years?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I think there are unjustified evictions and people are helpless, I have taken steps. For those who know, there is a large place in Changamwe, Mombasa called Kwabulo, where I went personally to make sure that people are not evicted. Kwabulo has a population of more than 10,000 people. A court had given orders that they be evicted. Obviously, I am helpless. If a court issues an order, I cannot stand in the way of a court order. If I did so, this House will be the first legal organ to come for me to try and interrogate me on why I am dishonoring court orders. But where there is a justified case and I feel that the people are being evicted for unjustified reasons, then anybody who could seek my help. Ms. Shakila, we have a great relationship--- If you feel helpless, please, come to me. We could go to Lamu together to resolve this issue if you think you cannot deal with it on the ground. So, the hon. Member should not feel helpless. We could deal with it together, especially when I have confirmed that still the university does not have legal documents. But I do not encourage people to go and displace the University. However, I believe we could find a solution if we sit together with the University and the farmers.

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, considering that the Minister is handling many Internally Displaced Persons (IDPs) who were displaced from Mau and during the post-election crisis, and considering that right now Egerton University has fenced the land in question, what will he do urgently? This is because listening to him it is as if he is helpless. What will he do to solve the problem rather than wait until he is handed more IDPs before he resettles the ones at hand?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, with regard to this case, this Question was asked more than a month ago. The Question was: Is the Minister aware that about 50 farmers and their families are about to be evicted? They have not been evicted 30 days down the line. That is the position. I think the hon. Member's question does not arise since those farmers and their families have not been evicted.

**Mr. Mureithi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House considering the fact that those people are already fenced in by Egerton University? Is he in order to mislead this House that they have not been evicted and yet they have been fenced in?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I do not think I am misleading the House. All I am saying is that the farmers still occupy the land which is part of the 170 hectares. This is not a small piece of land. This land, from the information the hon. Member has given us, has been fenced, but the people have not been evicted. That is the factual position.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Minister! You indicated that the DO has no authority to give eviction orders. Therefore, it follows that the Government position is that they should not be evicted. If that is the answer, then it should be specific. If any Government officer evicts those people, then he or she should know that he or she is disobeying a Government directive.

**Mr. Gitari:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, Mr. Gitari?

**Mr. Gitari:** Mr. Temporary Deputy Speaker, Sir, when the Chairman of the Departmental Committee on Education, Research and Technology asked him about the provisions of law with regard to a person who has stayed on a piece of land for 12 years, he evaded answering that question. That was my point of order.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I think the hon. Member's attention went to vacation a little bit. This is because I dealt with the issue of adverse possession of land right at the beginning. The law confers on you certain rights if you occupy land for an interrupted period of 12 years, but it requires you to do something. It is not upon me now to go round and---

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Charles Kilonzo, what is your point of order?

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, is the Minister in order to claim that if you are in occupation for some time the law protects you when he knows very well that there is a settlement scheme in my location, Ndalani Settlement Scheme, where squatters have been in possession for over 30 years and the rich are using the court process to evict them? He has been unable to protect those poor squatters. Is he in order to mislead this House?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, adverse possession is an equitable remedy. It requires you, the person seeking remedy, to assert your rights. If you sleep on them, then nobody can protect your right under the law of adverse possession. It is the person who is affected who should take steps. That is the law of the land.

However, if the hon. Member is now informing me with regard to that particular case and with regard to the case that the hon. Member has raised to the effect that these farmers have been there for more than 12 years, then obviously, the Government is bound to take some action.

On the case about Lamu, I took steps to find out whether there have been any evictions. I was given the answer that there have been no evictions. I sent word that these farmers should not be evicted until the Government resolves this matter.

**Ms. Shakila Abdalla:** Mr. Temporary Deputy Speaker, Sir, although these people have not been evicted, they are living in fear. They have been fenced in the land as it has been said. As we talk now, these people are not able to farm. The tractors are not allowed by the Egerton administration to drive onto that land. Could the Minister, if possible, accompany me this weekend to Lamu so that we sort out this issue? It seems that it is only the people with money who can afford to own land in Kenya or else you go to court. If you are poor, you cannot afford to go to court and, therefore, you cannot own land. However, we need justice. Could we go to Lamu and sort out this thing, once and for all?

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Shakila Abdalla, the Minister indicated that you can approach him and then you jointly resolve this issue. So, he does not have to repeat himself on that. He is on record as having offered to sort out this problem with you. So, follow it up with him.

## ORAL ANSWERS TO QUESTIONS

### *Question No.1505*

#### FAST TRACKING ISSUANCE OF IDS FOR REGISTRATION OF VOTERS

**Mr. Chepkitony**, on behalf of **Mr. Kiptanui**, asked the Minister of State for Immigration and Registration of Persons:-

(a) how many citizens have been issued with National Identity Cards in the last one year and that he provides a breakdown of the districts or counties they come from; and,

(b) what measures he has put in place to ensure that all deserving citizens are issued with national identity cards in time to enable them register and participate in the forthcoming elections.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is there anyone from the Ministry of State for Immigration and Registration of Persons? Hon. Charity Ngilu, you are the nearest to the Chair. Where is the Minister?

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, he could be running late. We could give him another opportunity.

**The Temporary Deputy Speaker** (Mr. Imanyara): No, we cannot. The time we have left to deal with the House business does not allow us to go back to Questions. So, is the Minister---

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, could I pass on that information to him, so that he answers this Question tomorrow?

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your reaction, Mr. Chepkitony?

**Mr. Chepkitony**: Mr. Temporary Deputy Speaker, Sir, it is okay with me if he will answer the Question tomorrow.

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I will pass on that information to him.

**The Temporary Deputy Speaker** (Mr. Imanyara): So, the Question will be on the Order Paper tomorrow in the afternoon on priority basis. Please, convey that to hon. Jackson Kiptanui so that he is here on time to ask the Question. The Minister will let her colleague know that the Question will be on the Order Paper tomorrow.

*(Question deferred)*

*Question No. 1229*

#### GAZETTEMENT OF KORA NATIONAL RESERVE

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Dr. Nuh Abdi not here? Is he out on official business by any chance? The Question is dropped.

*(Question dropped)*

*Question No.912*

#### GOVERNMENT EXPENDITURE ON ADVERTISEMENTS

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mututho has requested that we defer this Question because he is unable to be in the House. So, this Question will be deferred to next Thursday.

*(Question deferred)*

*Question No.1829*

EQUIPPING OF KAPSOO BOREHOLE AT  
BARINGO TECHNICAL COLLEGE

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Mwaita not here? He is not present. Therefore, the Question is dropped.

*(Question dropped)*

*Question No.1261*

LACK OF CULTURAL CENTRE IN MUTITO CONSTITUENCY

**The Temporary Deputy Speaker** (Mr. Imanyara): The Member for Mutito has requested that due to circumstances beyond his control, he is not able to be in the House. He has requested that the Question be deferred. I defer it to Thursday, next week.

*(Question deferred)*

*Question No.1741*

STALLING OF WORKS ON CHEMUSUSU DAM

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Lessonet not here? He is not in. The Question is dropped.

*(Question dropped)*

*Question No.1817*

REJECTION OF REQUEST FOR TAX EXEMPTION  
FROM TELKOM RETRENCHES BY KRA

**Mr. Olago** asked the Minister for Finance:-

(a) under what circumstances the Kenya Revenue Authority (KRA) granted tax exemption to the first batch of retrenchees of Telkom Kenya vide Legal Notice No.72 of 2010 and rejected a similar request for exemption based on the same grounds to the second batch in 2011; and,

(b) whether he could confirm that KRA will reconsider its decision to the rejected application for tax exemption and grant an exemption to the second batch of retrenchees.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is there anyone from the Ministry of Finance here? Mrs. Charity Ngilu, where is the Minister for Finance?

*(Mr. Chepkitony approached the Chair)*

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, once again, I regret his absence. I will inform him so that he is here tomorrow to answer it.

**The Temporary Deputy Speaker** (Mr. Imanyara): I did not hear what you were saying because your colleague was talking to me.

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I regret the absence of the Minister for Finance. However, I will get him to know that he should have been here and then the Question could be put on the Order Paper tomorrow.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, while it is at your discretion, I thought we would have a better reason the Members of the Front Bench are not here. It is not just about the Question being answered tomorrow. It is also about why they are not here.

**The Temporary Deputy Speaker** (Mr. Imanyara): Indeed, we are entitled to a better reason than that, hon. Ngilu. The Chair is always incapacitated in that regard. When next would you like this Question restored on the Order Paper, so that the Minister could offer an explanation himself?

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, in that case, I will take tomorrow.

**The Temporary Deputy Speaker** (Mr. Imanyara): I do not know how tomorrow is because we have already deferred a number of Questions to tomorrow. Could we do it on Tuesday, next week?

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, I am afraid I will not be there next week.

**The Temporary Deputy Speaker** (Mr. Imanyara): Then try your luck tomorrow in the afternoon.

**Mr. Olago:** Thank you.

*(Question deferred)*

*Question No.1792*

INVESTIGATION INTO MYSTERIOUS  
DISEASE AFFLICTING WAJIR COUNTY

**The Temporary Deputy Speaker** (Mr. Imanyara): Is Mr. Keynan not here! Does anybody know the whereabouts of hon. Keynan? The Question is dropped.

*(Question dropped)*

**MINISTERIAL STATEMENTS**

**The Temporary Deputy Speaker** (Mr. Imanyara): Are there any Ministerial Statements that are due this afternoon? Are there any Statements that are due? There is a schedule that indicates when Statements are due. May I look at it the Clerks-at-the-Table? May I know which Ministerial Statements are due today?

*(Mr. Imanyara perused the documents)*



There is none required. Are there any requests for statements? I have one request from hon. Sirat. He is not in.  
Next Order!

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD OF THE NATIONAL GOVERNMENT CO-ORDINATION BILL

THAT, pursuant to provisions of Standing Order 107, this House orders that the publication period of the National Government Co-ordination Bill (Bill No.74 of 2012) be reduced from 14 to 5 days.

**The Temporary Deputy Speaker** (Mr. Imanyara): Leader of Government Business! Any Minister on the Front Bench! This Motion needs to be moved. Mr. Orengo, would you like to stand in for your colleague? It is a Procedural Motion and so it is fairly straightforward. Is there any one from the Government side?

*(No response from the Government side)*

Alright, Next Order!

## BILL

### *First Reading*

### THE NATIONAL GOVERNMENT CO-ORDINATION BILL

*(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)*

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Order No.9 was contingent on Order No.8, the Procedural Motion, being passed.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Ogindo, I did not get your point of order.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Order No.9, The National Government Coordination Bill, in my view, was contingent on Order No.8 being passed.

**The Temporary Deputy Speaker** (Mr. Imanyara): What that means is that it will follow the normal procedure because there was no one to move the reduction of the days. It has just been read the First time and then it will go---

**Mr. Ogindo:** Then it can wait for its maturity.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes!

Mr. Ogindo: Thank you!

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

*[The Temporary Deputy Speaker  
(Mr. Ogindo) took the Chair]*

**The Temporary Deputy Speaker (Mr. Ogindo) : Next Order!**

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[The Temporary Deputy Speaker  
(Mr. Ogindo) left the Chair]*

### **IN THE COMMITTEE**

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

**The Temporary Deputy Chairman (Mr. Imanyara):** Hon. Members, we are in Committee of the whole House and we have two Bills to deal with. We shall follow them in the order in which they are listed starting with The Universities Bill.

### **THE UNIVERSITIES BILL**

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. We have some amendments to this Universities Bill which were submitted to the Office of the Clerk and they are not listed. I am told that there are quite a few, but the Deputy Speaker was not there to sign them. So, they have been taken to him to sign in a meeting where he is at the Intercontinental Hotel. Is there a way we could delay this Bill until---

**The Temporary Deputy Chairman (Mr. Imanyara):** We cannot delay the business of the House for the PS to have lunch at the Intercontinental Hotel. That is not possible.

**Mr. Midiwo:** But, Mr. Temporary Deputy Chairman, Sir, we did our part as people who had amendments. We followed the procedure.

**The Temporary Deputy Chairman (Mr. Imanyara):** If you are not ready to proceed, we would have to defer it. We cannot adjourn or defer the business of the House to await the PS to have lunch.

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, that is not what I am saying. Kindly, indulge me. I am saying that we could start with the next Order. I am referring specifically to The Universities Bill.

**The Temporary Deputy Chairman (Mr. Imanyara):** Are you ready with the Basic Education Bill? Where is the Minister for Education? They are also not ready. They are not even here!

**Hon. Members:** They are not here!

**The Temporary Deputy Chairman** (Mr. Imanyara): The Government is not here, it is not ready, some are having lunch at the Intercontinental Hotel and the House cannot conduct business.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, as the Chairman of the Departmental Committee on Education, Research and Technology, I have concerns that this Order was in the Order Paper yesterday and we were informed that some amendments were not ready. We allowed and accepted this to be deferred to today. It will not augur very well for us because we have been prepared to go through this Bill. I note that the Assistant Minister for Higher Education, Science and Technology is here. I beg that we proceed.

**The Temporary Deputy Chairman** (Mr. Imanyara): The Chair is quite ready to allow the debate to continue if the Ministers are ready. I understand that the amendments were, indeed, approved yesterday and copies have been distributed although the Chair does not have them yet. So, if that is the case, we could go on with The Basic Education Bill. The Minister for Education or anybody in the Government, are you ready to proceed with The Basic Education Bill, Bill No.46 of 2012?

*(Prof. Kamar walked into the Chamber)*

**Hon. Members:** The Minister is here!

**The Temporary Deputy Chairman** (Mr. Imanyara): Nobody is ready from the Front Bench. Let us go ahead!

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am ready.

**The Temporary Deputy Chairman** (Mr. Imanyara): You are not ready, you are just walking in!

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I am ready!

**The Temporary Deputy Chairman** (Mr. Imanyara): Prof. Anyang'-Nyong'o, you are not ready because I called out and none of you was ready. What order do you want us to follow? I am asking somebody from the Front Bench. What order would you like us to follow in dealing with these Bills now? I am giving you the opportunity to let us know which one you are ready with to start with. The Chair of the Departmental Committee on Education, Research and Technology says that they are ready. Shall we start with The Universities Bill? Minister for Higher Education, Science and Technology, now that you are here, an apology to the House would be in order.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I want to really apologize to the House for being late. I have no words, except to apologize and to say that we are very ready. Our amendments will be moved by the Chairman of the Departmental Committee. We also have amendments that were raised by Mrs. Odhiambo-Mabona.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well, Madam Minister. We can now proceed.

*Clause 2*

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 2 be amended by—

(a) deleting the definition of the term “Association of retired Vice-Chancellors”;  
(b) inserting the following new definitions in their proper alphabetical sequence—  
“alumni” means a member of convocation of a university;  
“foreign university” means a university established outside Kenya, which intends to offer university education in Kenya.

**The Temporary Deputy Chairman** (Mr. Imanyara): Briefly say what is on the Order Paper because I do not have it here.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, we are proposing the deletion of the term “Association of retired Vice-Chancellors” because, later on, we shall be deleting the section that refers to the Association of retired Vice-Chancellors. Putting them to be part of the panel that will be appointing the commissioners, we felt that most of them are back in the universities as lecturers.

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I accept the amendment.

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

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

*(Clause 2 as amended agreed to)*

*Clause 3*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended in sub-clause (1) of Clause 3 by inserting following new Paragraph-

(k) promotion of equalization of opportunities for persons with disabilities, minorities and other marginalized groups.

The idea is to ensure that one of the objectives of university education is to equalize opportunities for persons with disabilities.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Order, hon. Members! Please, consult in lower tones and in your seats to enable the Member who is introducing the amendments to be heard.

Continue, hon. Odhiambo-Mabona!

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I have proposed to amend Clause 3 as per the Order Paper. The idea is to ensure that one of the objectives of university education is to equalize opportunities for persons with disabilities.

*(Question of the amendment proposed)*

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

*(Question 3 as amended agreed to)*

*(Clause 4 agreed to)*

*Clause 5*

**The Temporary Deputy Chairman** (Mr. Imanyara): There are three suggested amendments by Mr. Koech, Mr. Wambugu and Mrs. Odhiambo-Mabona. Are there any that are similar and are you following them in the order in which I have read them? If so, Mr. Koech, proceed!

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

THAT, Clause 5(1) be amended by—

(a) inserting the words “relevance and” immediately after the word “assure” appearing in paragraph(c);

(b) inserting the words “disseminate” immediately after the word “collect” appearing in paragraph (i);

(c) inserting the following new paragraphs immediately after paragraph (i)—

“(ia) accredit universities in Kenya;

(ib) regulate university education in Kenya;

(ic) accredit and inspect university programmes in Kenya.”

(d) inserting the following new sub-clause immediately after sub-clause (2)—

“(3) For the avoidance of doubt, the Commission shall be the only body with powers to perform the functions set out in this section.”

We do not want this Commission to only assure quality, but also to assure relevance.

**The Temporary Deputy Chairman** (Mr. Imanyara): Just to be certain, explain whether there is any link?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, we do not want this Commission to only assure quality, but also to assure relevance.

**The Temporary Deputy Chairman** (Mr. Imanyara): Does it have any bearing with the proposal by Mr. Wambugu?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, Mr. Wambugu is already in the House and he can explain.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mr. Wambugu, are you here?

*(Mr. Wambugu moved to the Dispatch Box)*

Mr. Wambugu, you cannot do it from where you are. You cannot speak from there. Even if you were to use the Dispatch Box, you would have to go to the other side. We are coming to

end of the term and you ought to have known your Standing Orders by now. But I will allow you to make the journey to where you belong.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, while he is moving, I just want to make it clear that there is no contradiction between mine and Mr. Wambugu's. It will be an addition.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, there is no contradiction between my amendment and Mr. Koech's because they relate to the same paragraph. I was just wondering, because my amendment is longer, whether I could propose it. If it passes, he could do his as a further amendment to mine.

**The Temporary Deputy Chairman** (Mr. Imanyara): That is why I asked the three of you if there are any similarities, so that we can do it as one to avoid amending one and then follow immediately with an amendment to the one we have already amended. Mr. Koech and Mrs. Odhiambo-Mabona, just consult and see how you can consolidate your two amendments to be one.

**The Minister for Higher Education, Science and Technology**(Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I just want to agree that as they consult, in the statement that Mrs. Odhiambo-Mabona gave, the latter part are details that come in regulations. The only thing that was missing from the two was "relevance" which the Chair gave and which we would like to adopt. We just want to put in "relevance" to what Mrs. Odhiambo-Mabona said up to the word "education" and then leave out "standards" and the number of hours, because it is in the regulations of all senates in the universities. That would have taken care of the two concerns.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, relevance is not the only addition. I have actually brought another amendment which is "sets standards".

**The Temporary Deputy Chairman** (Mr. Imanyara): What the Chair would like to know is: If we conclude Mr. Koech's amendment will yours be affected in any way? May be, Madam Minister, you could advise them on how to proceed.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I was proposing that we actually adopt Mrs. Odhiambo-Mabona's amendment, including the word "relevance" from the Chair. So, it will read "promote, set standards and assure the relevance and quality of university education." It is the latter part that is detail that arise in regulations rather than in a law.

**The Temporary Deputy Chairman** (Mr. Imanyara): In other words, you are suggesting that Mr. Koech's amendment be incorporated into Mrs. Odhiambo-Mabona's amendment, and we deal with it as one because it is expanding it. Is that correct, Mr. Koech?

**Mr. Koech:** That is okay, expect for the last bit that, maybe, Mrs. Odhiambo-Mabona would like to withdraw; that is the issue of hours because we are being too detailed in an Act.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mrs. Odhiambo-Mabona, what do you have to say about that?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, perhaps, I could explain why I am being detailed in the Act. If they are not persuaded, in the spirit of moving together I can drop it; but I want to explain why I am being detailed. I am getting the Minister, but I want to explain myself.

**The Temporary Deputy Chairman** (Mr. Imanyara): As you explain, I want to know whether you can incorporate it.

**Mrs. Odhiambo-Mabona:** Yes, I can.

**The Temporary Deputy Chairman** (Mr. Imanyara): Then Mr. Koech will withdraw his proposal for amendment and incorporate it into yours, so that we do it as one amendment. Is that okay? You can now explain.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, yes, I am willing to incorporate Mr. Koech's amendment into mine, because he is adding the word "relevance" which I am happy with. I am willing to then move my amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): Before that, Mr. Koech, I take it that you are, therefore, withdrawing your proposed amendment.

**Mr. Koech:** Yes, Mr. Temporary Deputy Chairman, Sir.

*(Part (a) of proposed amendment by Mr. Koech withdrawn)*

**The Temporary Deputy Chairman** (Mr. Imanyara): For the purposes of the HANSARD with respect to Clause 5, there are only two proposals for amendments, Mr. Koech's having been withdrawn we are left with Mrs. Odhiambo-Mabona's and Mr. Wambugu's.

Having reached there, Mr. Wambugu, is yours incorporated into Mrs. Odhiambo-Mabona's proposed amendment?

**Mr. Wambugu:** Mine is not in any way related to this.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well; let us now give Mrs. Odhiambo-Mabona the opportunity to move hers and we come to you.

Mrs. Odhiambo-Mabona, you can now move your amendment.

**Mrs. Odhiambo-Mabona:** Mrs. Odhiambo, I wish to move the amendment to Clause 5 as is on the Order Paper with a further amendment to my amendment to provide for the words "relevance in" after the words "and assure" and before the words "the quality of university education".

**The Temporary Deputy Chairman** (Mr. Imanyara): Could you draft it and forward it to the Chair. You can ask Mr. Koech to pass it on to the Chair. That is the one that you are proposing because I do not have it as you are formulating it.

**Mrs. Odhiambo:** Mr. Temporary Deputy Chairman, Sir, perhaps, I can just read it because it is in the Order Paper and I am just adding the two words. If you look at my amendments it says---

**The Temporary Deputy Chairman** (Mr. Imanyara): As long as the words are not on the Order Paper, you must write the whole of it and pass it to us here at the Table. Your colleague can help you as you read it.

**Mrs. Odhiambo-Mabona:** I can read it so that Mr. Koech can write down what I am reading. My amendment is:-

"promote set standards and assure relevance in the quality of university education."

The last part which is "including standards and the number of hours to be undertaken by an individual seeking to qualify for an award for a degree", the reasons I have added that is that there are many issues that we normally provide for by way of regulations; Kenyans do not seem normally to take regulations seriously. We have seen of late, especially when we provide standards for university education as a pre-qualification for vying for certain political offices, that suddenly universities have lowered their standards for award of university degrees which is very unfair to other people who spent five or six years doing medicine, when somebody else can spend five months to do a medicine degree. It is because of the import of this specific one. By way of legislation, there is nothing precluding us from bringing something that we deem

important to the main Act, but to provide for other issues which you think are not as weighty in regulations. If they are persuaded we will carry it, but if they are not, I am willing to let go.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, for clarity, what I am withdrawing is 5(1)(a) on the word “relevance” because Mrs. Odhiambo-Mabona has now included that, but the rest of the section I have not withdrawn. For clarity, that is very important. Therefore, I want to support Mrs. Odhiambo-Mabona’s amendment in total.

**The Temporary Deputy Chairman (Mr. Imanyara):** I just want to get it correct. You have not withdrawn it, but you have only withdrawn a word, which has been transferred to Mrs. Odhiambo-Mabona’s amendment. Then we need to deal with your proposal.

Hon. Members, I now propose that Clause 5 be amended as proposed in the Order Paper by Mr. Koech with the exception that the word “relevance” has been deleted. I want to deal with that.

**The Minister for Higher Education, Science and Technology (Prof. Kamar):** Mr. Temporary Deputy Chairman, Sir, the word is not deleted. What Mr. Koech is removing is his amendment in part (a) because Mrs. Odhiambo-Mabona’s amendment has incorporated the word “relevance”. I would like to explain why we thought the amendment from Mrs. Odhiambo-Mabona should end at “education” and leave out the details.

**The Temporary Deputy Chairman (Mr. Imanyara):** Order, Minister! We have not reached there yet because we just want to deal with the one of Mr. Koech with the exclusion of the word “relevance”. That is understood by all hon. Members now. I will now put the Question that Clause 5 be amended as proposed by Mr. Koech with the removal of the word “relevance”.

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

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

Now Mrs. Odhiambo-Mabona, you are moving a further amendment to add the word “relevance” at some stage. Is that correct? So, let us move that.

I propose that Clause 5 be further amended as proposed by Mrs. Odhiambo-Mabona on the Order Paper with the addition of the word “relevance” after---

**Mrs. Odhiambo-Mabona:** After the words “and assure” and before the words “quality of university education”.

**The Temporary Deputy Chairman (Mr. Imanyara):** Very well as explained, I will, therefore, put the Question that Clause 5 be further amended as just explained by Ms. Odhiambo-Mabona.

*(Question of further 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)*



Now we come to you Mr. Wambugu. Could you, please, now move your amendment?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I want to comment on that. Hon. Odhiambo-Mabona had asked whether we are insisting that we block including the standard the details. I hope that we have dropped that. The concerns she had are very genuine, but we cannot set the number of hours in the law because each university senate will be setting its hours according to the programmes that they have. However, she is alerting us that when the Commission goes to look at quality, they must standardize the hours. So, that comes under the regulations that are set under the Senate.

**The Temporary Deputy Chairman** (Mr. Imanyara): Except that we have dealt with that as set out in the Order Paper. The only addition is that of the word “relevance” from hon. Koech’s amendment. That is what the House has just approved.

**Mr. Wambugu:** Thank you, Mr. Temporary Deputy Chairman, Sir. I would like to move an amendment to Clause 5 to insert Clause 5(i)(a) which talks about promoting research and innovations in the universities. If you look at the Bill, you will see that Clause 5(d) only talks about monitoring the state of university education systems in relation to national development goals. If you look at that, you will see that we are trying to restrict ourselves only to the issues that, as at now, are considered national goals. However, we need to give freedom to universities to think widely, do research in other fields and come up with other innovations which can take this country to greater heights.

*(Question of the further amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the body called “the Commission for University Education” is a quality assurance body. It is not the body that promotes research and innovation. There is a different body that looks into that. For us to carry this, we should talk about promoting quality research and innovation in universities, so that we can further amend this clause to provide for quality research. That is the mandate of that body and not the promotion of research as such. However, whatever research that goes on has to be on quality.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Wambugu, are you willing to adopt that formulation?

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, with that rewording, I should be comfortable if it reads “to promote quality research and innovation”. That should be okay.

**The Temporary Deputy Chairman** (Mr. Imanyara): So, the amendment will indicate that “it is to promote quality research and innovation”.

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

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

*(Clause 5 as amended agreed to)*

Clause 6

**The Temporary Deputy Chairman** (Mr. Imanyara): We will now move on to Clause 6 which again has three proposed amendments by the same hon. Members. I will start with hon. Koech, hon. Wambugu and then hon. Millie Odhiambo-Mabona. First, are there any areas which are overlapping in the three proposed amendments?

Yes, Mr. Koech.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I pray that my colleagues have gone through the proposed amendments by the Committee because this was done after wide consultations, so that there are no contradictions at any point in the Bill.

**The Temporary Deputy Chairman** (Mr. Imanyara): Before we get there, I want to know whether you have looked at the proposals by hon. Wambugu and hon. Millie and you are satisfied that they are neither taking away nor further adding to your proposed amendments. Are they distinct?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, with regard to hon. Wambugu's proposal, he wants the Cabinet Secretary to be replaced by the President. We, as a Committee, felt that this is work that can be done by the Cabinet Secretary. Otherwise, we will be giving the President a lot of work. This is a scholarly job that requires the experts within that Ministry. We did not see the need.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Wambugu, before I allow hon. Koech to continue, is that the position?

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, while I agree with the Chairman's recommendation and proposal, it was my feeling to make sure that the universities Commissions and all other bodies are a bit stronger. Any of the appointing authority should be of very high office. That is why I proposed that all this should be done by the President himself, so that we do not get to a stage where at any one time, we have wrangles between people who have been appointed by the President and not coming up with what we want. For a long time, we have had a lot of squabbles with the appointments of Commissions, especially in the universities.

**The Temporary Deputy Chairman** (Mr. Imanyara): We have not reached there yet. Hon. Koech is saying theirs was a Committee's decision and they felt that it is not a matter that requires intervention at the level of the Executive and that the Cabinet Secretary would be sufficient. We have not reached there, but I wanted to know whether there is middle ground so that we know what we are amending and what we are not amending after hearing what the Minister has to say. I have not called out for proposals yet, but have you not heard? What is your comment on those views?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree with the Committee. In fact, the process that the Cabinet Secretary will use is very clear. There will be a selection panel that will carry out the process. This will be done openly and this will also cater for what hon. Millie asked for. Therefore, I agree with the Committee, entirely, that you do not want to take back a lot of this. It will clog the system. If we give the President 22 universities to appoint nine members of the council in each university, that will be too much. It cannot be done.

**The Temporary Deputy Chairman** (Mr. Imanyara): Before I call hon. Koech, have you agreed on how to proceed? Hon. Koech, you are the Chair of the Committee. The Minister agrees with you. Hon. Wambugu, do you still feel that we should proceed to vote on that amendment, where you only want to introduce intervention at the level of the President rather than the Education Secretary? It is up to you really, if you wish to insist on it.

*(Mr. Midiwo stood up in his place)*

Yes, point of order by hon. Midiwo. What is it, hon. Midiwo?

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, I was queuing. I was just trying to convince my colleague, hon. Wambugu, that the fact that you have a selection panel is enough; what we have been trying to do in our country is to get the President out of the management, or interference, with universities.

Mr. Temporary Deputy Chairman, Sir, as you know it is the intrusion by the Executive that made our universities what they are. I want to plead with my colleague that this is a real issue and it may even be contentious. It is like rolling the wheels back. The Cabinet Secretary is a direct appointee of the President. Really, if you look at the Bill, the responsibility of checks and balances lies somewhere else, and not with the Executive. I thank you.

**The Temporary Deputy Chairman** (Mr. Imanyara): Are you persuaded, Mr. Wambugu?

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, I do understand these issues. It was considered by the Committee. Even with the feelings of the other Members, I am persuaded to follow their recommendation.

*(Proposed amendment by Mr. Wambugu withdrawn)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, before I call hon. Koech, let us get this clear, that there are only two proposals for amendments, hon. Wambugu's having been withdrawn.

So, hon. Koech and hon. Odhiambo-Mabona, I am going to call upon the two of you; if the proposals for amendment are separate and distinct, you may proceed, hon. Koech.

Please, proceed, Mr. Chairman of the Education Committee. Move the amendments now.

*Clause 6*

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

THAT, the clause 6 be amended—

(a) in subclause (1), by—

(i) deleting the words “appointed by the Cabinet Secretary” appearing in paragraph(a);

(ii) deleting the words “not more than” appearing in paragraph (d);

(b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The chairperson and members of the Commission under subsection (1)

(a) and (d) shall be appointed by the Cabinet Secretary from a list consisting of—

(a) in case of the chairperson, three names; and

(b) in case of other members, nine names, submitted by a selection panel appointed by the Cabinet Secretary in accordance with subsection (3).”

(c) in subclause (3), by—

(i) deleting paragraphs (b), (c) and (d) and substituting therefor the following new paragraphs—

“(b) one person to represent the Federation of Kenya Employers;

(c) two persons to represent the body currently recognized as representing the interests of the private sector;

(d) two eminent scholars appointed by the Cabinet Secretary.”

(ii) deleting the expression “subsection (3)” and substituting therefor the expression “subsection (2)”;

(e) by inserting the following new subclause immediately after subclause (4)—

“(4A) The selection panel shall advertise for the vacancies and publicize the names of applicants and shortlisted candidates in at least two dailies with national circulation.”

(f) by inserting the following new subclause immediately after subclause (5)—

“(5A) In nominating members of the Commission, the selection panel shall ensure that those nominated shall not have any conflict of interest in serving as members of the Commission.”

**The Temporary Deputy Chairman** (Mr. Imanyara): You can assure us that it has no relationship with the proposal from hon. Odhiambo-Mabona.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I have looked at it and noted that what hon. Odhiambo-Mabona wants is to see an open and competitive process, unless otherwise.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Minister, you are quite happy that what hon. Koech is proposing is not in away captured in hon. Odhiambo-Mobana’s proposal?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, actually hon. Odhiambo-Mabona’s concerns have been taken care of by (4A); she wants openness. There is the selection panel shall actually advertise for vacancies in the Commission. So, it has been taken care of by hon. Koech.

**The Temporary Deputy Chairman** (Mr. Imanyara): Is that so, hon. Odhiambo-Mabona.

**Mrs. Odhiambo- Mabona:** Yes, Mr. Temporary Deputy Chairman, Sir. So, I will drop the first part of my proposed amendment to that clause.

*(Part (a) of the proposed amendment by  
Mrs. Odhiambo-Mabona withdrawn)*

**The Temporary Deputy Chairman** (Mr. Imanyara): But there is still a further amendment.

**Mrs. Odhiambo- Mabona:** There is another one---

**The Temporary Deputy Chairman** (Mr. Imanyara): Okay; we will reach it. Let us allow hon. Koech’s amendment to be debated.

*(Question of the amendment proposed)*

Any interventions? None!

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

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Okay; now you may go on, hon. Odhiambo-Mabona, to indicate exactly what you are proposing to amend, leaving out what has been taken care by the amendments that we have just move; hon. Koech's amendments have just been carried by the House.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT Clause 6 be amended

(b) by inserting the following new sub-clause immediately after subclause (7) -

(8) In rejecting any of the names submitted under sub-clause (2), the Cabinet Secretary shall attach a memorandum giving reasons for the rejection of the candidate or candidates.

The essence is to avoid misuse of Executive power by the Cabinet Secretary. That is in rejecting any name the Cabinet Secretary will need to give reasons, so that you do not reject somebody's name because you do not like the way they dress or you do not like their face.

**The Temporary Deputy Chairman** (Mr. Imanyara): For purposes of the HANSARD, you have withdrawn the first part.

**Mrs. Odhiambo-Mabona:** Yes, Chair, I have withdrawn the first part that talks about an open and competitive process.

**The Temporary Deputy Chairman** (Mr. Imanyara): We are dealing only with "b".

**Mrs. Odhiambo-Mabona:** Yes, Chair.

*(Question of the further amendment proposed)*

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I really have no objection to this, though our understanding is that when a panel sits to present names, they always give reasons. They cannot just present names and leave out names without any reasons. For avoidance of doubt, I have no problem with that.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Odhiambo-Mabona, your reaction to what hon. Koech is saying?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, in a place where common sense is very common usually that will apply, but we have short supply of it sometimes. It is useful for us to be very clear that, in rejecting a name, you need to give reasons, so that we do not misuse executive power.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Minister, are you happy?

**The Minister for High Education, Science and Technology** (Prof. Kamar): I am okay with that.

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

(Clause 6 as amended agreed to)

Clause 7

**The Temporary Deputy Chairman** (Mr. Imanyara): There is a proposal by the Chairman of the Committee, hon. Koech, and hon. Attorney General; I will come to the AG after Mr. Koech.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I bet to move:-

THAT, Clause 7 be amended—

(a) in subclause (1), by—

(i) deleting the letter “a” appearing immediately before the word “referred” appearing in paragraph (b);

(ii) deleting the word “and” appearing in paragraph (b) immediately before the word “holds” and substituting therefor the words “at least”;

(iii) inserting the words “and at least five years experience in leadership, management or academia” immediately after the word “Kenya”;

(b) in subclause (3), by—

(i) deleting the word “chairman” and substituting therefor the word “chairperson”;

(ii) inserting the words “ten years” immediately before the word “experience”;

(c) in subclause (4), by inserting the words “chairperson and” immediately after the word “Act”;

(d) in subclause (5), by—

(i) deleting the words “two and three” and substituting therefor the words “three and four”;

(ii) inserting the word “two” immediately after the word “which”;

(iii) deleting the words “other than *ex-officio* members” and substituting therefor the words “appointed under section 6(1) (d)”.

(e) by deleting subclause (7);

Mr. Temporary Deputy Chairman, Sir, the import of this is that when you give a Commission power to co-opt somebody into their membership, it has some indication that that person will become a Commissioner. So, we are replacing the word co-opt with the word “hire”.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Minister, your intervention, I would like to give the Floor to the Attorney General. Yes, Hon. Attorney General.

**The Attorney General** (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I want to get your guidance. As I had intimated earlier, I was not aware that we had left Clause 5 behind us, when I came to seek your guidance. But I was a bit concerned about the purport of Clause 5(3); I thought it will create a conflict in the law. I do not know whether I am within correct procedure to raise it now.

**The Temporary Deputy Chairman** (Mr. Imanyara): As the Chief Legal Adviser to the Government, obviously, you are not out of time.

**The Attorney General** (Prof. Muigai): Thank you. Mr. Temporary Deputy Chairman, Sir. I want to remind the House that less than a month ago, we enacted the Council of Legal Education Bill, which has become law. Its intention was to create exclusive authority to inspect all programmes relating to the study of law in the country. I think that has already commenced. I

would have persuaded my colleagues that we could retain free by just inserting something small and it will read as follows:-

For the avoidance of doubt---

**The Temporary Deputy Chairman** (Mr. Imanyara): Except hon. Attorney-General that we have already passed that stage, if you are on clause 5. You can actually move to recommit it.

**The Attorney General** (Prof. Muigai): May, I do it now, Sir?

**The Temporary Deputy Chairman** (Mr. Imanyara): No, at the end.

**The Attorney General** (Prof. Muigai): I am guided. Thank you for your guidance.

**The Temporary Deputy Chairman** (Mr. Imanyara): As you do so, also look at the provisions of the Medical Practitioners Bill regarding the specialized courses. Apart from law, I think there are several others. Perhaps, you and the Minister for Higher Education, Science and Technology may put your heads together, so that you can bring a recommittal proposal that takes into account all the other aspects.

So, we go back to what hon. Koech has already proposed. Madam Minister, it is now your turn. What is your reaction to hon. Koech's proposed amendment?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I have looked at the amendments from the Committee and I am satisfied.

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

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

*(Clause 7 as amended agreed to)*

#### *Clause 8*

**The Temporary Deputy Chairman** (Mr. Imanyara): There is a proposal for amendment by hon. Millie Odhiambo.

**Mrs. Odhiambo-Mabona**: Mr. Temporary Deputy Chairman, Sir, we have not yet disposed of my amendment to Clause 7.

**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, we overlooked that aspect. You should have been more alert. So, let us go back to it because we have not dealt with it.

Hon. Millie, move your further amendment to Clause 7.

#### *Clause 7*

**Mrs. Odhiambo-Mabona**: Mr. Temporary Deputy Chairman, Sir, I was alert but we are trying to deal with many issues at the same time. I actually tried to get your attention. I just wanted to withdraw the amendment formally because it does exactly what hon. Koech said. It means that we are bringing commissioners through the backdoor.

**The Temporary Deputy Chairman** (Mr. Imanyara): For the record, the HANSARD will show that the Mover has withdrawn her proposal for amendment to Clause 7.

*(Mrs. Odhiambo-Mabona withdrew  
her proposed amendment)*

*(Clause 7 as amended agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie Odhiambo, could you proceed and move your amendment to Clause 8?

*Clause 8*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended in Clause (8) by inserting the following new sub-clause immediately after sub-clause (3)-

(3A) Where a person who has vacated office under sub-clause (3) is not found culpable of any unlawful act by a competent legal authority, the person shall be reinstated to the position of a Commissioner.

Mr. Temporary Deputy Chairman, Sir, the essence of this amendment is to ensure that where a person was forced to vacate office because of any legal issue is not found culpable of any unlawful act by a competent legal authority, he should resume his position.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): What is your reaction, Minister?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am okay with the amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, there being no further interventions being sought, I will put the question.

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

*(Clause 8 as amended agreed to)*

*(Clauses 9, 10 and 11 agreed to)*

*Clause 12*

**The Temporary Deputy Chairman** (Mr. Imanyara): The Chairman of the Departmental Committee has an amendment to Clause 12.

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

THAT, the Bill be amended in Clause 12 by:-

(a) deleting the words “of the Commission” appearing immediately after the word ‘functions’;

(b) re-numbering the existing provision as sub-clause (1);

(c) inserting the following new sub-clause immediately after the re-numbered sub-clause (1)-



“(2) All appointments under this section shall take into account gender equity, ethnic and regional balance in accordance with the Constitution”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, Minister.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I have no objection.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well.

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

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

*(Clause 12 as amended agreed to)*

### *Clause 13*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie Odhiambo, you have a proposal for amendment to Clause 13.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)-

(gg) the core courses offered at the university;

(hh) the infrastructure in place or proposed infrastructure and the locations or proposed locations thereof, including that of constituent colleges, and which must comply with infrastructural standards established by the Commission.

Mr. Temporary Deputy Chairman, Sir, in this amendment, I am proposing that the University Charter should provide for the core courses of the university and any proposed infrastructure for constituent colleges.

I had severally raised this matter with the Minister before, and she said that we were waiting for The Universities Bill where we would incorporate standards of infrastructure. This is out of my concern about the low standards of infrastructure that we are providing for our universities.

*(Question of the amendment proposed)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, what is your reaction?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I would like to support new paragraph (gg), in respect of the core courses being offered at the university. However, when it comes to infrastructure, we have regulations, which actually look into infrastructure in detail. I have copies of those regulations and I will be happy to share them with hon. Members.

So, when the law talks of standards, which we have previously dealt with, at the point of accreditation, there is a whole sub-section dealing with the kinds of standards as far as infrastructure is concerned. So, I would suggest that the proposed paragraph (hh) does not have to come into the law itself because we have regulations which detail what standards are required at the point when we accredit a university. The regulations cover all the concerns that the hon. Member has shared with us today and even previously.

**The Temporary Deputy Chairman** (Mr. Imanyara): Millie, what is your reaction to that one?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I do not think what I am saying is at variance with what the Minister is saying. What I am basically saying is that the law is saying “provide for infrastructural standards” as established by the Commission whereas the Minister is talking about regulations. So, the regulations will give the details. In the parent law, we are saying that there must be infrastructural standards.

When we leave it to the regulations without providing for it as a concern in the parent Bill, we will continue to have problems. In fact, what the Minister is doing is proof of what I am saying – that we have regulations which nobody is obeying. So, unless the Ministry has regulations which provide that we shall have universities in market kiosks, which is what she is saying right now, we need to provide for that requirement in the Act, as a framework, and then the regulations that the Ministry has can give the details. So, I do not see any variance in what I am trying to do and what the Minister is suggesting.

**The Minister for Higher Education, Science and Education** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, there is no harm in doing what she has suggested. So, I yield. Let us accept the amendment.

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

*(Clause 13 as amended agreed to)*

*(Clauses 14 and 15 agreed to)*

#### *Clause 16*

**The Temporary Deputy Chairman** (Mr. Imanyara): Chair of the Departmental Committee, you have a proposal for amendment to Clause 16. Please, proceed.

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

THAT, the Bill be amended in Clause 16(1) by deleting the expression “section 5” and substituting therefor the expression “Section 15”.

Mr. Temporary Deputy Chairman, Sir, this is just for avoidance of doubt. It was a small error. It should have referred to Section 15, but what the Bill is referring to is Section 5. So, we are substituting “Section 5” with “Section 15”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, Minister.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, it was actually an error. It is supposed to be Section 15 and not Section 5. So, I am okay with the proposed amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): Prof. Muigai, I can see your request. Is it on this particular amendment?

**The Attorney-General** (Prof. Muigai):---(off-record)

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

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

*(Clause 16 as amended agreed to)*

*(Clauses 17 and 18 agreed to)*

#### *Clause 19*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Koech, you have a proposal for amendment to Clause 17.

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

THAT, the Bill be amended in Clause 19(2) by deleting the words “the Cabinet Secretary may deem appropriate” appearing in Paragraph (c) and substituting therefor the words “provided for in the regulations”.

Mr. Temporary Deputy Chairman, Sir, the amendment seeks to remove the words “the Cabinet Secretary may deem” and replace with “provided for in the regulations”. So, it should be very clear.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): What is your reaction, Minister?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree with the amendment.

*(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 19 as amended agreed to)*

#### *Clause 20*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, once again we have two proposals for amendment by hon. Koech and hon. Millie Odhiambo. Are the two amendments separate and distinct from each other, hon. Koech?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, Clause 20 provides for---

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Koech, just before we reach there, there are two proposals for amendment from you and Millie. I am asking whether the proposals are distinct from each other, so that we can deal with them separately or whether they overlap, so that we can find the areas of the overlap.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, the amendments are distinct. What I want to clarify is that even hon. Millie should actually make it very clear that we are referring to new academic programmes.

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, are you satisfied that the two proposals are separate and distinct, so that we could deal with them separately and serially?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, they are not distinct as far as part (b) of hon. Millie Odhiambo's amendment is concerned. Actually, the concern of the Chairman of the Departmental Committee is addressed by hon. Millie Odhiambo in part (b) of her amendment. Her dispute was the use of the words "may" and "shall". Looking at the amendment proposed by the Chairman of the Departmental Committee, since it refers to new academic programmes, then the word "may" will sell. Therefore, the amendment by hon. Millie Odhiambo is not necessary because we are dealing specifically with the new programmes that an institution may introduce or may not introduce.

**The Temporary Deputy Chairman** (Mr. Imanyara): What do you have to say to that, hon. Millie, before I go to hon. Koech? Millie, the Minister has said that your proposal is really taken into account in Mr. Koech's proposed amendment

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, if Mr. Koech's amendment seeks to deal with the new programmes, then it takes into account my concern. This is because my concern is that you are talking about a university that is already granted a charter, then they may develop. If they do not develop, what happens to the students?

**The Temporary Deputy Chairman** (Mr. Imanyara): That is precisely what the Minister was explaining.

**Mrs. Odhiambo-Mabona:** So, I am okay in respect to (d).

**The Temporary Deputy Chairman** (Mr. Imanyara): You have more than one?

**Mrs. Odhiambo-Mabona:** Yes, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): So with respect to (d), Madam Minister, that is withdrawn.

Let us now go to Mr. Koech to move his amendment.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT the Bill be amended in clause 20(1) by inserting the word "new academic" immediately after the word "its" appearing in paragraph (d).

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, are you satisfied?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): I am satisfied.

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Mrs. Millie Odhiambo-Mabona, the first part has gone out, so you are now moving the amendment which is set out in (a), (c) and (d). We will cross out (b), it is withdrawn.

*(Mrs. Odhiambo-Mabona's Clause 20(b) withdrawn)*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 20 of the Bill be amended in sub-clause (1) -

(a) by deleting paragraph (b);

(c) in paragraph (e) by inserting the following words immediately after the word "colleges"-

"which must conform to standards established by regulations made under this Act".

(d) by inserting the following new sub-clause immediately after sub-clause (1) -

(2) Notwithstanding the generality of sub-section (1), constituent colleges and campuses of universities shall not share premises with other businesses and shall not be situated near bus parks, bars and markets.

Mr. Temporary Deputy Chairman, Sir, part (b) has been withdrawn. In relation to (a) what the Bill provides is once a university is given a charter, then it shall develop the required physical facilities. I was a bit uncomfortable because then you are giving a university a charter when there is no university in existence; there are no physical facilities and yet we provide for interim letters. For me, if we want to give an interim letter, we should give it to those universities that then will set up those facilities. However, once you are giving a charter there must be a university. You cannot be giving a charter to an institution to then establish. That is why I am proposing that we delete (b).

In relation to (c), I am suggesting that in paragraph (e), we insert words immediately after the word "colleges" to provide for standards. The buildings must conform to the standards established by regulations that the Minister is saying are already there.

Mr. Temporary Deputy Chairman, Sir, in (d) to have a new sub-clause for clarity and avoidance of doubt that our universities and constituent colleges must have standards. I have harped on this throughout my stay in Parliament and so I am just basically saying that we cannot have universities and constituent colleges on top of bars, in bus parks and all the places we are seeing them. That is basically what my amendment is about. I know the Minister might tell me that there are regulations but again, I want to go by the same spirit and I am saying we are not obeying the regulations. There are some things that are of grave importance to us who are bothered about standards. Therefore, let the regulations give further details. However, the ones that are of grave concern should be put here because they are being disobeyed because they are in regulations. We want them in laws which are passed here and we have provided for by law.

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I want to agree with Millie on (a) which says we delete part (b). I am agreeing because we have inserted the first introduction in (hh) which has taken care of infrastructure. We can delete this because we have taken care of infrastructure in Clause 13 (hh) which had been introduced earlier. Actually, it does the same thing. We are talking about infrastructure in (b).

I have no problem with (c) which asks us to conform with standards. We can add that.

It is sub-clause (d) that is a little bit tricky. I know that this is what has bothered the hon. Member and most Members. It is about our satellite campuses being placed in bus parks, near bars and near markets. Again, I look at it and tell myself you can only regulate and so it can come under regulation. If you are putting such details here, then we will lose because it is more than this. When it comes to setting standards and when you look at the requirements of the charter itself and the regulations that are required, you will find that the details are more than this. Even mentioning bus parks, bars and markets, we have not talked about so many other places where we do not want to universities to be in. There are so many others that will be left out.

Mr. Temporary Deputy Chairman, Sir, I would suggest that if we have to retain, we retain everything up to line two, before it is “other businesses”. We remove “other” and say, “Incompatible businesses” without going for the details of bus parks, bars and markets in the law. So we delete from “and” all the way to the end but remove “other” and say, “incompatible businesses”, then we can take care of everything.

**The Temporary Deputy Chairman** (Mr. Imanyara): Indeed, that is can only be correct, Millie, because if you are to limit it to bus parks, bars and markets somebody may come and put it somewhere which is undesirable and say it is not a bus park, bar or market. I am sure senior counsel Mutula Kilonzo will explain to you the problems you will have in law if you dealt with it at the statutory level and not leaving at the rules. I think the Minister has a valid point there but it is up to you, Millie.

**Mrs. Odhiambo-Mabona:** I have agreed.

**The Temporary Deputy Chairman** (Mr. Imanyara): You have agreed? Therefore, you need to make further amendment to remove--- where does it end? Could you point out where it ends? Are you removing it all together?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I want to adopt the Minister’s wording and therefore propose my amendments with further amendment by providing, “notwithstanding the generality of sub-section (1) constituent colleges and campuses of universities shall not share premises with other incompatible businesses” and stop there.

**The Temporary Deputy Chairman** (Mr. Imanyara): So, the words: “with other businesses and shall not be situated near bus parks, bars and markets” are removed?

**Mrs. Odhiambo-Mabona:** It is all removed.

**The Temporary Deputy Chairman** (Mr. Imanyara): And replaced with what?

**Mrs. Odhiambo-Mabona:** Incompatible premises.

*(Question of the further 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 20 as further amended agreed to)*

*(Clauses 21 and 22 agreed to)*

*Clause 23*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 23 of the Bill be amended in sub-clause (2) by inserting the words “in any event not later than three months” after the word “practicable”.

Mr. Temporary Deputy Chairman, Sir, the essence of this is to ensure that the University Council has a timeline to when they submit the statute of regulations. So, I am giving a three month period because if you leave it open, that never gets to be done in this country.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): I agree with Mrs. Odhiambo-Mabona.

*(Question of the amendment proposed)*

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

*(Clause 23 as amended agreed to)*

*Clause 24*

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

THAT the Bill be amended in Clause 24 by:-

(a) Inserting the words “the commission through” immediately after the words “recommendation of” appearing in sub-clause(1);

(b) Inserting the words “ and with approval of Parliament” immediately after the word “Cabinet Secretary” appearing in sub-clause (1).

*(Question of the amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*(Clauses 25 and 26 agreed to)*

*Clause 27*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)-

(3) Any foreign university approved under sub-clause (2) must first submit proof of accreditation from its country of origin to undertake university education in Kenya.

(4) The Cabinet Secretary shall, at the beginning of each year and thereafter each quarter of the year, cause to be published in at least three newspapers of national circulation, the list of universities accredited to undertake university education in Kenya.

(5) The Cabinet Secretary shall set up a department of accreditation whose mandate shall include undertaking research on universities to be accredited, undertaking research on universities worldwide and classifying their standards and advising students wishing to undergo university education on universities abroad and in Kenya that are accredited.

(6) Any person who purports to offer a degree through a university that is not accredited commits an offence and shall be liable upon conviction, to a fine of not less than 3 million Kenya Shillings or to a sentence of imprisonment of not less than 3 years or to both such fine and imprisonment.

(7) Where the Government neglects or fails to inform members of the public about a university that is not accredited and allows the university to enroll and purport to train students, the Government shall compensate the students for any loss occasioned as a consequence of any such subsequent action in relation to the university.

Mr. Temporary Deputy Chairman, Sir, I have several proposals for amendments in Clause 27. I am proposing that we have new sub-clauses immediately after sub-clause 2; that is, sub-clause 3, which is indicating that any foreign university must submit proof of accreditation from its country of origin. This is because we have had problems with universities who come into this country and they are not accredited in their own countries and then we have our student suffering because they pay fees and go through those universities which are not accredited. Recently, we saw a case where there was a push and pull regarding Kampala International University.

In new sub-clause (4) up to sub-clause 7, all of them are to ensure that we deal with this problem. Where our students go through university education, put in money for years and then they are told we are sorry that university was not accredited. So, we are making that a Government responsibility. One, to ensure that those universities are accredited and two, that the Cabinet Secretary must advertise in two newspapers of nationwide circulation in the country every three quarters of a year - because students go to school very often - which universities are accredited and which ones are not.

The Cabinet Secretary should also set up a department of accreditation whose mandate shall be to undertake research on those universities and advise Kenyan students both abroad and locally and also making it an offence to offer degrees when you are not accredited.

The Bill will also force the Government to pay for any damages where they do not exercise due diligence. Kenyans who are very poor and are struggling, put in all their life-long investments into their children's education, then the Government tells them that was a wrong university. The Government must pay you if it fails to inform you because it is not the



responsibility of citizens to know which university is accredited. The Government has the machinery to do that.

So, that is the essence of all my proposed amendments in sub-clauses 3, 4, 5, 6 and 7.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I must thank Mrs. Odhiambo-Mabona for enriching this section. We have looked through the amendments that she has given. We will take sub-clause 3 as it is, because that is an extra addition which only strengthens our vigilance on foreign universities.

In sub-clause 4, the only word we want to change is “the Cabinet Secretary shall”. It should be “the Commission shall” because it is part of the functions of the commission.

Sub-Clause 5---

**The Temporary Deputy Chairman** (Mr. Imanyara): Let us just pause there so that we get whether Mrs. Odhiambo-Mabona has accepted.

**Mrs. Odhiambo-Mabona:** I am agreeable to both, Mr. Temporary Deputy Chairman, Sir.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Sub-Clause 5 is already a function of the Commission. So, I would suggest that we do not need to have that because we have already set up a department of accreditation in the new Commission for University Education. So, that is also done.

**The Temporary Deputy Chairman** (Mr. Imanyara): Let us pause there. Mrs. Odhiambo-Mabona, did you get the Minister’s proposal?

**Mrs. Odhiambo-Mabona:** Yes, Mr. Chairman, Sir. Actually I had put my amendment. It is just that I did not have time to remove it. So, I am agreeable.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well.

Madam Minister, continue.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, in sub-clause 6 on making it an offence, yes, we agree wholesomely with what Mrs. Odhiambo-Mabona has said. But when you go to sub-clause 7, once you have accepted sub-clause 4 which makes it mandatory for the Commission at the beginning of each year and each quarter of an year to publish universities that are accredited, we do expect that once we obey that, the offence in sub-clause 7 will not be there. But further, the offender at this stage will be anybody who will be issuing a programme that is not accredited. All those which will be accredited will be published although we are publishing now continuously in the Commission’s website. We are even encouraging parents and students to look at that. So, sub-clause 7 actually then does not arise.

So, I suggest that we delete sub-clause 7.

**The Temporary Deputy Chairman** (Mr. Imanyara): Let us pause there. Mrs. Odhiambo-Mabona, are we together? Let us go back to the entire clause and read it afresh with the amendments that you have agreed with. So, just mark and then when she finishes, I will give you the opportunity to go through the amendments in totality so that you do not get anything wrong.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, my understanding is that she has finished.

**The Temporary Deputy Chairman** (Mr. Imanyara): Is that correct, Madam Minister?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Yes, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well. Before that, Mr. Koech had something to say.

**Mr. Koech:** Let me, first of all, thank Mrs. Odhiambo-Mabona for this proposal. But I want to support the Minister's position that it should be the Commission that shall cause the publishing of the accredited universities. But looking at sub-clause 6, a university makes mega-profits and therefore, to allow it to pay Kshs3 million, I am foreseeing a situation whereby people will be breaking the law because the amount that they will pay is so little. Since we want to stop this once and for all, I would plead that this penalty should go to Kshs10 million.

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, what is your reaction to that before I go to hon. Millie?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I have no objection to that. We will accept anything that can deter this kind of action.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie, before I give you an opportunity, quite a number of your colleagues want to intervene. I will start with Prof. Muigai.

Are you on this one, Professor?

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, my only interest, as you guided me earlier, is that there is a submission of Clause 5, unless I have misled you by---

**The Temporary Deputy Chairman** (Mr. Imanyara): Withdraw your request on your machine, so that I am not misled.

**The Attorney General** (Prof. Muigai): I apologize, Mr. Temporary Deputy Chairman, Sir.

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, while I agree with all the proposals, especially the one raising the penalty to Kshs10 million, I think that this is the first time that we will have a clause that is limiting a fine to "less than." I do not know whether there is any other part where we have got "not less than." It should be "not more than," because if you say "not less than Kshs10 million", somebody can come and slap you with a fine of about Kshs100 million and it will never be possible. So, we should either make it "not more than Kshs10 million" or "not more than three years or both such fine and imprisonment."

**Mr. Ruto:** Mr. Temporary Deputy Chairman, Sir, I think most of what the hon. Member has raised is valid, except in "(7)" which is a little bit excessive. It ought to be removed because you cannot continue to punish the taxpayers in general. Maybe she should have created an offence for the body that should have published. Anyway, if it is published, then we are okay. There is no need for "7".

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, we need not raise very punitive bars in terms of discouraging investment in this country. With a credible Commission in charge of accreditation, raising the penalty to Kshs10 million will not be prudent. I am suggesting that we raise it to Kshs6 million to allow investment in this sector.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie, you can now respond to all those issues. After you respond, go through the amendments in the format and language that you are actually proposing.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, let me react to "(4)." I am agreeable to the Commission. I think that it is the mandate that it has in the Bill.

Mr. Temporary Deputy Chairman, Sir, in relation to “(6)”, again, I think when we say “not more than” then it means that we are giving discretion where somebody can be fined even Kshs200,000 and yet, you have exploited millions; and these are profit-making institutions.

Mr. Temporary Deputy Chairman, Sir, in relation to “(7)”, I know that many of us are very hesitant whenever we want to introduce the concept of due diligence on the Government, because there are certain acts that are the authority of the Government. It is a principle that was established in the Inter-American Court, in the case of Velasquez Rodriguez. I will be happy to let it go, because then we can still argue it in court. But I think that when the Government fails in its due, it should not be the burden of the taxpayer. It should be the responsibility of the Government to protect its citizens and not vice-versa. But I am happy to let it go because we can argue some of them in court.

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

THAT Clause 27 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)-

(3) Any foreign university approved under sub clause (2) must first submit proof of accreditation from its country of origin to undertake university education in Kenya.

(4) a new sub-clause (4) be inserted with a further amendment replacing the words “Cabinet Secretary” with the word “Commission”;

(5) The Cabinet Secretary shall set up a department of accreditation whose mandate shall include undertaking research on universities to be accredited, undertaking research on universities worldwide and classifying their standards and advising students wishing to undergo university education on universities abroad and in Kenya that are accredited.

(6) by amending the word “3 million” and replacing with the word “10 million”;. It will read as follows:

“Any person who purports to offer a degree through a university that is not accredited commits an offence and shall be liable upon conviction, to a fine of not less than 10 million Kenya shillings or to a sentence of imprisonment of not less than 3 years or to both such fine and imprisonment.”

(v) by withdrawing sub-clause (7).

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well. Minister, are you happy with that formulation?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I had appealed that we also remove sub-clause (5) because it is already a function of the Commission. The Commission already has a Department of Accreditation in the Ministry. I think she had mentioned that.

Mr. Temporary Deputy Chairman, Sir, that is the only one.

**Mrs. Odhiambo-Mabona:** I am sorry, Mr. Temporary Deputy Chairman, Sir. We had actually agreed on that. I am withdrawing sub-clause (5) because it is already provided for. So, the ones I have moved are (3), (4) and (6), with an amendment of Kshs3 million to Kshs10 million. I have also withdrawn (7) and renumbered them accordingly.

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, I still require some guidance on sub-clause 6, especially on that wording of “not less than;” whether it is “not more than.”

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie, in other words, you need to explain whether you are setting the minimum or maximum. The hon. Members are interested to know what your intention is.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I am setting the minimum and not the maximum. This is because these are very poor people who are being exploited. I know what it is to take somebody through university education. People sell their goats and cows and these people make profits. Why are we protecting them?

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well. You have made your point. Capt. Wambugu, it is “minimum” and not “less.” Have you understood now?

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, then I would propose that it reads: “To a fine of 5 million Kenya Shillings or 10 million Kenya Shillings and a sentence of imprisonment of either five years or whatever number of years or both fine and imprisonment.” But we need to have a fixed figure because if we leave it open---

**The Temporary Deputy Chairman** (Mr. Imanyara): You will have to persuade the Mover to move, unless you are proposing an amendment.

Mr. Koech, what is your contribution on this? I can see you have a request here.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, actually, I was not requesting. I think you had not switched me off but I just wanted to plead with my colleague here that when we talk about a university, we are talking of school fees of not less than Kshs500,000 per year. So, really, if somebody is cheated into spending over Kshs3 million, and thereafter, told that he cannot be given any opportunity to practice, I believe that a minimum of Kshs10 million is okay.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, it appears that everybody is happy. Therefore, I will now put the Question.

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

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

*(Clause 27 as further amended agreed to)*

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

### *Clause 31*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 31 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (e)-

(f) the establishment of a scholarship fund for indigent students;

Mr. Temporary Deputy Chairman, Sir, this is to set up a scholarship fund for needy and poor students who cannot afford university education.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I think that this one will be misplaced. The Commission for University Education does not involve itself in funding. We have the Higher Education Loans

Board (HELB) which is covered under a different law. The HELB is the one that sets scholarships as well as loans and bursaries for students. So, this one will not apply here, because the Commission is a regulator and not a financier.

**Mr. Koech:** Mr. Temporary Deputy Chairman, I want to plead with my colleague that this section actually refers to the financial provisions relating to the Commission itself and we already have a different Commission for Higher Education Loans Board that would deal with what hon. Millie Odhiambo would want us to deal with now.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie.

**Mrs. Odhiambo-Mabona:** It is okay, Mr. Temporary Deputy Chairman. I will bring that amendment in the appropriate place.

**The Temporary Deputy Chairman** (Mr. Imanyara): Therefore, that is withdrawn? Can you confirm that you have therefore withdrawn it?

**Mrs. Odhiambo-Mabona:** Yes, Mr. Temporary Deputy Chairman. I will withdraw that and bring it at the appropriate time and place.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well. I will now put the question.

*(Proposed amendment to Clause 31  
by hon. Odhiambo-Mabona withdrawn)*

*(Clauses 32 and 33 agreed to)*

#### *Clause 34*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we have two proposals for amendments – one from hon. Koech and the other one from hon. Millie Odhiambo. Mr. Koech, please, confirm that they are separate and distinct and that we can deal with them serially.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I have just consulted with hon. Millie Odhiambo and what she was actually proposing, I have already taken care of it in my proposed amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): So, is she withdrawing her proposal?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, she is withdrawing her proposal and that is why she is not even in the House now.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Minister?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, I want to say I agree that the amendment of hon. Millie has already been taken care of by the Chairman's amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): I take it that you have an undertaking from hon. Millie Odhiambo who is not in the Chamber now that she is withdrawing.

*(Hon. Odhiambo-Mabona entered the Chamber)*

**Mrs. Odhiambo-Mabona:** Yes, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie Odhiambo, you do not talk to the Chair from the back and I would like you to confirm formally that you are indeed withdrawing your intended amendment. Hon. Millie-Odhiambo, I am waiting for your confirmation that you have withdrawn your intended amendments.

**Mrs. Odhiambo –Mabona:** Yes, Mr. Temporary Deputy Chairman, Sir, to Clause 34.

*(Proposed amendment by hon. Odhiambo-Mabona  
to Clause 34 withdrawn)*

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I also have an amendment to Clause 34.

**The Temporary Deputy Chairman** (Mr. Imanyara): I just want to confirm from the Order Paper that we do have it. Hon. Midiwo, was your proposed amendment approved? Let me just finish with this one and then I come to yours. Therefore, hon. Members, I put the question. Sorry. Order! I am so sorry. When you said that hon. Millie had withdrawn and yours was the only one, I thought you had dealt with it but you may proceed.

**Mr. Koech:** Thank you, Mr. Temporary Deputy Chairman, Sir. I want to request because you had actually confirmed that she wanted to withdraw---

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

THAT, Clause 34 be amended by:-

(a) deleting the words “publish them” appearing in paragraph(a)(ii) in sub-clause(1) and substituting therefor the words “cause them to be published”;

(b) deleting paragraph (a)(v) and substituting there for the following new paragraph-

“(v) in the case of a public university, recommend for appointment the Vice-Chancellor, Deputy Vice-Chancellors and principals of constituent colleges through a competitive process; and”

*(Question of the amendment proposed)*

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

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Now, hon. Midiwo, we do not any approved or an approved further amendment to Clause 34 at the Chair’s Table. Could you share it with us and hon. Members, do you have it? Does any hon. Member have a circulated amendment from hon. Jakoyo Midiwo? Has it been circulated? Hon. Minister, have you seen any proposal from hon. Jakoyo Midiwo?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): No, Mr. Temporary Deputy Chairman, Sir. I have not seen it. I thought maybe he was amending what hon. Koech has so that we carry it on the same amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): All right. Let me read it because it appears to have been approved by the Deputy Speaker at some point during the course of today.

Hon. Minister, just listen to me. This is what hon. Midiwo is proposing to amend Clause 34(2) by deleting the words “the approval of “and replacing them with the words “consultation with”. So, maybe I can allow him to explain now that this document appears to have been approved by the Deputy Speaker. Can you explain the proposal that you are making hon. Jakoyo Midiwo?

**Mr. Midiwo:** Yes, Mr. Temporary Deputy Chairman, Sir. The amendment is one of those that I had told you that the Deputy Speaker had approved and that was circulated as I sat here. So, maybe I was the only one who was given but it was given to me by the Clerks.

**The Temporary Deputy Chairman (Mr. Imanyara):** Explain it.

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, what I am trying to do and if you read Clause 34(2) it says:

“Notwithstanding the generality of the provisions of subsection (1), the Council of a private university shall be appointed in accordance with provisions of the Charter, and such a university may, with the approval of the Commission, establish additional governance organs including a Board of Trustees or its equivalent, as the sponsor may deem appropriate.”

Mr. Temporary Deputy Chairman, Sir, my logic is that these are private institutions and what they need is consultations with the Commission. I think that is a neater way to do that process so that they are guided as they choose their governance structures. I think it actually cleans up the clause.

*(Question of the amendment proposed)*

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I want to understand the import of this by my good friend hon. Midiwo but my understanding is that if you talk of consultation, then really there will be no documents to prove that that particular Board of Trustees has been given mandate. My understanding is that the approval even for the charters are developed even by the same universities but the Commission will look at it to approve and in approval, we expect some documents to prove that the Commission is aware of this. So, I really want my colleague to understand that the Board of Trustees could actually be within the charter itself if the university so wishes and there is nothing really difficult here where the Commission should be aware of the structure of any institution that is mandated to carry the higher education job.

**The Temporary Deputy Chairman (Mr. Imanyara):** I hear you to be opposing the amendment. Hon. Minister.

**The Minister for Higher Education, Science and Technology (Prof. Kamar):** Mr. Temporary Deputy Chairman, Sir, maybe it was not clear to me exactly what the amendment would be. If it is just the word “consultation”, I would like to agree with the Chairman of the Education Committee that the charter itself is approved and since it is approved, what we are giving further is to give the private university room to be more creative and to bring anything else after the charter has been approved. In fact, it is what will stimulate their growth. We do not want to restrict them to the day they submit the charter. We want to open room and have flexibility for them. So, it is for the good of the private institutions that we are providing that.

**The Temporary Deputy Chairman (Mr. Imanyara):** Hon. Midiwo, are you persuaded?

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, not quite. The Minister has explained it correctly except that she is saying they do not want to constrict the activities of the approved charter. By saying “approval of the Commission”, that is exactly what it is doing. It is not giving them room to be innovative and creative. That is what I am trying to do. I see a

scenario where this approval may have to be given to people in small doses like medicine, but I want a consultative process that will make universities come out and be innovative and creative.

**The Temporary Deputy Chairman** (Mr. Imanyara): Any Member wishing to contribute before I ask the Minister to respond? Minister, let us hear Mr. Njuguna first and then you can respond.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, in my view, consultation will not entail the creation of governance organs by the university, but the approval will facilitate the creation of these separate organs at the university, allowing it, therefore, to thrive and expand. So consultation, in my view, does not create the necessary environment. I oppose the idea.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the spirit with which the Member is moving this amendment is exactly the spirit with which the clause is intended. Approval does not mean that you submit and people are going to scrutinize you. It is saying that already you have a charter and it has been approved. They might discover that universities elsewhere are more dynamic and have other governance organs that they would like to introduce for themselves. Consultation will not help them because you do not have to consult the Commission as a private investor. We are giving them room to introduce new governance structures that they deem will be useful to them and take them as part of the instruments, so that they are attached to their own charters. We do not want them to be restricted to the day that they submit the charter. We want them to have any other introductions and submit them. So, it is not restricting them. In any case, for an investor, the additional governance organs cannot be restricted by the Commission for any reason. They would be doing it only to improve otherwise it will be a cost to them to have other organs. So, it is clear that they may want to vary after they have submitted the charter and we are saying that for those ones, they just bring them in and register with the Commission.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Midiwo, do you really want us to go to a vote on this matter?

**Mr. Midiwo:** No, Mr. Temporary Deputy Chairman, Sir. I withdraw.

*(The amendment by hon. Midiwo is withdrawn)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, I will put the question that Clause 34 be amended as proposed in the Order Paper by Mr. Koech, hon. Midiwo having withdrawn his proposal for amendments.

*(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 34 as amended agreed to)*

*Clause 35*

**The Temporary Deputy Chairman** (Mr. Imanyara): There are two proposals for amendment by both hon. Koech and Mrs. Odhiambo-Mabona. Hon. Koech, as I asked



previously, will you confirm that these are two separate and distinct amendments, so that we can deal with them separately?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, looking at Mrs. Odhiambo-Mabona's amendment, again, she is talking of openness and a competitive process. If you look at my amendment, again, it captures that spirit.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mrs. Odhiambo-Mabona, will you confirm that, in fact, your concerns have been addressed by the Chair of the Departmental Committee on Education, Research and Technology?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I confirm. So, I withdraw.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Koech, Mrs. Odhiambo-Mabona having withdrawn her proposed amendment, you can now introduce yours as the only proposal for amendment.

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

THAT, Clause 35 be deleted and replaced with the following new clause-  
Council of a Public university. 35. (1) The council of a public university or constituent college of such a university shall consist of nine persons appointed by the cabinet secretary as follows-  
(a) Chairperson;  
(b) Principal secretary in the Ministry for the time being responsible for the university education;  
(c) Principal secretary in the Ministry for the time being responsible for Finance;  
(d) five members appointed by the Cabinet Secretary through an open and competitive process  
(e) the Vice-Chancellor who shall be an ex-officio member of the Council.  
(2) The provisions relating to the qualifications of the chairperson and members of the commission in section 7 shall apply, with necessary modifications, to the chairperson and members appointed under subsection (1)(d).”

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I have one comment to make. The Chairman certifies in Clause 1(d) that five members are appointed by the Cabinet Secretary through an open and competitive process. These are members of the council and open, yes, but competitive, they will not even want to apply. If you are asking a bank manager to assist you to be a member of the council and you want to interview them, they will not want to be involved yet for the council, you want lawyers, bankers and everybody to assist the universities in development. So, I would like to accept everything except the word “competitive” because they cannot apply and be subjected to interviews but I agree to openness.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Koech, you appear to have been persuaded by the Minister.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, we had consulted. Therefore, I am proposing a further amendment to my amendment to delete the words “and competitive”. Therefore, it will read “five members appointed by the Cabinet Secretary through an open process”.

**The Temporary Deputy Chairman** (Mr. Imanyara): So it is the amendment without the word “competitive”.

**Mr. Koech:** Yes, Mr. Temporary Deputy Chairman, Sir. It is without the words “and competitive”.

**The Temporary Deputy Chairman** (Mr. Imanyara): Which is what the Minister was requesting of you?

*(Question of the further 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 35 as amended agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, perhaps, you need to consider whether you want to complete this business today because the rate at which we are moving, we are unlikely to finish at 6.30 p.m. So, perhaps you can consult the Front Bench or the Leader of Government Business and see whether you want to introduce a continuous sitting, so that we can complete. Looking at the remaining clauses and the time we have taken on what we have covered, we are very unlikely to finish before 6.30 p.m. That is something for you to think about. There will be no harm in making that proposal and if we finish early, well and good, but if we do not, then we are not caught by the limitations. Consult your colleagues and as we continue, let us know.

*(Clause 36 agreed to)*

*Clause 37*

**Mr. Wambugu:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, clause 37 be amended in sub-clause (3), by deleting the word “titular”

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I looked at the amendment by the hon. Member; by deleting the word “titular”, we will be mixing up the roles of the chancellor, the university management and the university council. “Titular” in the Oxford Advanced Dictionary has the following meaning:-

“It is having a particular title or status but no real power or authority”

This Bill in one of the sections gives power to the chancellor. It is important that we have our chancellors as titular, and this is how it is the world over. It is meant to avoid the temptation of a chancellor getting into the governance of the universities or getting into the management of the universities, which is very dangerous. In this country, for a very long time, the Chancellor was the President. It was in 2005 when the current President decided to give up that role.

The reason a chancellor is titular is to enable that powerful or prominent Kenyan to do the functions that have been outlined in sub-clause (3), that is to be the head of the university and in the name of the university confer degrees and grant diplomas, certificates and other university awards. The chancellor may also from time to time recommend to the Cabinet Secretary in the case of a public university, and the board of trustees in the case of private university, a visitation of the university. That is, if there is a problem in the university and they realize that they need to be inspected--- In fact, the chancellor will not inspect, but will recommend that the inspection be done and it will be done; it is only the chancellor who can demand for an inspection.

The same chancellor may from time to time give advice to the council which the chancellor considers necessary for the betterment of the university. This enables a Chancellor, who feels that there is need to improve the university in a certain way, to give that advice. The danger in removing titular will be that it will mean that we are allowing the position of the chancellor to be used beyond these set duties that they have been given. We would like the respect of the chancellor to be maintained. We want the honour that is normally given to the chancellor to be maintained. The wise counsel and advice that the chancellor gives to the council will be considered without ever having the chancellor becoming part of the governance organs. What I am saying is that it is very important that the chancellor remains titular. It is traditionally so in all universities.

**Mr. Wambugu:** Mr. Temporary Deputy Speaker, Sir, I have followed the argument by the Minister very closely; surely, I do agree with all the definitions in the dictionaries. I had also looked at that. My argument was that if we are going to include that, then we will be watering down the other functions of the chancellor. That is why I am still proposing and convincing hon. Members to look at that. If that chancellor is going to perform other duties that are mentioned in Clause 37(3), and they are to be effective, he should have authority.

**The Temporary Deputy Speaker** (Mr. Imanyara): Chairman of the Committee, what is your view on that?

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I want to persuade my good friend here to accept that this was well-informed and well-intended. This is informed by what happens all over the world. This could be revisited later on if need be. What we are trying to say here is that for the first time in the history of Kenya, this Bill is actually removing the President from being the chancellor and we are now putting in other people.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Wambugu, I hear the mood in the House. Do you still want to push this for a vote? The Chairman of the Committee is really persuading you and he speaks with a lot of authority, being the Chairman of the Committee on Education, Research and Technology.

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, we had consulted on this issue before but now things are looking different. I am persuaded to agree with the Minister and also the Chair. It looks like I have no support on this one.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well, I will now take it that there are no proposals for amendments to Clause 37; therefore, I will put the question.

*(Proposed amendment by Mr. Wambugu dropped)*

*(Clause 37 agreed to)*

*Clause 38*

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, we do have two proposals for amendment again by the two gentlemen sitting next to each other; that is Mr. Koech and Mr. Wambugu. Mr. Koech, would you please indicate to the House that these two proposals for amendments are distinct and separate and can be dealt with separately?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I just want to make it clear that mine is actually a very small amendment to make the statement flow by inserting the word “in”. I also want to persuade my good friend that having now agreed on the functions and work of a chancellor--- This proposal is to replace the Cabinet Secretary with the chancellor, I believe he is now persuaded that it may not be the work of the chancellor to appoint vice-chancellors.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, what do you have to say to that?

**The Minister for Higher Education, Science and Technology** (Pro. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree with what the Chair of the Committee has said. I concur.

Regarding the amendment for the chancellor to appoint a vice-chancellor, I would like to persuade him to accept him that when His Excellency the President gave up his powers for public universities have other chancellors, there was another move, and this is going on in the whole country. Vice-chancellors are appointed competitively. This has worked very well; Vice-Chancellors apply for the position, they are interviewed, ranked and the best is given the job. Nominating a vice-chancellor is something of the past.

**Mr. Wambugu:** I think there is something which is not coming out very clearly.

**The Temporary Deputy Speaker** (Mr. Imanyara): In that case, we will come back to you later. Let us deal with Mr. Koech’s amendment and then come back to yours.

**Mr. Wambugu:** I do agree with the insertion in the case of public universities.

**The Temporary Deputy Speaker** (Mr. Imanyara): So, we should deal with them separately.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Bill be amended in Clause 38 by inserting the word “in” immediately before the word “the” appearing in paragraph (a) of sub-clause (1).

*(Question of the amendment proposed)*

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

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

That, clause 38 of the Bill be amended- in paragraph (a) by deleting the words “Cabinet Secretary” and substituting thereof the word “chancellor”

Mine is just to remove or delete the words “Cabinet Secretary” so that Clause 38 reads:-

“The Vice Chancellor of a Public University shall be appointed, in the case of a public university, competitively - I want the Minister to hear this - by the Cabinet Secretary.”

However, it will now read; “--- by the Chancellor on the recommendation of the council”.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, as I explained earlier on, the role of the chancellor was first handed over by the current President. We now have very many chancellors. The role of the Cabinet Secretary is absolutely nothing but gazettment. In fact, for the vice-chancellor, there is competitive sourcing by the councils themselves. So, there is no role on appointment by the Cabinet Secretary except to gazette what has been recommended. That is what is going on currently for both principals of colleges and vice-chancellors. Therefore, they are not appointees of the Cabinet Secretary.

The Cabinet Secretary sieves the competitive results from the councils and that is how the appointment is done. Therefore, the Cabinet Secretary does not appoint vice-chancellors. Even if you gave the role to the Chancellor, it will still come back for gazettment and this has to be done by the Cabinet Secretary. So, the current situation is that interviews are done and the universities councils pick their vice-chancellors and forward the recommendations for gazettment by the Cabinet Secretary. If it is not clear, we can make it clearer. Otherwise, the procedure is such that it is not the Cabinet Secretary who does it. This is an appointment that is already delegated to the councils.

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, as our Minister has clearly said, there is no role that the Cabinet Secretary will play in the appointment. That is why within the structure of the appointments we are still trying to make the running of the universities to be completely autonomous and without any interference from the Government. That is why my proposal reads that the appointment of the chancellor will be by the President and the chancellor should appoint the vice-chancellor competitively through all the other structures that are there. It is just as simple as that. That is what I was trying to explain.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I really want to plead with my colleague to realize that, first, the chancellor’s job is not a full time job. Therefore, going round to look for the chancellor to sign a letter is neither here nor there. What I wanted my colleague to understand is that we are having a due process in which the vice-chancellor will be appointed. The work of the Cabinet Secretary, as the Accounting Officer--- If we are to summon anybody as Parliament, really to summon a chancellor, who is never in the office, would be something else. I would rather we have a Cabinet Secretary who is answerable to this House. I want to plead with the hon. Member to withdraw that amendment.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, let me as a matter of persuasion say that the freedom or the autonomy that the universities have received in the recent past, after the chancellors were nominated rather than have the President, is very good that we do not want to go back on it. The competitive way of sourcing vice-chancellors is one of the best things that ever happened to the universities and I want to confirm that it is not the Cabinet Secretary who appoints. The Cabinet Secretary’s role is to gazette because he is the head of the sector. So, this is for the purpose of receiving and gazetting.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, I support the proposition by the Chairman of the Committee on Education, Research and Technology which spells out the role of the council other than the Cabinet Secretary. He is nowhere. He is the Chair.

**Mr. Midiwo:** Mr. Temporary Deputy Chairman, Sir, hon. Njuguna has taken words out of my mouth. I want to persuade my friend, Capt. Wambugu that these amendments as proposed by the Committee go through very wide consultations. To me, what the Committee is proposing is neat. I want to persuade Capt. Wambugu to withdraw his amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): Capt. Wambugu, from where I sit, I can tell the result although I do not want to preempt it. I am reading the mood of the House. Do you want me to put the question?

**Mr. Wambugu:** Mr. Temporary Deputy Chairman, Sir, going by the mood of the House – it seems as if it is only the Departmental Committee on Education, Research and Technology Members who are in the House – I have no other way of proceeding.

*(Mr. Wambugu withdrew his further amendment on Clause 38)*

**Mr. Baiya:** Mr. Temporary Deputy Chairman, Sir, I also want to beseech my colleague here to withdraw his amendment. I believe that the spirit of what he wants to achieve has been clearly explained and achieved. They have removed the President from the universities.

**The Temporary Deputy Chairman** (Mr. Imanyara): He has already been persuaded. I thought you were on a point of order. Capt. Wambugu, having withdrawn the proposal to amend Clause 38 further, I will now put the question as proposed by hon. Koech.

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

*(Clause 38 as amended agreed to)*

Thank you, Capt. Wambugu, for reading the mood of the House and for facilitating our work.

*(Clause 39 agreed to)*

*Clause 40*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 40 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “elected by the student body as provided in its Charter”

(b) by inserting the following new sub-clause immediately after sub-clause (2)-

(3) Every university shall have a students’ council elected by the Students Association and no more than one third of the persons who sit in the Students Council shall be of the same gender.

Mr. Temporary Deputy Chairman, Sir, Clause 40, as it currently, says that every university shall have a Students Association elected by the student body as provided for in the charter.

This basically means that there will be a student body, which will, for example elect SONU. So, which is this student body which will be electing SONU? I think the Minister meant

well but the wording is not correct, unless she persuades me. So, my amendment seeks to make clear what I presume the Minister intended to do, which is to establish a student association which can, therefore, elect a Student Council. That is what my amendment seeks to do - to delete the words, elected by student body as provided by the charter and inserting a new sub-clause (2) that provides for an election of a council that is gender representative.

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the first one is elected by student's body as provided by the charter. The intention of that is that the universities will articulate in the charter how the student's body is formed; once that has been formed then. I am accepting what hon. Odhiambo-Mabona has given in "d" because a student's association can have a council that will steer it. In Clause 1, we are establishing the students' association. We are saying the association must be elected---

Sorry, Mr. Temporary Deputy Chairman, Sir; I would like to accept that amendment. The body itself is not being elected. It is the council that is going to be elected. So, thank you. I would like to accept the amendment that we delete "elected" because the students' body will be established as per the charter and that is it.

**The Temporary Deputy Chairman** (Mr. Imanyara): The Chairman of the Education Committee.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, let me first thank hon. Odhiambo-Mabona for this very well thought out proposed amendment, but I want to go further to seek some clarifications. If this carries the day then what hon. Odhiambo-Mabona is suggesting is that every university shall have a students' council elected by the students association, and no more than one-third of the persons who sit in the students' council shall be of the same gender. My understanding of that is that even after being elected to have at least one-third they may not be able to sit and transact business unless there is one-third. Maybe, there is need for you to re-craft this. We should say that the council should not have more than one-third of either gender.

Mr. Temporary Deputy Chairman, Sir, two, if that carries the day, then 40(2) should now give us the functions of a students' council, not the students' association. So, there is need also to amend 40(2) to read "students' council" and not "students' association".

**Mrs. Odhiambo- Mabona:** Mr. Temporary Deputy Chairman, Sir, I agree with the Chairman, except that I did not get the last bit about the gender. Perhaps, he could draft something for me; I am willing to move it because I think he means well. For 40(2), I wish to suggest that if the first two amendments I am proposing carry the day--- The Minister is the one who has the authority to move such amendment, because I do not have it. She could move an amendment to delete the word "association" in 40(2) and replace it with "council" because then it will be their mandate. The whole association cannot do this. You cannot have the whole students' association or body doing this.

**The Temporary Deputy Chairman** (Mr. Imanyara): You have asked hon. Chairman of the Committee to assist you. Could you indicate to the Minister the proposal that you have made, so that she could adopt it? She is the one who can introduce that amendment. You can suggest it and if it is carried she can move it.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, let me propose this for the benefit of my good friend here.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Minister, please note what he is proposing.

**Mr. Koech:** I actually want to move a further amendment to hon. Odhiambo-Mabona's amendment to delete the words "persons who sit in the students--- It will read:-

"Every university shall have a students' council elected by the students' association and no more than one-third of the council shall be of the same gender".

I hope you understand the import of that. Two---

**The Temporary Deputy Chairman** (Mr. Imanyara): Just wait so that you may record it. She needs to record it.

**Mr. Koech:** I have said we delete the words "persons who sit in the students," and then in 40(2) we delete the word "association" and substitute therefor the word "council."

**The Temporary Deputy Chairman** (Mr. Imanyara): If you can, please, forward it to the Table and give a copy to the Minister, so that she can approve it.

**Mr. Koech:** Hon. Odhiambo-Mabona, you can draft that.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 40 of the Bill be amended:-

(a) In subclause (1) by deleting the words "elected by the student body as provided in the Charter

(2)-  
(b) By inserting the following new subclause immediately after subclause

(3) Every university shall have a students' council, elected by the students' association and no more than one-third of the persons who sit in the students' council shall be of the same gender.

I move a further amendment by deleting the words "persons who sit in the students'---; it will read: "Every university shall have a students' council, elected by the students' association and no more than one-third of the council shall be of the same gender."

Clause 40(2) will be for the Minister.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, very okay---

**The Temporary Deputy Speaker** (Mr. Imanyara): You can deal with the two aspects.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): I want to agree but I want to insert an additional two words at the end of the new subclause 2, "Every university shall have a students' council, elected by the students' association and no more than one-third of the council shall be of the same gender, where applicable". I am saying this because we have one university that is purely female and we see United Nations Educational, Scientific and Cultural Organization (UNESCO) spreading the same message that we should have female only universities. So, I want to add the words "where applicable" I think that is okay.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mrs. Odhiambo-Mabona, will you please, note "where applicable," so that, that can take care of the Minister's concern with regard to your amendment.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, then on my original subclause (2), I would like to amend it by changing the subclause (2) to be subclause (3) and deleting the word "association" after "students" and replacing it with the word "council"



**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, Mrs. Odhiambo-Mabona, you suggested that the Minister should introduce the amendment to 40(2). Minister, could you introduce that, so that we can deal with all the amendments together? Just read it the way you want it.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I would like to move an amendment to subclause (2) to change subclause (2) to be subclause (3) and to delete the word “association”.

**The Temporary Deputy Chairman** (Mr. Imanyara): Let us get it clear. We are not getting it clear at the Table here. What page of the Bill?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Clause 40(1) is what was moved; subclause (2)---

**The Temporary Deputy Chairman** (Mr. Imanyara): You see, you need to quote the Bill, because it is your amendment now.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Yes, it is the Bill.

**The Temporary Deputy Chairman** (Mr. Imanyara): What page of the Bill?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): It is subclause (2) of Clause 40--- Clause 30(2)---

**The Temporary Deputy Chairman** (Mr. Imanyara): If you go to 2795, from 1 it goes to 2; now you want to move 2 to become 3?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Yes, it is subclause (3) because of the introduction of subclause (2).

**The Temporary Deputy Chairman** (Mr. Imanyara): Oh, because you have the new sub clause (2).

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): So, I am moving that we change subclause (2) to be subclause (3), and we delete the word “association” after the word “students” and replace it with “council”.

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

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, let me also put the Question, that the same Clause 40 be further amended as proposed by the Minister for Higher Education, Science and Technology.

*(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 40 as amended agreed to)*

(Clauses 41, 42, 43, 44, 45, 46, 47,  
48, 49, 50 and 51 agreed to)

Clause 52

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, there is a proposal for amendment by hon. Millie Odhiambo.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I withdraw the amendment.

(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well.

(Clause 52 agreed to)

Clause 53

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, once again, we have two proposals for amendment from hon. Koech and hon. Millie Odhiambo. Have you consulted to confirm that the two amendments are separate and distinct from each other? If so, hon. Koech, you may proceed with your amendment.

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

THAT, the Bill be amended in Clause 53 by:-

(a) deleting the words “not more than” appearing in paragraph (d) in Sub-clause (1);

(b) deleting the expression “Section 7” appearing in Sub-clause (3) and substituting therefor the expression “Section 6”;

(c) inserting the following new sub-clauses immediately after Sub-clause (5) –

“(6) The provisions relating to the appointment of the Secretary and members of staff of the Commission as set out in Sections 9 and 12 shall apply, *mutatis mutandis*, to the appointment of the Director and staff members of the Fund.

(7) The provisions relating to the financial provisions of the Commission as set out in Sections 29, 30, 31 and 32 shall apply, *mutatis mutandis* to the finances of the Fund.”

**The Temporary Deputy Chairman** (Mr. Imanyara): Before you do that, Sir, because there are two proposals for amendment, I am asking the Minister to confirm that she is satisfied that the two amendments are distinct from each other.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, except for part “a” of hon. Millie Odhiambo’s amendment, which has been taken care of by Clause 53(3), the other parts of the amendments are distinct.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, what hon. Millie Odhiambo has proposed is completely distinct from my proposals.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well, hon. Koech. Minister, what is your reaction?

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am okay with the amendment.

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

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie Odhiambo, you may now move your amendment to Clause 53.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I am willing to withdraw part “a” of the amendment, which focuses on open and competitive process. The clause that the Minister had referred me to is importing Clause 7, which is similar to my amendment, in terms of appointments. So, I can drop that bit.

*(Proposed amendment to Part (a) of the amendment withdrawn)*

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

THAT, Clause 53 of the Bill be amended-

(b) in Sub-clause (4) by inserting the words “which shall be fair and globally competitive” immediately after the word “universities” appearing in Paragraph (e).

Mr. Temporary Deputy Chairman, Sir, what this amendment seeks to do is to ensure that the universities pay staff members in a manner that is globally competitive. Many of our university lecturers do a lot of good work but they are not paid very well. The salaries they are paid are not globally competitive. So, you find a lot of lecturers over-moonlighting, which sometimes risks their own lives.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Minister, do you have any reaction to that one?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree.

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

*(Clause 53 as amended agreed to)*

Clause 54

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

THAT, the Bill be amended in Clause 54 by:-

(a) inserting the words “thirteen members appointed by the Cabinet Secretary as follows” immediately after the words “consists of” appearing in Sub-clause (3);

(b) deleting the word “of” appearing in Paragraph (f) of Sub-clause(3) and substituting therefor the word “representing”;

(c) deleting the word “of” appearing in paragraph (g) of Sub-clause (3) and substituting therefor the word “representing”;

(d) deleting Paragraph (h) and substituting therefor a new paragraph (h) as follows-

“(h) two representatives of the Kenya Association of Technical Institutions”;

(e) inserting the following new paragraphs immediately after paragraph (h) of Sub-clause (3) –

“(i) the principal Secretary in the Ministry responsible for higher education;

(j) the Principal Secretary in the Ministry responsible for finance.”

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): What is your reaction, Minister?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am okay with the amendment.

*(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 54 as amended agreed to)*

Clause55

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we have a proposal for amendment to Clause 55 by hon. Millie Odhiambo.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 55 of the Bill be amended by inserting the following new sub-clause immediately after Sub-clause (2)-

(3) The Placement Board shall establish criteria to enable students access the courses for which they applied taking into account the student’s qualification and listed priorities.

Mr. Temporary Deputy Chairman, Sir, what I am seeking to do through this amendment is to enable students access the courses for which they apply, taking into account the qualifications and listed priorities, so that we do not do ping-pong with students after they have struggled and worked hard. They should be given the priorities for which they apply.

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, what is your reaction?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the amendment is harmless, but it is providing for a detail which is already there. The Joint Admissions Board currently has a criterion. The only problem is the vacancies in our universities. So, even if we include this amendment and the vacancies are not there, if a student applies for a law degree programme and we have 200 vacancies for that course and 200 students qualified for the same, the cut-off point criterion will be used. The remainder will have to be off-loaded and be asked to re-apply for other courses.

So, the issue is not lack of criterion. The criterion is there. It is just that we lack vacancies to accommodate all the students. We are trying to address this problem by expanding the universities' capacity instead of changing the existing criterion. The criterion is good and is very transparent. In fact, if you look at the website of the Joint University Admissions Board, you will appreciate that it is a document which is open. You can see that students qualified for sure but we have problems with vacancies.

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, you said that the amendment is harmless and, therefore, you do not have any objection to it?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the amendment is unnecessary detail in the law at this stage because it is not going to bring anything that is going to add value. Currently, the problem in the placement is availability of vacancies.

**The Temporary Deputy Chairman** (Mr. Imanyara): What do you have to say to that, hon. Millie Odhiambo?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, if the Minister thinks that the amendment is harmless, I will just encourage her to let it pass, but I want to say that it is not harmless. I have actually given her a case of my niece, who got a straight "A" grade with very good qualifications, but she was pushed down several levels of prioritisation.

She has been running all over universities because she did not get her first offer. She did not get the second offer either, which she qualifies for. She did not get the third or the fourth offers. So, she has been put to the seventh and eighth offers despite the fact that she scored a straight "A" grade. So, there must be a problem with the criteria being used by the Joint Admissions Board.

So, my amendment is basically seeking to do what the Minister is saying – give the students' qualifications and their listed priorities. If she does not qualify for priority one, let her go for priority two. If she does not qualify for priority two, let her go for priority three. Do not let her jump with a straight "A" grade to choice seven because that discourages students. If I get a straight "A" grade and I am looking for a good course, and then I find myself fishing around for courses I did not apply for, it would mean that there is no need for working hard in school.

**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, Minister.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, what I am saying is that the criterion does exactly this currently. The problem, especially with the case that Mrs. Odhiambo-Mabona gave us is the fact that students in their initial application when they leave high school do not apply for the courses

that they do in the reapplication. They are given opportunity to apply again. The ones who will have applied in the first round take the opportunities. Therefore, by the time a grade A student discovers that she can go for a particular programme, they are applying in round two. That was one of the problems with the case that we have. We have a few who apply for the lower courses at the initial stages and when they want to change when given an opportunity later, it becomes very difficult. However, the universities are now sensitive to that and they are actually allowing them to change.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well. I will let the House make this decision now.

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

*(Clause 55 as amended agreed to)*

*(Clauses 56, 57, 58 and 59 agreed to)*

*Clause 60*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we have two proposals for amendments by Mr. David Koech and Mrs. Millie Odhiambo-Mabona. Have you consulted over the amendments? If you have, could we go straight to the proposals?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I note that the two proposals are similar.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie, are the two proposals similar?

**Mrs. Odhiambo-Mabona:** Yes.

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, could you confirm that, that is the position?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am glad the Attorney-General is here. We have a few lawyers in the room who can help us as well. When we say that Clause 60 be amended to delete the words, ‘but the person should not be entitled to legal representation within the institutional hearing’, what do we mean? Within the institutional hearing, it is indiscipline that is being addressed. It is not a court of law. I say this out of experience. I was the chair of a university council for eight years; as a principal of a college and as a Deputy Vice-Chancellor. There are occasions when lawyers have wanted to come into the university disciplinary sessions and we feel that if we allow lawyers, then it would mean that we allow lawyers to represent the university in dealing with these cases. That would make us look like a court. Actually, universities cannot do that because they do not have any capacity to do it.

Therefore, anything that has to be dealt with by the courts, for example issues like rape, the student is expelled and the parents deal with the case in court. It is something that is quite delicate but when we say we are allowing legal representation during the institutional hearing, it may actually derail the cases. Some of the cases are extremely small but there is always temptation by a student who knows he or she is guilty to attach a lawyer to intimidate the committee and it can just be a mess. I am not comfortable with deleting that because the non-

representation at the institutional hearing means that we are using students' disciplinary regulations to discipline them. We are not using the law but other Members may advise us otherwise.

**The Temporary Deputy Chairman** (Mr. Imanyara): You have the Attorney-General just next to you whose advice is free of charge. Behind you, you have a senior counsel whose advice to you is free and you also have a whole bench of technocrats to assist you.

**The Minister for Education** (Mr. M. Kilonzo): Mr. Temporary Deputy Chairman, Sir, would you allow me to comment?

**The Temporary Deputy Chairman** (Mr. Imanyara): Yes, *Waziri*.

**The Minister for Education** (Mr. M. Kilonzo): I salute what the Minister is saying, but I happen to be a lawyer who has practised a tremendous amount of litigation for universities. In fact, I am the lawyer who represented universities in introducing the otherwise known as "irregular programmes". Let me assure you that even if you delete that law denying advocates rights of audience, the courts will still allow advocates. On issues touching on human rights, the rights of the individual, this being such a legislative body, the court will find that due process has not been allowed, if the student is not allowed representation. I know that in some cases, I introduce such clauses like the latest coalition but for purposes of universities you must allow the student access legal counsel. What you can do as a country is to limit that process, to have regulations governing that process but to deny that student who has been expelled or disciplined in another manner the right of legal counsel, it is not right. That has been held by courts throughout the commonwealth that it undermines the right to a free and fair hearing.

I rest my case.

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, since you have invited me, I would counsel that we delete as proposed. Sometimes less is more. I think in practice, universities should be free to make a judgment on every case and to be able to say to a student, "this is an expeditious disposal of your matter, you cheated in the exam and you have been expelled." The student then may, if he so wishes, say, "I wish to be represented by counsel". That can be dealt with as a separate issue. However, the way it is now we have made it possible for somebody to raise the issue in advance. I think that will create problems for the universities. For those reasons, I would concur with learned senior counsel, Mr. Mutula Kilonzo that delete it and allow a free exercise of discretion.

**The Temporary Deputy Chairman** (Mr. Imanyara): Any further interventions before I give the Chair of the Committee.

**The Minister for Youth Affairs and Sports** (Mr. Namwamba): Mr. Temporary Deputy Chairman, Sir, let me add my voice to this from a practical perspective because I have also had occasion to be involved in a disciplinary matter severally touching on university students. One particular experience turns out when students from the United States International University (USIU) in Nairobi had an issue with the administration. They sought my counsel and representation. It was quite a nasty experience to even get the university to appreciate that they could allow these students to seek advice without necessarily the attorney attending the actual hearing.

That notwithstanding, I concur with the senior counsel, Mutula as well as the Attorney-General that legal counsel and legal presentation is now a constitutional entitlement. It is an entitlement that would be a nullity *ab initio*. It would actually be an exercise in futility for any statute to attempt in any manner to restrict or cartel the enjoyment of the right to legal representation.

Therefore, I want to urge my dear sister, the Minister for Higher Education, Science and Technology, that while appreciating her experience as an administrator at the highest level and we do really celebrate the experience she brings to the House from that background; but really it is a new Kenya with the coming into force of the new Constitution and this is one of those rights.

In the same vein as I conclude, I want to urge that we would, perhaps, allow universities to put in place administrative regulations on how this whole process would be managed. But I would urge that the hon. Minister allows this clause to be deleted.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I want to agree with the hon. Members who have spoken that the right to counsel and fair hearing is a constitutional right under the Bill of Rights. If you have to limit it, it has to be limited under Article 24 which we have not done. We will therefore, be doing something unconstitutional. I therefore, urge the Minister that sometimes you have to understand that democracy is very expensive in terms of time and in terms of cost. But that is the price you have to pay for democracy.

**Mr. Koeh:** Mr. Temporary Deputy Chairman, Sir, I just want to persuade my dear sister that I have received a lot of representation on this. If you look at Clause 60(1)(c) it was actually prepared in bad taste. When you say “afford the person the opportunity of being heard in person but the person shall not be entitled to legal representation---” in fact, if you had just stopped at “in person”, maybe it would not have invited what I have just said. What we are saying here is that as much as possible, let us not allow so many cases to go to court. Therefore, if most of these cases could be handled within the university, it would be better.

Each university today has an advocate. I have visited various universities, they have lawyers employed by the universities. If therefore, the student will have his own lawyer, I do not think the universities will need more money to have another person because they already have their own lawyer. So, I really want to persuade you to accept this in light of and being aware of the Constitution and the right to representation.

**The Minister for Higher Education, Science and Technology (Prof. Kamar):** Mr. Temporary Deputy Chairman, Sir, I said I was going to be guided on this one because I am not a lawyer and I am lucky I have all of you, including the Chair here to assist me. The Chair nodded his head very vigorously when they said they have a right to legal representation. So, I want to oblige that we delete.

**The Temporary Deputy Chairman (Mr. Imanyara):** Very well. I will limit what I wanted to say because I have appeared for many students from your former university and other universities and I have had all those decisions quashed.

Let the Chairman of the Education Committee move his amendment now.

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

THAT, Clause 60 of the Bill be amended in Sub-clause (1) by deleting the words “but the person shall not be entitled to legal representation within the institutional hearing” appearing in paragraph (c).

*(Question of the amendment proposed)*

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

*(Clause 60 as amended agreed to)*



*(Clauses 61,62, 63, 64, 65,  
66, 67, 68 and 69 agreed to)*

*Clause 70*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we do have two proposals for amendments by both Mr. Koech and Mrs. Odhiambo-Mabona. I notice that Mrs. Odhiambo-Mabona is on her feet. Are you suggesting that you have reached an agreement with Mr. Koech?

The Chairman of the committee, you may proceed. I take it that the two---

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I am not very sure of what Mrs. Odhiambo-Mabona wants to introduce. Of course, in this Bill we have actually recognized the Letter of Interim Authority and the Charter. If you read Clause 70(1) at the end of it, it appears that the Interim Authority and the Charter are now being lumped at the end to mean that it will be deemed to have been granted such Charter. I intend to introduce “be deemed to have been granted such Interim Letter of Authority or Charter under this Act.”

So, I just want to make it clear.

**The Temporary Deputy Chairman** (Mr. Imanyara): Before, I allow the Minister an opportunity to comment, Mrs. Odhiambo-Mabona, have you looked at the amendment?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I am presuming what he is trying to do is to show that when this law passes, then those with interim letters will remain with interim letters. That is what I was trying to cure because it seems to suggest that persons with interim letters, upon the passing of this Bill will immediately get charters, which is absolutely wrong because a passing of a law cannot give you a charter if you do not qualify for one.

So, what Mr. Koech is doing really does take care of mine, so I can withdraw mine.

**The Temporary Deputy Chairman** (Mr. Imanyara): I mark your amendment as withdrawn.

*(Proposed amendment by Mrs. Odhiambo-Mabona withdrawn)*

Mr. Koech, you may now proceed so that the Minister can respond.

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

THAT, Clause 70 of the Bill be amended by deleting the words “or a Letter of Interim Authority.”

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree.

*(Question of the amendment proposed)*

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

*(Clause 70 as amended agreed to)*

*Clause 71*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 71 of the Bill be amended by inserting the words “subject to meeting the standards established under this Act” at the end of the clause.

What I am seeking to do is to provide that by the passing of this law, standards must be maintained. So, I am saying that all the constituent colleges or universities existing before shall continue as such, subject to them meeting standards that are provided by law so that they do not say “let us continue since the law passed”. This should be subject to them meeting standards that were established by law because the law actually is providing higher standards.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree. What she has done is to emphasize and make it clear.

*(Question of the amendment proposed)*

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

*(Clause 71 as amended agreed to)*

#### *Clause 72*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 72 of the Bill be amended-

(a) By deleting the words “shall be deemed to have been established under the provisions of this Act” and substituting therefor, the words “shall apply for accreditation within three months of the enactment of this Act and the college or campus shall be accredited as a college of the university after inspection for compliance with standards set out under this Act”;

(b) By inserting the following new sub-clause-

(2) A university, college or campus that was operational at the commencement of this Act shall be deemed to have Letters of Interim Authority until after an evaluation under this Act.

What the amendment seeks to do is basically to enhance the standards that I am suggesting. If you look at Clause 72 it talks of a campus, college or university existing before the commencement of this Act shall be deemed to have been established under the provisions of this Act.

What I am saying is that we delete the words “deemed to have been established” and replace with “shall apply for accreditation within three months of the enactment of the Act” so that they are re-accredited after inspection so that we ensure that they comply with the standards that are set by the law. Also, we are providing a new sub-clause (2) which indicates that any university college or campus that was operational shall be deemed to have Letters of Interim Authority until after an evaluation under the Act. So, what I am saying in essence is that the colleges and constituent colleges shall be deemed to have Letters of Interim Authority until they are evaluated to see whether they fit within the standards. The reason I am saying this is that I have given the Minister very clear examples of colleges that do not meet the standards that we have now set and passed by this law. For us to say that they have letters, really, is, therefore,

misleading. So, they will be deemed to have Letters of Interim Authority and granted Charters once that is passed.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I want to appreciate the intention of the hon. Millie Odhiambo. But my biggest concern would be what entails accreditation. It is a very tedious and rigorous process that even if you talk of three months, we are actually putting panic into our institutions. Our understanding in this law is that the existing universities shall be deemed to have been established under this Act. In this particular clause, we are talking about campuses and colleges. I want to understand the import of this. Why not then talk about all the universities, if that is what we want? Again, this is a very rigorous programme and process that requires real time. I want to understand that the work of the Commission on University Education will be to really visit all the universities almost immediately. It will be a continuous process and that is why the proposal that they need to put in daily papers on quarterly terms, as indicated by hon. Millie, is very good news for Kenyans. I really want to plead with my colleague to reconsider this because it may not be that easy as we are putting it.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, let me clarify the difference between constituent colleges and campus colleges. In Clause 71, we are addressing constituent colleges. Constituent colleges must be accredited and that is why we are saying that the constituent colleges that are existing--- Actually, the purpose of Clauses 71 and 72 is transition. How do we transit them with the new law? In Clause 71, we are saying that constituent colleges that exist before the commencement of this Act shall upon such commencement continue to be constituent colleges of those universities and may apply for accreditation in accordance with the provisions of this Act. That is as far as the constituent colleges are concerned. But university campuses and campus colleges, like Chiromo Campus College and Kabete Campus College, are not accredited. They are taken care of under the mother institution. So, if University of Nairobi – and it has actually done – started a programme in Kisumu, they are under the cover of University of Nairobi and will be inspected as a campus of the University of Nairobi, using the Charter of the University of Nairobi. It is when they become constituent colleges that they are accredited, and that is when the process of accreditation takes place. So, we actually have dealt with Clause 71, which correctly, the hon. Member said that we should ensure that there is no doubt that they meet the standards while we are dealing with accreditation. But Clause 72 deals with university campus colleges that are exiting from the old law to the new law. So, really, we do not accredit campuses.

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie, you have heard your two colleagues beseeching you. What is your response to both of them?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, if I had time I would not have listened to them. I would have actually amended, because the danger we face is that even though we set standards, all the campuses or constituent colleges, wherever they are found, other than the old established ones that meet quality standard, are run in very dilapidated buildings and deplorable situations, in bars and wherever.

Mr. Temporary Deputy Speaker, Sir, because of time I will withdraw. I also know that certain standards have been set elsewhere in the Bill. But the Minister knows my concerns. I hope that she will effect the law that she was calling on us to put in place.

*(Proposed amendment by  
Mrs. Odhiambo-Mabona withdrawn)*

*(Clause 72 agreed to)*

*Clause 73*

**The Temporary Deputy Chairman** (Mr. Imanyara): Again, the two of you, hon. Millie Odhiambo and hon. Koech, have proposals for amendments. I do not know whether you have consulted over them.

Hon. Millie, could you, please, indicate whether there are any similarities? If not, you may just go ahead and move your proposals for amendments. Minister, have you taken a look at Clause 73 and what they are proposing? If so, are you satisfied that they are two separate proposals which we can deal with separately or what would you advise your colleagues to do?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I accept the amendments to Clause 73. I was trying to look at hon. Millie's amendment to determine whether it has been taken care of by the amendment by the Chair of the Committee. Otherwise, both of them are okay.

**The Temporary Deputy Chairman** (Mr. Imanyara): In that case, hon. Millie, please, proceed!

**Mrs. Odhiambo-Mabona**: Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 73 of the Bill be amended in sub-clause (1) by deleting the words "or for a period not exceeding one year whichever is less".

Mr. Temporary Deputy Chairman, Sir, the reason I am doing this is that by the---

**The Temporary Deputy Chairman** (Mr. Imanyara): That is not necessary. The Minister is in agreement. So, just moving is sufficient.

**Mrs. Odhiambo-Mabona**: Mr. Temporary Deputy Chairman, Sir, I, therefore, move. I would wish to save their jobs.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well! Minister, you have no objection.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, it was actually erroneous. So, we have deleted "for a period not exceeding one year, whichever is less." They will complete their terms in the transition.

**The Temporary Deputy Chairman** (Mr. Imanyara): Then allow hon. Millie to actually explain her proposal. She is saying that she did not intend to agree with you. Is that so? Are you opposing?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I was saying that the amendment by hon. Koech has taken care of the one by hon. Millie. This is because in hon. Koech's amendment, we have deleted this period because we are transiting the chancellors and vice-chancellors.

**The Temporary Deputy Chairman** (Mr. Imanyara): She agrees! Therefore, do I take it that you are withdrawing? If that is the case, then hon. Millie Odhiambo's proposals to amend are withdrawn.

*(Proposed amendment by  
Mrs. Odhiambo-Mabona withdrawn)*

Hon. Koech, please, continue with yours!

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

THAT, the Bill be amended in Clause 73 by:-

(a) deleting the words “or Vice- Chancellor” appearing immediately after the word “Chancellor” in sub-clause(1);

(b) deleting sub-clause (2) and substituting therefor the following new sub-clause-

“(2) Any person who immediately before the commencement of this Act, is a Vice Chancellor of a public university or Principal of a constituent college of a public university, shall remain in office for the remaining period of his or her term of office”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): As I heard, the Minister is in agreement with you. Therefore, I will put the Question.

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

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

*(Clause 73 as amended agreed to)*

*(Clauses 74, 75, 76 and 77 agreed to)*

*Clause 78*

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

THAT, the Bill be amended in Clause 78 by inserting the words “as long as they are not inconsistent with this Act” immediately after the words “in force” appearing in the second line of subclause (2).

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, what do you have to say?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): I agree with the amendment, Mr. Temporary Deputy Chairman, Sir.

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

*(Clause 78 as amended agreed to)*

*(Clauses 79 and 80 agreed to)*

*Clause 81*

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 81 be amended by:-

- (a) renumbering the existing provision as sub clause (1);
- (b) deleting the words “terms of office” appearing in the renumbered subclause and substituting there for the words “or for a period not exceeding six months, whichever is shorter”;
- (c) inserting the following new sub clause after the renumbered subclause (1)-  
“(2) The person who immediately before the commencement of this Act is the Commission Secretary shall remain in office for the remaining period of his or her term of office.”

*(Question of the amendment proposed)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): I agree with the amendment, Mr. Temporary Deputy Chairman, Sir.

*(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 81 as amended agreed to)*

*Clause 82*

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended in Clause 82 by deleting the words “subject to such terms and conditions of service as the Commission shall determine”.

*(Question of the amendment proposed)*

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

*(Clause 82 as amended agreed to)*

*New Clause*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT the Bill be amended by inserting the following new clause immediately after Clause 25-  
Establishment of public universities 25A. There shall be established a public university in each of the counties within ten years of the coming into force of this Act.

*(Question of the new clause proposed)*

*(New Clause read the First Time)*

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

The reasons for this amendment are to establish a public university in each of the counties within a period of ten years of the coming into force of this Act. It has been done in other countries. Nigeria and America have that. Several countries have that and for us to enhance access to education, it is possible. We passed a Bill in this Parliament that set up a High Court in every county and if we can stagger it to ten years, and I know hon. Mutula assisted in that, it would be good. So, if we can have this it will enable us access education, especially even for marginalised communities.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I agree with the proposal since it is a very good one but it does not seem to be in the right place. Putting it at New Clause 25(A) is wrong because Clause 25(A) is dealing with declaration of technical universities. So, if we put it under New Clause 25(A) we will be disrupting something else. What I was going to propose is that we move it to where we are establishing universities through the role of the Commission and if the hon. Member can look at the functions of the Commission on Article 5, we can have a sub-clause there after (j) to take care of that as part of the functions of the Commission. It should be part of the functions rather than be within the introduction of technical universities because that is very specific to technical universities.

**The Temporary Deputy Chairman** (Mr. Imanyara): Mr. Chairman, have you heard occasion to look at that?

**Mr. Koech:** Thank you, Mr. Temporary Deputy Chairman, Sir. First of all, I really want to appreciate the intention by hon. Millie that we really need to develop this country and move our universities to all parts of this country but maybe I have two issues. One, is where the hon. Minister has raised. Maybe you could look at establishment of a university, that is 13 and see how to place it there but I want to go further to ask for a clarification on this. When you talk of establishment of a public university in each of the counties, where do you place the constituent colleges and the campuses because again if you talk of a university, in most cases you start as a campus and then it moves up to a constituent college and then it grows into a university? So, I think we need clarity on that because when you talk of ten years, it is a very short time but I support the intention.

**Mr. Temporary Deputy Chairman** (Mr. Imanyara): Hon. Millie, on the two issues about the placement and the one raised by the Chairman of the Education Committee, what do you have to say?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I thank the Minister and the Chairman of the Education Committee. I think it sits better in Part Three, that the Chairman is talking about which is establishment and accreditation of universities. However, having said that, I would want to suggest that if the hon. Member thinks that ten years is a short time, I am willing to amend it to 15 years but really we have places that have no universities. We are moving to devolved system of governance and those devolved structures will be like

governments on their own. So, it will be unfortunate if we have some counties with universities and some without. So, if the Chairman of the Education Committee thinks ten years is too short-- -Unfortunately I did not have the privilege of knowing how many public universities we have, but I was presuming that we have around 11. I am not too sure.

**The Minister for Education, Science and Technology** (Prof. Kamar): We have seven fully-fledged universities.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, so if we have seven fully-fledged universities then with the calculations, the time of ten years will be a short time. So, I would be willing to amend to 15 years.

**The Temporary Deputy Chairman** (Mr. Imanyara): So, where do you want the placement?

**Mrs. Odhiambo-Mabona:** Under Part Three.

**The Temporary Deputy Chairman** (Mr. Imanyara): Very well. Minister, are you happy with that?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, the intention of establishing universities in counties is very good. Whether the country will afford within 15 years is another thing. I thought that we may limit the time but what we need to do is to indicate that while establishing the universities and I had tried to draft something which is lost now, we establish universities in counties and give priorities to counties without universities. I know currently we have new university colleges in ten counties that have matured for promotion in the new counties which are at least ten. We may have two more coming in and I think that is the way to go, that in any county that we do not have, when we are establishing the universities; we establish them in those areas. So, I think this New Clause 25(A) which is going to be translated elsewhere should actually read that: "There shall be established public universities in each of the counties with a priority on counties---" without really coming up with a time limit so that we do not break our own law.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Chairman, Sir, I am willing to adopt the Minister's words fully. I think in another life, she should have been a lawyer. I do not mind if she can repeat the wording that she said. Her wording is better than mine. I think she said "there shall be established universities in every county and priority shall be granted to counties without". I support that fully because then you take care of Homa Bay County.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, very soon, everybody will be happy because we shall be in Kisumu County, Kilifi County, Busia County, Meru County and even Nyeri County. It is easier for us to introduce it as (k) in the functions of the Commission that "the Commission shall ensure the establishment of public universities in each of the counties giving priority to counties that do not have universities at the moment following the coming into force of this Act".

**The Temporary Deputy Chairman** (Mr. Imanyara): I wish you could get us that language, so that we can have it.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I will draft it and then forward it.

**The Temporary Deputy Chairman** (Mr. Imanyara): We need to deal with this. The HANSARD will record it. Mrs. Odhiambo-Mabona, I understand you to say that you have adopted the formulation of the Minister. So, we will let the amendment come from her. Let the HANSARD show that the proposal for amendment and the wording is from the Minister. It is in



the HANSARD and the staff here will get it. But subject to that, Minister, we need a formulated and signed wording from you.

Therefore, I put the Question that the New Clause be amended as proposed by the Minister.

*(Question, that the New Clause 25A be read  
a Second Time, put and agreed to)*

*(The New Clause 25A was read a Second Time)*

*(Question, that the New Clause 25A be  
added to the Bill, put and agreed to)*

*New Clause 56A*

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 56.

Provisions relating to staff of the Placement Service.

**56A.** The provisions relating to the appointment of the Secretary and staff members of the Commission as set out in sections 9 and 12 shall apply, *mutatis mutandis* to the appointment of the Director and staff members of the Service.

*(Question of the New Clause proposed)*

*(New Clause read the First Time)*

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Mr. Koech, what is the import of this?

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, the import of this is that we have talked about a Placement Board with a chairperson and members, but we have not provided for the appointment of the same. So this is to provide for the procedure of appointing the Placement Board members.

**The Temporary Deputy Chairman** (Mr. Imanyara): Madam Minister, are you happy with that?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am happy with it.

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

*(The New Clause was read a Second Time)*

*(Question, that the New Clause 56A  
be added to the Bill, put and agreed to)*

Hon. Members, we will beat the time. We have only three clauses and I think we are within time, but in the event we do not, go ahead, Mr. Namwamba, with your proposal.

**The Minister for Youth Affairs and Sports** (Mr. Namwamba): On a point of order, Mr. Temporary Deputy Chairman, Sir. I am rising on a point of order under Standing Order No..20(2) which provides that:-

“Unless for the convenience of the House, the Speaker or the Chairperson (as the case may be) directs earlier or later interruption of business, at 6.30 p.m. or (if it is an Allotted Day) at 7.00 p.m., on occasion of an afternoon sitting and at 12.30 p.m. on the occasion of a morning sitting, the Speaker or the Chairperson of Committees shall interrupt the business then under consideration and if the House is in Committee the Chairperson shall leave the Chair and report progress and ask leave to sit again”.

I am just looking at the clock and we have just under 15 minutes to go. I am afraid that time may lapse before we conclude this. I believe that it is to the further convenience of the House for us to also conclude the business today.

**The Temporary Deputy Chairman** (Mr. Imanyara): Thank you, Mr. Namwamba. In the event it becomes necessary, we shall report accordingly, but thank you for bringing it to the attention of the Chair.

*New Clause 56B*

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 56.

Financial Provisions regarding Placement Service.

**56B.** The provisions relating to the financial provisions of the Commission as set out in sections 29, 30, 31 and 32 shall apply, *mutatis mutandis* to the finances of the Service.

*(Question of the New Clause proposed)*

*(New Clause read the First Time)*

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

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, the import of this is that we have not clearly provided for the finances for this placement; therefore, this seeks to provide for the way to fund the board.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister!

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): I am okay with it, Mr. Temporary Deputy Chairman, Sir.

*(Question, that the New Clause be read*

*a Second Time, put and agreed to)*

*( New Clause was read a Second Time)*

*(Question, that the New Clause 56B be added to the Bill, put and agreed to)*

*New Clause 83*

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 82-  
Conflict with other written law

83. Where any conflict arises between the provisions of this Act and the provisions of any other written law in relation to accreditation of institutions or programmes of universities or any other function of the Commission, the provisions of this Act shall prevail.

*(Question of the New Clause proposed)*

*(New Clause read the First Time)*

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

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, the import of this is to remove any conflict that may arise thereafter.

**The Attorney-General** (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I would like to counsel that this is not a good way to legislate. First of all, it is not a standard procedure to repeal other legislation by inference. If we are of the view that there is any other statute that should be subordinated to this statute, we should do so expressly. The problem this creates is what I had alluded to earlier; for example, we have the Council of Legal Education Act, which is intended to vest in the council of legal education exclusive jurisdiction, including to review university programmes. We have already done so. We have already told universities what they would teach, how they will teach it, who will teach it and so on. This would mean, therefore, if we carried it the way it is, that we are repealing the entire Council of Legal Education Act, and we are re-vesting those powers in--- That may be true of other laws. Only the Constitution should be superior to other laws. Other laws rank *pari passu*. I am advised by the distinguished former student who did very well, indeed.

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, because of time and with the legal advice from the Government Chief Legal Officer, I beg to withdraw this amendment.

**The Temporary Deputy Chairman** (Mr. Imanyara): So, we are not recommitting. The suggestion earlier was that it be recommitted but you are withdrawing it.

**Mr. Koech:** Yes, Mr. Temporary Deputy Chairman, Sir.

*(Proposed amendment by Mr. Koech withdrawn)*

*(First Schedule agreed to)*

*Second Schedule*

**Mr. Koech:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT the Bill be amended in Second Schedule by:-

(a) deleting paragraph 1 and substituting therefor the following new paragraph-

“1. Where a vacancy occurs in the office of the Chancellor of a public University, the Senate of that University shall, in consultation with the respective alumni association, identify suitable persons for appointment.”

(b) deleting paragraph 2 and substituting therefor the following new paragraph-

“2. All names submitted under paragraph 1 shall be vetted by the Senate in accordance with the procedure set out in the charter, and the Senate shall propose five names of persons deemed to be qualified under the provisions of this Act for purposes of ranking by the alumni association.”

(c) deleting paragraph 4 and substituting therefor the following new paragraph-

“4. The Senate shall forward the names of the top three applicants respectively ranked by the alumni association to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons so ranked for appointment as Chancellor.”

(d) deleting the words “the name” appearing in paragraph 6 and substituting therefor the words “three names” .

Mr. Temporary Deputy Chairman, Sir, the import of this is to ensure that His Excellency the President is given three names to choose from rather than what is provided for, that is only one name. This is for purposes of ensuring that there is regional balance when it comes to appointing Chancellors in our country.

**The Minister for Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I am okay with that.

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

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

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Committee doth report to the House its considerations of the Universities Bill, Bill No.53 of 2012 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Mrs. Odhiambo-Mabona) in the Chair]*

## **REPORT**

### **THE UNIVERSITIES BILL**

**Mr. Imanyara:** Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Universities Bill, Bill No.53 of 2012 and approved the same with amendments subject to recommittal of Clause 5.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report subject to recommittal of Clause 5.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mrs. Odhiambo-Mabona): Back to the Committee.

## **COMMITTEE OF THE WHOLE HOUSE**

*(Order for the Committee read)*

*[The Temporary Deputy Speaker  
(Mrs. Odhiambo-Mabona) left the Chair]*

### **IN THE COMMITTEE**

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

## **CONSIDERATION OF RECOMMITTED CLAUSE**

UNIVERSITIES BILL

RECOMMITTAL OF CLAUSE 5

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we are on the Universities Bill. It is very short. It has only one amendment and that is clause 5

*Clause 5*

**The Attorney General** (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move a very slight amendment so that 5(3) reads as follows:-

“For the avoidance of doubt, save as maybe expressly provided under any other written law, the Commission shall be the only body with the power to perform the functions set out in this section.

Mr. Temporary Deputy Chairman, Sir, the intention is to save the powers granted under any other law.

**Mr. Koeh:** Mr. Temporary Deputy Chairman, Sir, I want to support.

*(Question of the amendment proposed)*

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

**The Temporary Deputy Chairman** (Mr. Imanyara): Minister, just the same process, we went through.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Universities Bill---

**The Temporary Deputy Chairman** (Mr. Imanyara): Sorry, Minister you have got it wrong, the recomital of clause 5---

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the recommitment of Clause 5 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**CONSIDERATION OF REPORT AND THIRD READING**

## THE UNIVERSITIES BILL

**Mr. Imanyara:** Madam Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered the Universities Bill, Bill No.53 of 2012, and approved the recommittal of Clause 5 with amendments.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Madam Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Madam Temporary Deputy Speaker, I beg to move that the Universities Bill, Bill No.53 of 2012 be now read a Third Time.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

## ADJOURNMENT

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, it is now time to adjourn the business of the House, and the House stands adjourned until tomorrow, Thursday, 6<sup>th</sup> December, 2012 at 2.30 p.m.

The House rose at 6.30 p.m.