

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 5th March, 2017

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, I order that the Quorum Bell be rung for 10 minutes so that we can get quorum.

(The Quorum Bell was rung)

The Temporary Deputy Speaker (Hon. Omulele): Members, you can now take your seats so that we can start business.

BILLS

Second Reading

THE BASIC EDUCATION (AMENDMENT) BILL

(Hon. (Ms.) Kiptui on 1.3.2017)

(Debate concluded on 29.3.2017 – Morning Sitting)

The Temporary Deputy Speaker (Hon. Omulele): Can those Members who are walking towards the exit kindly allow us to execute this business because of the numbers required for us to put the Question?

(Question put and agreed to)

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

Second Reading

THE NATIONAL AUTHORITY FOR THE CAMPAIGN
AGAINST ALCOHOL AND DRUG ABUSE (AMENDMENT) BILL

(Hon. Ferdinand Waititu on 1.3.2017)

(Resumption of Debate interrupted on 1.3.2017 – Morning Sitting)

The Temporary Deputy Speaker (Hon. Omulele): Let us have Hon. Waititu.

Hon. Ferdinand Waititu: Hon. Temporary Deputy Speaker, I beg to reply.

(Several Hon. Members left the Chamber)

The Temporary Deputy Speaker (Hon. Omulele): Those Members exiting, kindly, let us transact this business.

(Question put and agreed to)

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Order, Hon. Members! Those who are leaving the Chamber, please, do so quietly and, of course, with some decorum. Hon. Members, we are in Committee of the whole House. We will start with the Clinical Officers (Training, Registration and Licensing) Bill, National Assembly Bill No. 27 of 2016.

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I see there an amendment by Hon. Nyamai. Dr. Pukose will move it on her behalf.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 4 of the Bill be amended—

(a) in sub clause (1)-

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

“(a) the chairperson who shall be elected by the council members from amongst themselves in their first council meeting and appointed by the Cabinet Secretary for health”;

(ii) by deleting paragraph (d) and substituting therefor the following —

“(d) clinical officer elected by members of faculty of Clinical Medicine from Kenya Medical Training College”;

(iii) by deleting paragraph (e) and substituting therefor the following —

“(e) a clinical officer representing private colleges training clinical officers”;

(iv) by deleting paragraph (f) and substituting therefor the following —

“(f) clinical officer representing universities training clinical officers elected amongst the head of department clinical medicine”;

(v) by deleting paragraph (g) and substituting therefor the following —

“(g) a member of the Institute of Certified Public Accountants of Kenya from the public sector”.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): What is your point of order, Hon. Chris Wamalwa?

Hon. Wakhungu: Hon. Temporary Deputy Chairlady, we have a procedure of bringing amendments. Hon. Pukose, being a Vice Chair, is aware of it because he has been an active Member in the Committee of the whole House. Hon. Members request him to give us the import of the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Okay. Hon. Chris Wamalwa, you are in order. If you are not satisfied you can always ask for the import of the amendment. Hon. Pukose, please let the Members know the import of your amendment so that they can debate from an informed position.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, this is just about election of members of the Clinical Officers Council. We no longer use the title “Minister”, but “Cabinet Secretary.” So, those are just the roles. It is not much. It also says that the chairperson shall be elected by the council members from amongst themselves in the first council meeting and appointed by the Cabinet Secretary. It is not much, Hon. Chris.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Having explained the import, I am sure that is what Hon. Makali Mulu wanted you to clarify.

(Question of the amendment proposed)

Hon. (Dr.) Pukose: Put the Question.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Pukose, you cannot tell me to put the Question. This is a House of debate.

Let me give an opportunity to Hon. Dawood, Member for North Imenti. Do you want to comment on this?

Hon. Dawood: Yes. Thank you, Hon. Temporary Deputy Chairlady. I agree with what Hon. Pukose has said. It is very important to state specifically how to elect the chairman and the others.

Thank you.

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

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairlady. Even as I support this amendment, Hon. Pukose is being very mean with his explanation. This amendment has about six bullets. Some of them are even talking about deleting a paragraph where a member of the Institute of Certified Public Accountants of Kenya representing the Kenya Private Sector Alliance (KEPSA) should be deleted. I thought it makes a lot of sense for some of those details to be explained. Why do we not want members of the private sector to be part of this important Board? He has been mean.

But, even with that, I support. As we move forward, it is important that he provides the House with more details so that we make decision from an informed position.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): It is very important for us to always get clarifications and imports so that we can debate from informed positions.

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

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

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is an amendment by Dr. Pukose.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 5 of the Bill be amended in sub-clause (2) by deleting the words “Kenya Gazette” appearing in paragraph (g) and substituting therefor the words “official website of the Clinical Officers Council”.

This is in terms of membership to the Clinical Officers Council. Instead of putting them in the *Kenya Gazette* because they are more than 10,000 and they will occupy the whole document, we felt that once they are registered, you can only put them on the website and members can see on the website of the Council who is a registered clinical officer.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): This is a deletion and substitution of some word in Clause 5.

(Question of the amendment proposed)

Member for North Imenti.

Hon. Dawood: I do not understand this amendment by Dr. Pukose because I believe they should be both in the *Kenya Gazette* and on the official website. By putting it in the *Kenya Gazette*, we would have made it official. The same can be replicated on the official website.

I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Christopher Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. From practice, anything Government or official, for it to be operationalised or implemented, it must be gazetted. That has been the procedure. The argument from the Hon. Member in terms of the volume, maybe for purposes of notifying members, the names must be put on the website, but there must be something to be gazetted, at least, in the *Kenya Gazette*. Every law we pass even when we come to Parliament, it is gazetted. We need some clarification, but that aspect has to be there. But because of the volume, maybe the details can be on the website. The serial numbers can be gazetted for it to be implemented officially. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Before I give you back to the Chair, let us get the argument of the Member for South Imenti, Hon. Kathuri.

Hon. Murungi: Thank you, Hon. Temporary Deputy Chairlady. I also want to oppose this clause. As my colleague has clearly put it, there is a way that a Gazette Notice can be framed without including all the names of these members. There is a statement which should be put into the *Kenya Gazette* to mention that these guys have been gazetted and they can be given a schedule. They could also check on the website, but a statement must be put in the *Kenya Gazette*. Also, nobody has complained about the volumes. There is somebody who took to court pickups full of documents as evidence. Nobody is complaining of these volumes.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Your point is taken. Let me get back to the Chairman. Having listened to the Members, can you convince them otherwise? It is because they are opposing this proposal. You wanted to make a clarification.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, we have registered medical practitioners like doctors. We do not put their names in the *Kenya Gazette* that they are now registered doctors. We put their names on the website of the Kenya Medical Practitioners and Dentists Board (KMPDB). When you visit that website, you can tell who is a practising medical doctor. We are talking about clinical officers who are registered by the Council. Should we put their names in the *Kenya Gazette*? We felt that the best thing to do is to put their names on the website. I do not know whether there is any other institution that does that. Let us take the example of teachers who have qualified. Do you really need to put their names in the *Kenya Gazette*? Should you put their names on the website of the Teachers Service Commission (TSC)? That is the argument that informed our decision.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me get the last one because this is a House of debate. We will take a vote. Member for Kikuyu, Hon. Ichung'wah Kimani.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Chairlady. I want to support what Hon. Chris Wamalwa said. As much as you may not publish the entire list, in this day and age of Mutukus who hack into websites and other systems--- You recall sometime back there was a case of a quack doctor in Kapsabet. There was no way for Kenyans to verify whether that doctor was a registered doctor or a registered clinical officer. Therefore, it will only be fair that we provide for the preparation of a list of clinical officers which should be put on the website but also gazetted.

I beg that you drop this amendment.

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

(Clause 5 agreed to)

(Clauses 6, 7 and 8 agreed to)

Clause 9

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 9 of the Bill be amended in sub-clause (1) by deleting the words “in consultation with the Registrar” appearing immediately after the words “the council.” In this case, we are deleting the words “in consultation with the Registrar” because the Registrar is an employee of the Council. So, the Registrar cannot consult with the Council, he is part of the council. He is the secretary to the Council.

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

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

Clause 11

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 11 of the Bill be amended —

(a) in sub-clause (3) by deleting the word “and” appearing immediately after the words “chairperson of the Council” and substituting therefor the word “or.”

(b) by deleting sub-clause (4).

It is a matter of syntax where you are replacing the word “and” with “or”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): This is a deletion and substitution of some words in sub-clauses (3) and (4). Hon. Abdul Dawood, any comment on this?

Hon. Dawood: Yes, Hon. Temporary Deputy Chairlady. Dr. Pukose says “and” and “or” are the same. In my opinion they are not. There are two different issues here. I would want him to expound on that.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members, let us be listening to the import so that we can take the least time possible and debate from an informed point.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I said this is syntax. I do not know whether the Member understands. It is a matter of semantics. I did not say they are the same words.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. Let us not just speak for the sake of it but of course it is also important for the Member to understand the import.

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

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

Clause 13

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 13 of the Bill be amended —

(a) in sub-clause (2) by—

(i) inserting the words ‘or’ immediately after the words “this Act” appearing in paragraph (a);

(ii) inserting the following proviso immediately after paragraph (c)—

“Unless such institution is established or accredited under the Universities Act 2012 or the Technical Vocational Education and Training Act 2013, and is approved and accredited by the Council for that purpose in accordance with this Act”.

(b) by inserting new sub-clauses immediately after sub-clause 3—

“(3a) The Council shall index all students with minimum entry requirements on admission to an approved training institution and the number of students in each class not to exceed the prescribed and approved number by the Council”;

“(3b) The Council shall administer a pre-internship assessment.”

This is in terms of aligning the Clinical Officers Council Bill with the TVET Act and also the Universities Council Act. Two, we are saying that the Council shall index all students with minimum entry requirements on admission to an approved training institution and the number of students in each class not to exceed the prescribed and approved number by the Council. In each college admitting clinical officers, there is a minimum requirement entry so that nobody goes below the minimum stipulated entry.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is no interest on this. It is straightforward. I move to put the Question.

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

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Clause 15

Hon. (Dr) Pukose: Hon. Temporary Deputy Chairlady, in view of the fact that we lost the amendment to Clause 5 about the gazettelement, I drop the amendment to Clause 15.

(Proposed amendment to Clause 15 dropped)

(Clause 15 agreed to)

Clause 16

Hon. (Dr) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 16 of the Bill be amended in paragraph (a) of sub clause (2) by deleting the word “of” appearing immediately after the word “hold”.

Hon. Temporary Deputy Chairlady, this is a matter of semantics where we are trying to align some words. We are deleting “of” so that the word can make sense. It is just a typographical error.

(Question of the amendment proposed)

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

Clause 16 as amended agreed to)

(Clauses 17, 18 and 19 agreed to)

Clause 20

Hon. (Dr) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 20 of the Bill be amended in sub clause (3) by inserting the words “full time” immediately after the words “to engage in” appearing in paragraph (b).

Hon. Temporary Deputy Chairlady, instead of the Registrar working part time, this will make him or her work full time. It is just a question of engaging him or her full time.

(Question of the amendment proposed)

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

(Clause 20 as amended agreed to)

(Clause 21 agreed to)

Clause 22

Hon. (Dr) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 22 of the Bill be deleted.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, I can speak on your behalf. It is about deletion of the entire clause. As had been requested before, you can give your arguments or points of discussion on the import of the deletion. Tell Hon. Members to debate.

(Hon. Ichung'wah interjected)

Hon. Ichung'wah, you are not the chairman. Can you allow the chairman to explain? You are in the Committee, but you are not the chairman. You can get close to the chairman if he is forgetting what you said, but you do not need to shout as if you are the Chair.

Hon. (Dr) Pukose: Hon. Temporary Deputy Chairlady, this clause is provided for in the Health Bill. Therefore, we felt that it did not have to come here.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Abdul Dawood, Member for North Imenti.

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairlady. I know we want to get over this Bill but could the Chair please expound. The Health Bill has been in the pipeline for a long time. We are not even sure if it will come to the Floor of the House.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I agree with you. Chair, I also agree with you. Most Hon. Members do not belong to the Departmental Committee on Health. Neither do we make laws in this House at this stage, it is only the Committee. We have other Members. Can you give the Members the import of the amendment?

(Hon. Ichung'wah interjected)

No, Hon. Member! Let him satisfy the Members for us to be able to debate. Hon. Ichung'wah, you can sit next to Hon. Pukose. I know you are a member of the Committee. You can consult.

Hon. (Dr) Pukose: Hon. Temporary Deputy Chairlady, the Health Bill is at the Mediation Committee level and yesterday we had our first meeting with the Members of the Health Committee of the Senate. Today we are having our second meeting. It is at the mediation level. Clause 22 was limiting what the clinical officers should prescribe and we felt we should not define what kind of ailments they can treat. We felt that that is limiting them. They should do it as per their training.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Wajir West.

Hon. A.O. Ahmed: Thank you, Hon. Temporary Deputy Chairlady, for giving me this opportunity. I do not know whether that is in order, but I think we will not at this juncture ask that particular clause to be deleted, if it is at the mediation stage. I thought when it comes to prescription for the clinical officers, that is part of the training and it is well stipulated. It should go to the regulations. That is my take.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Committee felt that it should delete this clause and the chairman has explained the import. That is why it is in the House for voting. Having listened to the import of this from the Chair and contribution from the Members, now we can take a vote.

Question, that the words to be left out

be left out, put and agreed to)

(Clause 22 deleted)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members I must agree that Hon. Wafula has a loud voice. Hon. Ichung'wah has a point of order before I put the Question.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, it is good that you have pointed out Hon. Wafula's loud voice. It is louder than mine, of course.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): That is a blessing.

Hon. Ichung'wah: It is a blessing but it may be a very misplaced blessing in this House because people are actually voting on things that they do not even know. I doubt whether Hon. Wafula knew what he was voting for. He was just following Hon. Dawood, Member for Meru Central who is also rising on very frivolous issues. I would beg that Hon. Dawood first gets a copy of the Bill, reads and understands it before he stands to oppose every other clause even without an understanding of what it is about.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Ichung'wah, I know you love arguments. You have done it very well but we have other Hon. Members. You should not protect the Bill since it is not yours. Let us also allow other Members to contribute. These are representatives of the people. Let us hear from Hon. Wafula. Hon. Wafula, you are protected by the Chair.

Hon. Wekesa: Hon. Ichung'wah is not in order. You realise that we requested the Chair to explain the import of this clause before we voted and he did. We have made our decision.

Hon. Members: On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There are no more points of order or arguments. That was just on a light note from Hon. Ichung'wah. Hon. Wafula is doing very well because other Members are not raising their voices to be captured in the HANSARD. Hon. Wafula, thank you. You can do that again and other Members should emulate him.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is nothing out of order, Hon. Dawood. I do not want you to raise the points Hon. Ichung'wah raised. This is not a debate. We are in the Committee of the whole House.

We will not put the Question because it was a deletion. Next Clause.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member, I will not give you a chance. You made your point. I even gave you protection.

Hon. Wekesa: *(Inaudible)*

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member, I have been listening to you although you are not on the HANSARD. I understand. Let us not just add more arguments. The Hon. Member is now lobbying. Hon. Members, when you are here you represent your constituencies and you are on your own. You make your decision after listening to the import. Hon. Ichung'wah, do not intimidate other Hon. Members. No more arguments. Next Clause.

Clause 23

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, I beg to move:

THAT, Clause 23 of the Bill be amended by deleting sub clause (5).

Sub-clause (5) states that where a licence expires and it is not renewed for a period of one year, the name of the holder of the licence shall be removed from the appropriate record. We assume that when you do not renew your licence, you are not in the record. So, putting this there is inappropriate. You can only be put on the record after you have renewed your licence.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you Chair.

(Question of the amendment proposed)

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

(Clause 23 as amended agreed to)

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

New Clause 35

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, I beg to move:

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

34-

Amendment of 35. The Pharmacy and Poisons Act is amended-

sections 35A
and 35I of Cap
244

(a) in section 35A by deleting the words "The Director of the National Drug Quality Control Laboratory or any member of the Laboratory staff authorized by him" appearing in subsection (5) and substituting therefor the words " The Board or any person authorized in writing by the Board"

(b) in section 35 I by deleting paragraph (b).

The import of this amendment is to harmonise the powers of the Pharmacy and Poisons Board and those of the National Drug Quality Control Laboratory especially with respect to inspection of premises of registered pharmacists. What happens is that under the Pharmacy and Poisons Board Act, Section 35A erroneously gives the powers to inspect these premises to the National Drug Quality Control Laboratory, whereas, under the Act, the Laboratory was in principle not intended to be inspecting premises but just to look at issues to do with drugs that will be dispensed from those pharmacies. Therefore, the amendment is just to clear that ambiguity within the Act and give inspection powers to the Board. The director of the Laboratory can also be appointed as an agent to the Board. It is that simple.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Trans Nzoia, Hon. Janet Wanyama, you have a comment on this?

Hon. (Ms.) Wanyama: Thank you, Hon. Temporary Deputy Chairlady. This Bill is very important and I want my colleagues to support it so that we can move forward. I am worried about the Cabinet Secretary---

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Which clause are you talking about? You started very well but I do not know which clause you are talking about.

Hon. (Ms.) Wanyama: Clause 35.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): We are on the proposed New Clause 35.

Hon. (Ms.) Wanyama: That is the one I am supporting. It will enable us to have the Board in place and have an authorised person to harmonise what is there.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Member for Wajir West, before I put the Question.

Hon. A.O. Ahmed: Hon. Temporary Deputy Speaker, in terms of inspection and quality control, I think this amendment by Hon. Ichung'wah is in order. I support.

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

(The new clause was read a Second Time)

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

First Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, I can see you have an amendment. Please, prosecute your amendment.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the First Schedule of the Bill be amended-

(a) in sub paragraph (6) by deleting the word "numbers" appearing immediately after the words "one of their" and substituting therefor the word "members";

(b) in paragraph (2) (ii) by inserting the word "be" immediately after the words "ceases to".

This is just typographical work, where we are trying to align the wordings within the schedule. It is nothing much.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Member for Kikuyu.

Hon. Ichung'wah: Sorry, Hon. Temporary Deputy Chairlady. I thought it was the other amendment by the Mover of the Bill.

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

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

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

(First Schedule as amended agreed to)

(Second Schedule agreed to)

Third Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, I can see you have an amendment.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Third Schedule of the Bill be deleted.

When you look at the Third Schedule, it prescribes the ailments and the medicines that clinical officers can use. Medicines are so much advanced that the field of clinical officers has also widened. You will have clinical officers in ophthalmology, anesthesia, skin and other dermatological conditions. Therefore, by prescribing to them what they are supposed to do is limiting their functions. We even have clinical officers in orthopaedics and many other areas. So, we felt that that will be limiting their area of operations. It should be as per their training. So, we want that to be deleted.

(Question of the amendment proposed)

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

(Third Schedule deleted)

Fourth Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is amendment by the Chair.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Fourth Schedule of the Bill be deleted.

It is actually a continuation of the Third Schedule. The Fourth Schedule is about drugs and equipment for which prescriptions may be issued by a clinical officer. It is still limiting their field of operation.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Dawood, you have a comment to this?

Hon. Dawood: Yes, Hon. Temporary Deputy Chairlady. I even wanted to speak on the Third Schedule. Could the Chair expound on what he means when he says “according to their training”? Could he tell us that at the moment, they are allowed to prescribe or to use the equipment? If they are not, this Bill was being specific that they should do those things, apart from what he has just mentioned.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, can you, please, comment on that very fast?

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, at times, it is a problem when your level of understanding is very low.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, just make him understand.

Hon. (Dr.) Pukose: I am getting concerned because when I explained, I said that the training of clinical officers has been widened. After the basic degree in Clinical Medicine, you become a clinical officer. Then you go in for further training on post-basics. We have post-basics in anaesthesia, ophthalmology, skin and dermatology, orthopedics and many other fields.

For instance, I want my friend, at this basic level, to understand that in ophthalmology, you are treating the eye. These guys can even go further and be trained in cataracts surgery. In cataracts surgery, we cannot prescribe what you are supposed to do and what equipment you can use to do that. We have clinical officers in those areas. We also have clinical officers who are doing degrees. When they do a degree, their field becomes widened. I do not know whether the Member now understands at that level.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Those terminologies from a professional doctor, I am sure you are able to follow. Of course, I protect the Member.

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

(Fourth Schedule deleted)

Fifth Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, there is a proposed amendment to this.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Fifth Schedule of the Bill be deleted.

It describes the physical facilities for private clinics. It says that building must be of permanent standard, or made of wattle and mud as may be approved by the local medical officer of health.

When you talk of wattle, we no longer build houses with mud and all those kinds of material. We have now gone into permanent buildings. The advancement in terms of technology for building has gone very high. So, we want that to be deleted.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Member for Sirisia, I see a request from you. Do you want to speak to this?

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

(Fifth Schedule deleted)

Sixth Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I can see an amendment from the Chair.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Sixth Schedule of the Bill be deleted.

The Sixth Schedule lists diseases which a clinical officer in private practice may, where necessary, give initial treatment before referring to any supervising officer or any hospital. We think this is limiting the clinical officer because you are only listing diseases like cholera, plague, relapsing fever, yellow fever, acute poliomyelitis, anthrax, diphtheria, encephalitis, infective hepatitis, kala-azar and leprosy. It is limiting the diseases. Diseases are many. It means that if you go with a disease that the clinical officers cannot manage and it is among the listed diseases, then you cannot refer.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. I have listened to the import. The Member for North Imenti seems to have a lot of interest.

Hon. Dawood: Hon. Temporary Deputy Chairlady, first, I want to debunk the idea of Hon. Pukose that I am illiterate in this field. He should withdraw that remark. I wanted to raise it as a point of order.

But this provision that says “may, where necessary” does not limit any clinical officer from doing anything. Had it said “shall”, then, it would have limited. So, I do not see the point in this at all.

I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): It has been heard that the Member representing the people of North Imenti has opposed the amendment. It is good to debate on the basis of your convictions and not to be swayed. I protect him as he had asked to be told the import of amendment for clarification purposes. Not all of us are doctors.

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

(Sixth Schedule deleted)

Hon. Members, join me in welcoming students from Nyambaria High School from Kitutu Masaba Constituency, Nyamira County, who are seated in the Speaker’s Gallery, and students from St. Gabriel High School from Bahati Constituency, Nakuru County, who are seated in the Public Gallery. You are all welcome to observe the proceedings of the National Assembly.

Let us proceed.

Clause 2

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) by deleting the definition of “clinical officer” and substituting therefor the following new definition—

“clinical officer” means a person who having successfully undergone prescribed course of training in an approved institution and be a holder of a diploma or degree certificate in clinical medicine and community health”;

Initially, we did not have degrees in clinical medicine. People were just doing diploma courses. We now want to include those doing degrees as per the definition of clinical officers.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, this is basically a substitution of the definition of “clinical officer”. It is under the interpretation clauses.

(Question of the amendment proposed)

Member for Kikuyu, I can see that you are interested.

Hon. Ichung’wah: No, Hon. Temporary Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Jackson Rop, you have not spoken on this one.

Hon. Rop: Hon. Temporary Deputy Chairlady, I support the amendment because initially, all clinical officers across the country had diploma qualifications. However, we now have officers who have degrees in clinical medicine. We now want to bring everybody on board, so that even those who have degrees in clinical medicine are treated as clinical officers.

Thank you.

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Leonard Sang.

Clause 1

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

THAT, Clause 1 of the Bill be amended by deleting the word “2016” and substituting therefor the words “2017, and shall come into force on such date as the Cabinet Secretary may, by notice in the gazette, appoint”.

The effect of the amendment is to provide that once passed, the Bill shall not come into operation until such a time that the Cabinet Secretary for Health shall determine.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Yes, Hon. Ichung'wah.

Hon. Ichung'wah: Hon. Temporary Deputy Chairlady, I want to strongly oppose the proposed amendment from a constitutional stand point.

Article 116(1) and (2) of the Constitution is very clear on who has the legislative power in this country. At a time when this House is under vehement attack from the Judiciary, we cannot be appropriating our responsibility to the Executive. Giving power to the Cabinet Secretary to decide when a law should come into effect is an old way of legislating. That used to happen before the enactment of the current Constitution when members of the Cabinet used to be Members of Parliament. However, currently, CSs do not sit in this House. The responsibility of legislating and deciding when a law comes into effect is provided in Article 116(2) of the Constitution. If you allow me to read, the Constitution says as follows:

“116(2) Subject to clause 3, an Act of Parliament comes into force on the fourteenth day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force”.

Therefore, the Mover of the amendment can only propose an operational date or time. He cannot abrogate the constitutional responsibility of determining the operational date of a Bill and purport to give it to the Cabinet Secretary. I, therefore, beg the Mover of the amendment to withdraw it. I honestly do not see why we want somebody to go to court and challenge the constitutionality of this legislation once it becomes law just because of this amendment.

I urge the Mover to drop the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, let me give a chance to the Chair of the Departmental Committee to comment on this amendment before we hear the Mover. Maybe, he is re-organising himself.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I concur with Hon. Ichung'wah. I would ask the Mover of this amendment to withdraw it because it is unconstitutional. It was not even discussed with me, as the Chair of the Departmental Committee, or with the Committee Members at our sittings. Therefore, we want him to drop the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): He can drop it or move a further amendment as appropriate. That is a request, of course. He may seek to amend Clause 1 of the Bill by deleting the word “2016” and substituting therefore the word “2017.” The observations of Hon. Ichung'wah and the Chair of the Departmental Committee may lead to a further amendment. You are at liberty to do so. You may drop the words “and shall come into force on such a date as the Cabinet Secretary may, by notice in the gazette, appoint.” I do not know whether the Chair of the Departmental Committee will be okay with you moving to delete the words “2016” and replacing therefor the words “2017”. You can consult.

Member for Saboti, as the duo consult, you may comment on this amendment.

Hon. Wekesa: Hon. Temporary Deputy Chair, I stand to oppose the amendment. It is not because Hon. Ichung'wah has opposed it, but because, as a House, we should not be giving Cabinet Secretaries so much power on legislative matters. They will misuse such power.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Mover, you either move a further amendment to the amendment or you drop it altogether.

Hon. Sang: Hon. Temporary Deputy Chairlady, I withdraw the amendment.

(Proposed amendment by Hon. Sang dropped)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we are through with the Clinical Officers (Training, Registration and Licensing) Bill (National Assembly Bill No.27 of 2016) in the Committee of the whole House. The Mover will move the Motion for reporting to the House before we proceed with the next Bill.

Hon. Sang: Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Clinical Officers (Training, Registration and Licensing) Bill (National Assembly Bill No.27 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, let us proceed with the Livestock and Livestock Products Development and Marketing Bill (National Assembly Bill No.44 of 2016)

THE LIVESTOCK AND LIVESTOCK PRODUCTS
DEVELOPMENT AND MARKETING BILL

Clause 3

Hon. Nooru: Hon. Temporary Deputy Chairlady, I had some amendments to Clause 2 in terms of the definitions of some few items. Because you have jumped it, I will go to Clause 3.

I beg to move:

THAT, Clause 3 of the Bill be amended in sub-clause (1) by deleting the words “Development and Marketing” and substituting therefor the words “Marketing Promotion”.

This is only to clarify that the role of the Board be restricted to marketing rather than livestock and livestock products development.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Trans Nzoia.

Hon. (Ms.) Wanyama: Thank you, Hon. Temporary Deputy Chairlady. I want to support the Chair because the amendment is straightforward.

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

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

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

THAT, Clause 5 of the Bill be amended—

(a) in paragraph (a) by deleting the words “development and marketing” and substituting therefor the words “marketing promotion”;

(b) in paragraph (b) by deleting the words “the Ministry for the time being responsible for Trade” and substitute therefor the following words “other relevant agencies”;

(c) by deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) advise national and county governments on matters relating to marketing of livestock and livestock products, including apportionment of resources;”

(d) by deleting paragraph (d) and substituting therefor the following new paragraph—
“(d) liaise with the private sector and other agencies on matters relating to marketing of livestock and livestock products in order to limit duplication of effort and ensure optimal use of available resources;”

(e) in paragraph (e) by deleting the word “provide” appearing immediately before the words “market access” and substituting therefor the word “facilitate”;

(f) in paragraph (f) by deleting the words “development” appearing immediately after the words “national livestock”;

(g) by deleting paragraph (g) and substituting therefor the following new paragraph—
“(g) coordinate and mobilize resources for investments and promotion of marketing of livestock and livestock products in the country”

(h) by deleting paragraph (h);

(i) by deleting paragraph (i) and substituting therefor the following new paragraph—
“(i) facilitate the marketing of livestock and livestock products through provision of market information intelligence on supply and demand locally and internationally;”

(j) by deleting paragraph (j) and substituting therefor the following new paragraph—
“(j) in collaboration with research institutions conduct studies and research designed to promote value addition and marketing of livestock and livestock products;”

(k) by deleting paragraph (k) and substituting therefor the following new paragraph—
“(k) promote the adoption of standards best practices and support training in livestock production and processing that support marketing of livestock and livestock products;”

(l) by deleting paragraphs (l) and (m);

(m) in paragraph (n) by deleting the word “and”;

(n) by deleting paragraph (o) and substituting therefor the following new paragraph—
“(o) promote the adoption of standards and best practices in livestock production and processing that supports marketing of livestock and livestock products;”

(o) in paragraph (p) by deleting the word “by-products”;

(p) by deleting paragraph (q);

(q) by deleting paragraph (r) and substituting therefor the following new paragraph—
“(r) develop and rehabilitate livestock marketing infrastructure to facilitate trade in livestock and livestock products;”

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

- “(s) implement livestock insurance schemes in the country;”
- (s) in paragraph (t) by deleting the words “supervise and strengthen” and substitute therefor the word “support”;
- (t) by inserting a new paragraph immediately after paragraph (t) —
- “(ta) collate and disseminate data and information on livestock and livestock products and monitor a data base for use by all stakeholders;
- (u) by deleting paragraphs (u) and (v);
- (v) in paragraph (w) by inserting the words “fees and charges” immediately after the words “governments on levies”;
- (w) by deleting paragraph (x) and substituting therefor the following new paragraph—
- “(x) advice the national and county governments on matters relating to policies on marketing of livestock and livestock products;”
- (x) in paragraph (y) by inserting the words “in collaboration with county governments” immediately before the words “co-ordinate the promotion”;
- (y) by deleting paragraph (z) and substituting therefor the following new paragraph—
- “(z) facilitate, in liaison with county governments and communities, the establishment of strategic business partnerships;”

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): What is the import of these amendments?

Hon. Nooru: Hon. Temporary Deputy Chairlady, it is just to leave the development of livestock and livestock products to county governments and then the Council deals with marketing promotion.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Is there any Member who is interested in contributing to this amendment? Yes, Member for Kipkelion West.

Hon. Rop: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment because we should be talking of marketing promotion, but not development of livestock and livestock products.

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

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

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

(Clause 5 as amended agreed to)

Clause 6

Hon. Nooru: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 6 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting paragraphs (d) and (e);
 - (ii) deleting paragraph (g) and substitute therefor the following new paragraph—
“(g) three persons appointed by the Cabinet Secretary taking into consideration principles of gender and regional balance”
- (b) in sub-clause (2) by deleting the word “Cabinet Secretary” and substituting therefor the word “President”
- (c) by deleting sub-clause (3);
- (d) in sub-clause (4), by deleting the phrase “as chairperson or member of the Board under sub-section (1)(a), (i), (j) or (k)” and substitute therefor the phrase “a member of the Board under sub-section (1) (f), (g) and (h)”

My amendment and that of the Members are the same. The justification is to have more participation of the private sector in the Board rather than having so many public servants. We need to have four members of the Board appointed by the CS from the private sector. The CS needs to consider the principles of gender and regional balance when appointing the members of the Board.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for North Horr.

Hon. Ganya: Hon. Temporary Deputy Chairlady, before I support this Bill, I want to know what the Chairman means by “regional balance”. We know where the livestock sector is predominant in this country. Is it specific to the livestock rearing counties, regions, anywhere or anybody in this country? I want the Chairman to be specific, so that I can support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Can the Chairman of the Departmental Committee clarify the import of the amendment for the sake of the Member for North Horr?

Hon. Nooru: Hon. Temporary Deputy Chairlady, this is in line with our Constitution, which provides that regional and gender balance must be observed in public appointments. There is nowhere livestock cannot be reared in this country. Some areas have more livestock than others, but people in every part of the country rear animals in one way or the other.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): We have another amendment by Hon. Abdinoor Mohamed. Hon. Noor and Hon. Abdinoor are two different Members.

Hon. Abdinoor: Thank you, Hon. Temporary Deputy Chairlady. I will withdraw my amendment because the interest I had has already been captured by the Chairman’s amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): It is good to go on record. The proposed amendment by Hon. Abdinoor Mohamed Ali has been withdrawn.

(Proposed amendment by Hon. Abdinoor withdrawn)

(Clause 6 as amended agreed to)

(Clauses 7 and 8 agreed to)

Clause 9

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

THAT, Clause 9 of the Bill be amended by deleting the words “section 6 (1)(i), (j) and (k) shall hold office for a term of four” and substituting therefor the words “section 6(1) (f) (g) and (h) shall hold office for a term of three”.

This is about the terms of office for the chairperson and board members. This was indicated as four years, but it has been reduced to three years in line with the State Corporations Act.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let us have the Member for Narok West.

Hon. ole Ntutu: Hon. Temporary Deputy Chairlady, I support the Chairman. I was wondering why they had proposed four years instead of three years. Other corporations go with the three years’ requirement.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Trans Nzoia.

Hon. (Ms.) Wanyama: I support the Chairman because three years is the norm.

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

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

(Clause 9 as amended agreed to)

(Clauses 10, 11 and 12 agreed to)

Clause 13

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

THAT, Clause 13 of the Bill be amended in sub-clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) has a minimum of a Bachelor’s degree in the relevant field.”

The import of this is that the original Bill is restrictive and only talks of people who have experience and qualifications in the livestock sector. However, we want to open it up to Kenyans in other sectors who can handle administrative work. It means, therefore, that anybody can be the CEO of the board because this is administrative.

(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 Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we also have a proposed amendment by Hon. Abdinoor.

Hon. Abdinoor: Thank you, Hon. Temporary Deputy Chairlady. I wish to withdraw my proposed amendment because the Chairman's amendments have already captured my interests.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): You are on the HANSARD as having withdrawn it.

(Proposed amendment by Hon. Abdinoor withdrawn)

(Clause 13 as amended agreed to)

(Clauses 14, 15, 16, 17, 18, 19 and 20 agreed to)

Clause 21

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

THAT, Clause 21 of the Bill be amended in paragraph (a) by deleting the word "Parliament" and substituting therefor the word "National Assembly".

The essence of this is that appropriation of money is a function of the National Assembly. So, we are replacing the word "Parliament" with the word "National Assembly"

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Narok West. Is it on this one?

Hon. ole Ntutu: Yes, Hon. Temporary Deputy Chairlady. As simple as it appears, the Chairman needs to come out clearly on why he is changing that. We all know that veterinary services are devolved. So, I do not know why he wants to change this.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chairman, explain briefly for his sake.

Hon. Nooru: Hon. Temporary Deputy Chairlady, this has nothing to do with the functions of the board. It is about appropriations of funds. The original Bill talks of such money as shall be appropriated by Parliament for the purpose of the board. So, we are replacing the word "Parliament" with the words "National Assembly." It is for the purpose of appropriating funds.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): At least, now you have explained well.

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

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

(Clause 21 as amended agreed to)

*(Clauses 22,23,24,25,26,27,28,29,30,31,32,
33,34 and 35 agreed to)*

(Schedule agreed to)

Clause 2

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

THAT, Clause 2 of the Bill be amended by—

(a) deleting the definitions of the following terms and substituting therefor the following definitions—

“livestock” means—

(a) cattle, camel, sheep, goat, pig, poultry, lagomorph, bees;

(b) companion animal, draught animal; and

(c) any other animal which the Cabinet Secretary may by order in the gazette, declare to be livestock for the purpose of this Act;

“livestock product” means—

(a) a carcass or parts of a carcass of livestock;

(b) any product consisting of parts of, or derived from livestock, and includes hides and skins, wool, feather, meat, milk, eggs, honey; and

(c) any other product from livestock that the Cabinet Secretary may by order in the Gazette, declare to be a livestock product for the purpose of this Act;

(b) inserting the following definition of terms in their proper alphabetical sequence—

“livestock industry” means any activities that involve the production, processing, marketing or distribution of livestock products or services;

“livestock infrastructure” means structures and facilities serving the livestock economy which includes roads, holding grounds, water points, disease free zones, markets and livestock transport vehicles;

(c) in definition of “Board” by deleting the words “Development and Marketing” and substituting therefor the words “Marketing Promotion”.

This is for the purpose of clarity. It will ensure the role of the board is restricted to marketing. Part (a) is about the definition of “livestock” and Part (b) is about the definition of “livestock product”. Part (c) is about the definition of “livestock infrastructure.” This is to ensure that these definitions are clear.

(Question of the amendment proposed)

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

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

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

(Clause 2 as amended agreed to)

Long Title

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is an amendment by the Chair, who seems not be ready.

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

THAT, the long title of the Bill be amended by deleting the words “Development and Marketing” and substituting therefor the words “Marketing Promotion”.

We do not want development to be left as a function of the counties. For separation of powers, the Council should only deal with marketing and promotion.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Yes. Your import to the proposed amendment is well said.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Member for Wajir West.

Hon. A.O. Ahmed: For the benefit of the doubt, I request the Chairman to expound and make it clear to us what the implications are if we remove the words “Development and Marketing.”

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. It is the right of the Member. Hon. Chairman, can you, in just one sentence, explain?

Hon. Nooru: Hon. Temporary Deputy Chairlady, the original Act reads that “An Act of Parliament to establish the Livestock and Livestock Products Development and Marketing Board.” The Act will now read that “An Act of Parliament to establish Livestock and Livestock Marketing Promotion Board.” We have removed the words “Products Development.” The Board cannot develop products because this will be done by the counties. The work of the Council is only to promote trade, which is exporting and maybe marketing locally. So, they will just market and not produce.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): That is a good clarification. The Member sitting next to you is now in agreement because I can see him nodding.

*(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)*

(Long Title as amended agreed to)

Title

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Chair, you have an amendment to the Title.

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

THAT, the title of the Bill be amended by deleting the words “Development and Marketing” and substituting therefor the words “Marketing Promotion”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Florence Kajuju, the Member representing the people of Meru County.

Hon. (Ms.) Kajuju: Thank you, Hon. Temporary Deputy Chairlady, for recognising the importance of the Meru nation. Having just benefited from Ksh1.2 billion from the President, I stand to support the great people of North Eastern and other areas.

I congratulate the Departmental Committee on Agriculture, Livestock and Cooperatives for doing a very good job. It is important that we bring on board the issue of marketing promotion. Livestock is not just about rearing cows and goats, but also about markets. I believe the Chair wants to bring on board the fact that we must do everything for value addition and ensure that pastoralists get some income. I support the amendment to the title because it brings on board the issue of marketing promotion. This is what we are doing for *miraa* as well, promoting it for the people of Kenya.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Well spoken.

*(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)*

(Title as amended agreed to)

Clause 1

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we have a proposed amendment by the Chair.

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

THAT, Clause 1 of the Bill be amended by deleting the words “Development and Marketing” and substituting therefor the words “Marketing Promotion”.

This is very straightforward.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The representative of the people of North Horr, you have a comment on this.

Hon. Ganya: Hon. Temporary Deputy Chairlady, I want to support the Chair on this amendment. I think marketing promotion is very critical. I hope, for the first time, camels in this country will be marketed like in Ethiopia, Somalia and other parts of the world.

*(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 1 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we are through with the Committee of the whole House on the Livestock and Livestock Products Development and Marketing Bill (National Assembly Bill No.44 of 2016). I, therefore, call upon the Mover to move reporting of the same.

Hon. Abdinoor: Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Livestock and Livestock Products Development and Marketing Bill (National Assembly Bill No.44 of 2016) and its approval thereof with amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you. You have moved the reporting very well.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order Members! We are waiting for the Chairman.

(Hon. (Ms.) Kajuju consulted with the Clerk-at-the-Table)

Just allow a bit of consultation.

REPORTS

THE CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we will have the Report. I, therefore, call upon the Chairperson to move reporting. We are considering the Clinical Officers (Training, Registration and Licensing) Bill (National Assembly Bill No.27 of 2016).

Let us have the Chairperson, Hon. Kajuju.

Hon. (Ms.) Kajuju: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Clinical Officers (Training, Registration and Licensing) Bill (National Assembly Bill No.27 of 2016) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I now call upon the Mover of the Bill to move for agreement with that Report.

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

Hon. Francis Waititu: Hon. Temporary Deputy Speaker, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I am not in a position to put the Question because of obvious reason. I direct that the Question be put during the next sitting at the most appropriate time.

(Putting of the Question deferred)

THE LIVESTOCK AND LIVESTOCK PRODUCTS
DEVELOPMENT AND MARKETING BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order Members, we now move to the Livestock and Livestock Products Development and Marketing Bill (National Assembly Bill No.44 of 2016). Let us have the Chairperson report to the House.

Hon. (Ms.) Kajuju: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Livestock and Livestock Products Development and Marketing Bill (National Assembly No.44 of 2016) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I call upon the Mover of the Bill to move for agreement with the said Report.

Hon. Abdinoor: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Chachu Ganya to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Ganya: Hon. Temporary Deputy Speaker, I beg to second. I want to compliment Hon. Abdinoor for this Bill. As a first time Member of Parliament, he has done a good job. I hope the Senate will pass this very soon. *Wasilalie kama kawaida.*

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Again, we are not in a position to put the Question to this Report. I, therefore, order that the Question be put during the next sitting at the most appropriate time.

(Putting of the Question deferred)

Let us move to the next Order.

BILLS

Second Reading

THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL

(Hon. Masadia on 29.3.2017)

*(Resumption of Debate interrupted on
29.3.2017 – Morning Sitting)*

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we are resuming debate which was interrupted on Wednesday, 29th March 2017, during the morning sitting. There was a balance of 1 hour and 55 minutes for this Bill in the Second Reading. There was no Member on the Floor, and so, we can debate this.

The first request goes to Hon. Wafula Wamunyinyi who represents the people of Kanduyi. This is on the Kenya National Examinations Council (Amendment) Bill (National Assembly No.42 of 2016) appearing in Order No.11 on your Order Paper.

Hon. Wamunyinyi: Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to express myself on this Amendment Bill that seeks to amend the Kenya National Examinations Council Act.

The running of examinations is a very important aspect of education in any country. Management of the examination process is very important to the extent that it assures credibility of the examination. It ensures that the participants and candidates in an examination undergo proper and thorough examination and if there are any issues, procedure is provided to ensure that justice is done, there is fair play and every person is accorded an opportunity, for whatever reason, to either express, defend or explain themselves in the event of any issue arising from an examination.

I commend my brother who tabled this Bill because we have had issues in our country related to examinations. Last year, the issue of cheating was eliminated, but there were other issues. Issues will always emerge every time you have an examination. It is, therefore, important to put in place measures which would ensure proper address of anything that would come out either, namely, from irregularities in examinations, cheating or anything else that is reported which is negative.

This Bill also provides for mechanisms and procedures to be followed in the event disciplinary measures are taken against any of the people involved in the examination process. These include invigilators, students, schools or the management of education institutions. Procedures are clearly provided in this Bill to prevent unfair treatment of any suspect or those involved in any ills or malpractices that may have been reported. Disciplinary procedure is

clearly provided for. This will enhance the manner in which we address issues and will help to clarify where it has not been clearly provided before.

As we are all aware, education is the key to everything that we want to do in our country. It is key to development, making our young people productive and ensuring that they contribute to our community and society. Therefore, for us to compete internationally and put our young Kenyans in a position of strength in terms of competition with other countries in the region, we need to ensure that our education system is credible. It should be administered in the best way and measures are put in place to prevent any malpractices and unfair treatment that has been reported in the past.

Hon. Temporary Deputy Speaker, we should take the opportunity to bring some amendments to this Bill and I will do that when it comes to the Committee of the whole House to ensure that we capture sanctions and what happens when one has been found to have committed an offence under this Act. The sanctions need to be enhanced.

The Temporary Deputy Speaker (Ms.) Mbalu): Order! There is interruption, Member for Kanduyi.

Hon. Members, please, join me in welcoming to the House Bishop Lawi Imathiu Boarding Primary School from North Imenti Constituency, Meru County, and their representative in the House, who is very active. You are welcome. They are in the Speaker's Gallery.

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

*[The Temporary Deputy Speaker
(Hon. Omulele) took the Chair]*

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Speaker. We need to look at enhancing sanctions for those that would have been found to have committed an offence. If there is evidence that can prove that one is culpable or guilty, deterrent punishment must be meted.

The establishment of the Examinations Appeals Tribunal, which shall consider and determine the appeals arising from determination of the Council, will give an opportunity and allow proper address of the issues. It will give an opportunity to those who are involved, so that they are also given a chance. This tribunal shall have a chairperson appointed by the CS for the Ministry of Education, Science and Technology and other members who shall not be less than four. This is a clear provision to ensure that the quality assurance officers in the Ministry and at the KNEC are involved to ensure that the process is free and fair.

This is generally about examinations and I want to stress the fact that in ensuring our students are properly moulded and prepared to go through an examination and contribute to the development of our country, we need to ensure that facilities are provided and that the administration of schools is good enough to ensure that we realise the objectives.

The Government, in some instances, is giving Kshs12,700 to each student in public secondary school provided by the National Treasury. The managers of our schools, principals and board of management committees should ensure that funds that are given to schools as grants or as part of the feed subsidy are utilised in the best way. They should provide facilities in schools like laboratories for pure sciences and library facilities to enhance instruction. There should be learning materials like books for the learners. By so doing, we will enhance

performance and improve the standards of our education and students will get quality instructions from the teachers.

I wish to thank, once again, the Member who brought this Bill, Hon. Agoi.

The Temporary Deputy Speaker (Hon. Omulele): You have a minute to wind up, Hon. Wamunyinyi.

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Speaker. I was congratulating the Member who brought this Bill because it is going to help us, as a country, to ensure that we streamline administration of examinations in our country. I support it and appeal to colleagues to also support it.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Omulele): We shall have Hon. Samuel Moroto, Member for Kapenguria.

Hon. Chumel: Thank you very much, Hon. Temporary Deputy Speaker, for also giving me this opportunity to add my voice in congratulating Hon. Alfred Agoi, who has made efforts to bring this very important Bill before us. It has come at the right time when Kenyans have opened their eyes to see the importance of education. It is very critical because for some time, KNEC has not been doing its work well. That is why there are some emerging issues where some papers are got from River Road and used for positions that would have been taken by those who worked hard in school.

I congratulate the Ministry of Education, Science and Technology for what they are doing. I know they have inherited a deep-rooted problem that has been there for a long time. The current CS and his team are trying, and we can see the structures they have put in place, to ensure that some facilities are given to schools.

For the first time, some of us are benefiting, especially in Kapenguria or West Pokot. The other day, I saw a long list of some schools in West Pokot which are meant to benefit for the first time since Independence. Some time back, if you went to West Pokot and heard of a school, you knew it was a missionary school. Churches put in some effort to ensure that those communities uplifted their education standards. I now realise this. I went straight to Standard One because there were no pre-units then. The people who were close to us were the missionaries and the churches, be it the Catholic Church, the Anglican Church of Kenya (ACK), African Inland Church (AIC) and the Seventh Day Adventist (SDA). Those were the people who were involved in education and health. If you go to West Pokot, there is a big hospital called Ortum, which is a missionary health facility.

I am talking about it just to emphasise that the Ministry of Education, Science and Technology should go further and ensure that the resources they give to schools are utilised to the last penny. There is a problem when we talk about buying books because principals or those in charge collude with bookshops. If you go to a school which you have been told has several books, you will not get even a single book.

Those are some of the areas that I am talking about. They have done their part by supporting those institutions, but they should ensure that whatever they are putting there is made good use of.

With regard to the Kenya National Examinations Council, I would like to say the following: Without education, you cannot be a Member of Parliament; without education, you cannot be president and without education, you cannot be a medical practitioner. So, education is the foundation. If KNEC is going to continue this way, even other countries that we are linked to in terms of education are going to think otherwise of us. Indeed, KNEC is trying to put its house

in order and I believe things will work. Sometime back, the University of Nairobi, Kenyatta University, Dar-es-Salaam University in Tanzania and Makerere University in Uganda were prestigious institutions of higher learning.

Today, I heard that the EACC will be conducting investigations on some individuals with regard to their education background right from primary school. This is shameful. We should not even go to that level. This is something that KNEC ought to have done a long time back. Why should we use the police to harass people because of academic certificates? We are not equal. I want to praise Governor Joho. I will not praise *mambo ya D-* (Minus), but that was an effort. Some of us learnt under trees where the wind would come and sweep the blackboard many kilometres away. We would then run after the blackboard and return it only to find that two lessons have already been covered. So, you cannot compare a pupil going through such things with somebody who is seated in class all the time. We need to be very considerate. We are not equal in Kenya. We have to ensure that whatever we do, we should strive to put the underprivileged and the privileged on the same level.

I support, but during the amendment stage, I will bring some amendments. I stand with Hon. Agoi. I would like to ask my colleagues to support him too.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Moroto, that is very encouraging. I hope you will keep our buffalos safe also. We should now have Hon. Abdul Dawood, Member for North Imenti.

Hon. Dawood: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. First of all, I would like to welcome a school from my constituency. It is a public boarding primary school called Bishop Lawi Imathiu. They have come at the right time because we are debating the Kenya National Examinations Council Bill. I should congratulate Hon. Agoi for bringing this Bill. Many a times, many students have had their results cancelled without being given a chance to present their case. Many a times, results for a school are cancelled instead of the results of one or two people. A case in point is when I was doing my “A” level examinations. That was a long time ago. There was a person who was ahead of me. His results were cancelled. He was in Parklands Secondary School, a public school. He was never given a chance to appeal. He tried so much to appeal, but in vain. He was from a poor family. So, he had to repeat his “A” level examinations. After that, he went to the University of Nairobi and went on to do his Master’s degree. It means that it is not necessarily true that exam cheating took place even if those allegations are made. Many times, such allegations are never proved. With the passage of this Bill, we will have the appeal mechanism in place.

Last year’s exams were very good, although I believe we still had cheating. That is because there are some schools which we know some students got over 400 marks. There are schools which had, as candidates, students from other schools where they were performing poorly, say, getting less than 300 marks, but upon getting entry in the new schools, they scored over 400 marks. So, we wonder where we went wrong. Although we are improving, we want to encourage the Cabinet Secretary (CS) for Education and KNEC to look into this matter.

As Hon. Moroto has said, we need to know how students have been performing over the years once they sit Standard Eight exams, or is it going to be Standard Seven now? We need to change the system of exams. We should not say that the last exams you did are the ones to take you to the next level. That is because you could have been performing well all along but, on the day of the national exams, you get jitters or something crops up in the family. Something else happens and your performance goes down. We should not link our progression to secondary

school or to further education on the last exam. We should have a system where we depend on continuous assessment of students.

It has been mentioned by one of our colleagues that D- (Minus) should not be put into the dustbin. We should see how we can move those people forward. We should not condemn our students who score grade C and below and say that they cannot go to university. Let them go to university, but let us have a proper structured way of taking them forward. If we just do it haphazardly, the people who have worked hard will lose out. We need to get people who have below C + (Plus) to go forward in life as well. The ones who have scored A up to C+ (Plus) should be decorated.

To have the Appeals Tribunal in place is a very good idea because it will afford people whose marks have been cancelled a chance to appeal. I believe we should have another system where people who are not satisfied with their marks can have their papers remarked. I took my daughter's papers for remarking. It is now six months and nobody has even called me from KNEC. I believe we should have---

The Temporary Deputy Speaker (Hon. Omulele): I interrupt you shortly, just to recognize the students from PCEA Kibwezi Imani Primary School from Kibwezi East, who are seated in the Speaker's Gallery in the People's Parliament of Kenya today. I want to welcome them to the warmth of this House. Proceed.

Hon. Dawood: Thank you, Hon. Temporary Deputy Speaker. I welcome them as well. Lastly, we should encourage the establishment of boarding primary schools in order to get the best out of them. I believe the children who are here from North Imenti will take the message from the National Assembly that it pays to study. It pays to get good grades because their MP is a holder of a Master's degree and he is going for a PhD. I would want to encourage them to study hard. The school which is here is one of the best in North Imenti. We want that to be maintained. If we revert to the grading system, we will not want it to be about comparison between public schools and private schools. Of course, the private schools have got much more facilities than the public schools. The public schools are greatly disadvantaged. I support this Bill. Maybe, I will bring a few amendments in the Third Reading.

The Temporary Deputy Speaker (Hon. Omulele): I hear you in regard to continuous assessment of our children so that the whole school going period is considered in assessing them. Those are very good contributions. We shall now have Hon. Abdikadir Omari, Member for Balambala.

Hon. Aden: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to speak to this very important Bill.

At the outset, I congratulate Hon. Agoi for bringing up this very progressive piece of legislation. Basic education is not only a right under our Constitution, but a very important step for any Kenyan who is starting life. The processes that we go through in our examinations are critical to our young generation. Therefore, they deserve all the attention and legislation to ensure that we safeguard that process and ensure that it is done in a manner that, indeed, meets not only the requirements of modern day Kenya but, also safeguards and takes care of the interests and the rights of the young people.

With regard to Kenya National Examinations Council (KNEC) and, particularly, the cancellation of results, it is a matter that has affected many Kenyans in the past. Before being elected into my position in the year 2012, I looked at the numbers of students in 2010, 2011 and 2012 in one of the secondary schools in the constituency that I represent. Every year, at least, 50 per cent of the students were not getting their results. Therefore, I made this a priority when I

was elected. I brought together the parents, teachers and the administrators of the schools and we sat and talked about this particular issue. It is very saddening to hear that some of the reasons why those examinations were being cancelled is because of certain teachers who were not happy being posted to that part of Kenya. Therefore, to show their anger and frustration, they just said: "We are angry with these people and this place. Therefore, let us say these exams were not done in a free and fair manner." That affected the lives of very many people. It took a lot of time for me to engage with those teachers so that we could turn around that feeling and show them how critical it was to the lives of those young people whose results were cancelled without any particular mistakes being done.

This piece of legislation brings in something that is very good. That is because once a candidate's results were cancelled, it took them two years, at least, for them to be allowed to re-sit that exam. In my view, this is very unfair and unjust because two years is a very long time. For a 17 year old, when you say two years, that student is 19 years old and when you ask him to repeat Form Four again, the boy or girl will be 20 years old. By the time they wait for their results again, it will be another year. A student who could have started their university education at age 18 will now be forced to start their university education at age 21. This takes back the student about three years or more and that is very bad. Many of those students get so demoralised and leave school for good. Many of them left and never came back to education again. Unfortunately, some were even sucked up into this mess of insecurity and drugs.

This piece of legislation says that should there be a report of where an irregularity might have happened, instead of KNEC taking the unilateral and unchallenged decision to just decide to cancel those exams and subject those students to those timelines that I have just mentioned now, some of them have been banned from sitting for those exams. Those students must be taken through fair administrative process and they must be allowed to sit before a tribunal to explain to them.

I will tell you about some cases which I experienced at the time I was looking at those issues. A bunch of students had their exams results cancelled because they duplicated their work. This was the reason. Can I tell you that some of those students did not even sit in the same examination rooms? They were about three rooms apart and they were both accused of sharing and writing the same things. It cannot be. All that can happen when you give one entity, the KNEC, just the leeway to say: "We are cancelling these exams. We are not happy with this student. These two students duplicated." However, when you bring in the issue of a tribunal that sits and actually verifies that those students did not even sit in the same room during the entire exam period, then you realize that, indeed, that will be a fair process for the student.

I have always challenged KNEC and said: "How can an examination which is under your custody be stolen in the first place?" Before we punish the students, the culprit to begin with is KNEC itself. Those exams are sealed and they come when they are sealed. How can they be stolen? How are those exams leaked out to that young student who is out there? How will they have known? Theirs is only to have a fair guess by looking at the past papers for a few years and saying: "This question was not tested last year and it probably will be tested this year." That is the kind of thing we did during our times and we managed, in a very fair way, to predict where the examinations or the examiners were likely to look at in the next exams.

This particular piece of legislation deserves all the support. It certainly has my support. I am most impressed about the appeal tribunal and also about removing this unilateral decision of cancelling exams from KNEC before due process of fairness is followed. I support this Bill, Hon. Temporary Deputy Speaker and I thank you for giving me the opportunity to contribute.

The Temporary Deputy Speaker (Hon. Omulele): Those are very good contributions. We shall now have Hon. Reginalda Wanyonyi, Member for Bungoma.

Hon. (Ms.) R.N. Wanyonyi: Thank you, Hon. Temporary Deputy Speaker, for allowing me this opportunity to contribute to this important Bill. I want to say something concerning KNEC. It must be noted that in Kenya and possibly across the region, examination determines and shapes the life of a person. It is the examinations that will determine whether you will succeed in life or not. In Kenya in particular, we peg so much on exams. This has actually affected our students both positively and negatively. To me, there is something wanting about the structures of KNEC. How they pass on the exam to the student is wanting. Why do I say this? I say this partly because at the very lowest point, you are not certain about the person handling the examinations. In most cases, you find that examinations leak before they are done. When that happens, we have results that are not correct.

I am an educationist and we have had cases where examinations are leaked to students. They perform and pass so highly. Some of the Form Four candidates end up in universities and land in certain courses that are very technical. For example, they qualify to do medicine or certain courses that are so technical. But because they did not understand the basic, they actually did not qualify to do those courses at a higher level. Many students are facing problems in the universities because they did not actually pass the exams. They stole the exams.

This has been going on in the education sector. There are students who get leakages in the classrooms. Teaching in itself is equally affected. It is, therefore, a chain. The Kenya National Examinations Council (KNEC) needs to strengthen its structures. When we talk about leakages and how our students are suffering, when a school's examination results are cancelled, believe me, the students are affected differently. There are those students who will have worked so hard and because they are generalized together with those whose leakage has helped them, they fall out and suffer for that. In my opinion, that is unfair. I blame KNEC. There are cases of corruption in KNEC. I want to give an example. A principal of a senior school was asked how many As he wanted. He said he wanted 100 As in a particular subject and he was asked for Kshs2 million. He was then called and told everything was ready and so he needed to deposit Kshs2 million. The teacher said the results would be out the following day and, therefore, did not give out the Kshs2 million. The following day when he was expecting those As, he was told that the examination results were cancelled because of leakages. This means that if he had paid the Kshs2 million, the examination results would not have been cancelled. That means that there is corruption in the office that is charged with examinations - and that is KNEC. We need to investigate KNEC and understand how it is operating. That way, we will be in a position to strengthen the systems within which KNEC operates. That is why I want to thank Hon. Agoi for bringing this amendment so that we can see how we can strengthen KNEC.

I also want to talk about university entry. There is a lot of talk about those that have scored D- and have not met the basic requirement for university entry and have had their way all through to study for their PhDs. I want to be on record. We have a basic minimum qualification for university entry, and it is a C+. If you are so determined, hardworking and in one way or the other you aspire to advance academically, what is wrong if you scored a D- or a C- and you know that, that does not qualify you to enter a university? You just need to sit for another exam. That determination will give you that C+. This will ensure that not any qualification will be a qualification to everything you want to study. I want those that have advanced and did not meet the basic qualification as far as the C+ is concerned, to sit for another Form Four exam and get a

C+. That will correct everything rather than justifying other things that will mess up the education system.

As I conclude, I want to say that examinations in Kenya cannot be seen to be fair to all the students who sit for them. We have variations in provision of facilities. Certain schools do not have the basic facilities to enable those students to pass exams. They include books, pens, teaching materials and even teacher-student ratio. Those are the factors that determine the quality and passing of exams. Those are the factors that need to be considered if we want to have a fair representation of our students in the same examinations. In some cases, some teachers do not even have basic facilities like housing. A teacher who is closer to his or her students will definitely impact on that particular student or pupil in a much more effective way than a teacher who, for example, is not close to his or her students. If a teacher treks for about two kilometers to his or her place of work, you do not expect that teacher to effectively interact with that pupil for effective learning and, therefore, passing of examinations. We need to look at some of those things seriously. We need to look at the teacher to student ratio. We also need to look at facilities like provision of basic amenities like books and electricity. I want to thank the Government. As we talk now, almost every public school is accessing electricity. Those are some of the amenities that will provide equal opportunities to those particular pupils or students so that, when they sit for an exam, they can actually boast of it and the results they will get will be fair. This Bill is timely and we must stand and make the necessary amendments to ensure that the examinations that reach our pupils and students are standardised and benefit all across the socio-economic status, regions, urban and rural areas.

With those few remarks, I support the amendment to this particular Bill.

The Temporary Deputy Speaker (Hon. Omulele): Very good contribution from the Member for Bungoma. I appreciate it. Let us have the Member for Lugari, Hon. Ayub Savula.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to the Bill. First, I would like to say that a person sitting for the national examinations has a right to a fair hearing when the exam is cancelled or disputed. Without an Appeals Tribunal, a student will find himself in an awkward position because he is not in a position where he or she can be given a fair hearing. He or she is condemned without being heard. This amounts to behaviours that are unconstitutional. The Appeals Tribunal will give them a fair hearing and considering that the age of students who sit for the Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Education (KCSE) is below 18, they cannot access the mainstream judicial system in hearing of their matters. Furthermore, when we have cases of leakages or exam cheating, it involves several individuals. It involves the security personnel, the Ministry officers, examination officers, KNEC officials but, at the end, the only one who is subjected to condemnation is the pupil or the student where the examination has been cancelled. So, the Appeals Tribunal will give the first line of fair hearing as provided for in the Constitution.

If you look at the case of our senior brother, the Governor for Mombasa County, he is being investigated by Ethics and Anti-Corruption Commission (EACC). They are already in one of the primary schools where he is alleged to have gone in Mombasa. But if we had an Appeals Tribunal, he should have reported this matter first to it. It could have been handled by the Ministry of Education, Science and Technology that caters for issues of examinations before the matter is formally forwarded to EACC or Criminal Investigation Department (CID). We have to give individuals fair hearing through the Appeals Tribunal on matters concerning examinations before they are formally forwarded to senior institutions. All other institutions have appeal

tribunals. If you look at regulatory authorities or bodies, they serve as appeals tribunals for any bodies or parastatals that fall under them.

Why can we not have a similar structure at the examination level? Examination is the backbone of an individual's academic career in this country. Let me give an example. When we heard in Jubilee that there was extrajudicial execution of crime suspects without undergoing the due process of court, this is the same when you condemn a student for being involved in exam cheating without having facts and evidence. If you look at the law, it is only a judicial system that can prove that you are guilty or you are innocent. But in this case, KNEC is the judge, the investigator and everything. I support this crucial Bill that will help us introduce systems in the education sector that will help our innocent kids from being condemned without being heard in matters regarding examination cheating. I support.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): That is a good point, Hon. Savula. Our children should be given an opportunity to be heard in these matters. We shall now have Hon. Janet Wanyama, the Member for Trans Nzoia.

Hon. (Ms.) Wanyama: Ahsante sana Mhe. Naibu Spika wa Muda, kwa kunipa nafasi hii angalau pia nichangie Mswada huu unaonua kuzuia visa vya udanganyifu wa mitihani katika nchi yetu. Wenzangu wameongea kuhusu changamoto ambazo watoto wetu hupitia na pia, shida ambazo watangulizi wetu walizipitia hapo awali. Ni kweli vile wenzangu wamechangia. Kuna wengine wametoka katika maisha duni ama wamesoma kwa shule ambazo hazijajengwa vizuri katika maeneo yao.

Mhe. Moroto amesema kwamba ukiona West Pokot mahali anatoka, wanafunzi walikuwa wakisomea chini ya miti. Sasa unaona katika maisha kama haya, wengine wakifika wakati wa kufanya mitihani yao halafu mwishowe isemekane kwamba mitihani imefutuliwa mbali, hiyo inaleta shida hata kwa jamii na wazazi wa watoto hao. Na siyo hiyo tu. Vile wenzangu wamesema, zile changamoto walimu wanapitia katika sehemu kama hizo za ukame na sehemu zinginezo ambazo hazina barabara ama hazina vifaa vya kutosha, ni nyingi. Shida hizo pia zinachangia katika mambo haya ya mitihani.

Hapo awali, tulikuwa tunafanya mitihani ya darasa la saba. Kutoka darasa la saba, mtu akienda katika shule ya upili, wanafanya mitihani katika kidato cha pili. Ilikuwa inapatia mtu nafasi angalau kuona anaendelea mbele ama ako na nafasi ya kurudia hicho kidato. Hiyo ilikuwa inatupatia manufaa mazuri sana. Tukipata wale wamehitimu vizuri kutoka hapo, walielekea kidato cha nne na baadaye wakamalizia kidato cha sita kule mbele. Walikuwa wakiendelea vizuri sana.

Lakini kulifika mahali tukawa na udanganyifu kwa sababu baadhi ya walimu na wazazi wale wanajitosheleza katika jamii wanatafuta njia za kuhonga walimu ama walimu wakuu, na hao walimu pia wanapata nafasi ya kutembea katika Mitihani House kuhakikisha kwamba watoto wao wanafanya vizuri katika shule zao, ama wanafanya vizuri kuhitimu katika madarasa waliokuwa wakifanya mitihani yao.

Cha kushangaza ni kwamba, tulikuwa na mwenda zake Mheshimiwa katika Bunge hili, Mhe. Mutula. Mliona kwamba baada ya kukuwa waziri, alihakikisha kwamba amepatia mtoto wake shahada ya degree ilhali hakumaliza ile miaka inahitajika katika chuo kikuu. Sasa, unaona hao ni baadhi ya viongozi miongoni mwetu - wale walikuwa wakichangia mambo kama haya katika nchi yetu ya Kenya. Mtoto wa tajiri ama mtoto wa kiongozi anafaidika. Huyo kiongozi anapata nafasi ya kuhakikisha ya kwamba mtoto wake anapita mitihani bila hata kupitia masharti yale yanayotakikana katika sekta ya elimu katika nchi yetu. Na haya mambo ya ufisadi ndio

huwa tunapinga sana katika nchi yetu kwa sababu yanatuletea madhara. Unapata mtu amehitimu lakini ukimpa kazi afanye, hafanyi kwa njia sawa kwa sababu hakutumia njia mwafaka ya kuhakikisha kwamba anafika penye amefika.

Ninataka kuunga mkono Mhe. Agoi kwa kuleta huu Mswada katika Bunge hili, wa kuhakikisha kwamba tuko na jopo kazi la kuhakikisha kwamba kuna usawa. Iwapo kutakuwa na matatizo ama iwapo tutakuwa na mambo yale yasioeleweka katika nafasi ya mtu kuhitimu ama ya kupewa cheti chake – tunafahamu yaliyompata Mhe. Joho - hilo jopo kazi litasaidia wananchi ambao hawana nafasi ya kujitetea.

Tena, ni aibu kubwa sana kwa sababu ikifika uchaguzi, jopo kazi la uchaguzi na mipaka linaingilia kati na kusema kwamba wanatafuta hiki na kile. Jambo kama hili linaelekea kutumua vibaya ushuru wa wananchi katika nchi yetu. Hatuna barabara na maji sehemu zingine ilhali tunatumia ushuru vibaya. Badala ya matumizi mabaya ya hizi pesa, ni heri zipelekwe kule mashinani zilete maendeleo katika nchi yetu.

Namshukuru Mhe. Agoi kwa kuleta Mswada huu ili sisi kama viongozi katika Bunge hili tuuchangie na kuona kwamba sekta ya elimu katika nchi yetu imeendelea mbele na inaleta usawa. Bila elimu, watoto wetu na vizazi vijavyo havitapata nafasi ya kuwa viongozi. Usipokuwa na elimu, watu wanasema kuwa Serikali haijapeana kazi ya kutosha. Lakini mtoto akihitimu, akipata cheti chake, licha ya kwenda katika chuo kikuu, anaweza kwenda katika chuo cha kiufundi. Hiyo inaendelea kuongeza maarifa zaidi na inawapatia nafasi ya kupata kazi katika sekta mbalimbali katika nchi yetu.

Ahsante sana. Naunga mkono Mswada huu.

The Temporary Deputy Speaker (Hon. Omulele): We shall now have Hon. Mary Wambui of Othaya, followed by Hon. Richard Tong'i, the Member for Nyaribari Chache. Those are the only ones interested. Then we shall have the Mover to reply.

Hon. (Ms.) Munene: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to say something about education. It is bad when we know the child went to school, the teachers and parents do their work but, at the end, you hear the exam has been cancelled. The child suffers. When the child suffers because the exam has been cancelled, it is sad. We have never heard the person who sold that exam to those children arrested or punished. The people suffering are innocent. The child is given answers by the teacher, who knows what is happening. The child has no problem. The parent and the child suffer. So, it is good to have a tribunal so that when we have those problems, there is a place people can go and appeal. Now they have nowhere to go. The parents are not able. They struggle to educate their children from Form One to Form Four. They are just suffering.

The people who are doing that are able and have the knowledge of how they are corrupting the system. But as for the poor people, they have no one to stand for them. When their exams are cancelled, they just go and suffer at home with their parents. It is very bad and yet, we are sitting here without protecting them. We are not here because of the rich, but for all Kenyans. The people who are leaking examinations know who they sell them to. The authorities have not done anything to curb the practice of examination irregularities. We want the culprits arrested because they are spoiling the whole country. The Cabinet Secretary (CS) for Education, Science and Technology, Mr. Matiang'i, must bring the culprits to book instead of just cancelling examination results.

It is better for the CS to establish a tribunal to get to the bottom of this matter by listening to children from poor families who are innocent. They probably do not even know what lead to the cancelation of their examination results. Maybe, they get leakages through their classmates,

who might have been excited by it. The engineers behind exam leakage scams have no problem because they reap from selling the exams.

I support the Bill. May God bless the person who brought it? If we sit down and agree, Kenyans will go far.

Thank you, very much.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Richard Tong'i!

Hon. Tong'i: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to speak on this Bill. I associate myself with the Bill so deeply because of what it propagates. It is meant to ensure that our examinations are more credible and acceptable universally, and that the issues that have devoured the Kenya National Examinations Council (KNEC) for many years become a thing of the past.

You cannot be a judge of your own case. For a long time, KNEC has been the judge of their own cases. They have been marking exams, condemning results and passing judgement on candidates. How can you do all those things at ago from one source? It is an opportune time to audit what KNEC has been doing so that, in case there is a complaint, we can get a fair judgement. I have had cases in my constituency. Kisii High School is one of the national schools which have suffered so much under the poor judgement by KNEC. They have passed judgements which have hurt students. Those are young people with aspirations. A mistake of an individual can cause condemnation of an entire school. Students have lost opportunities. That is not the way to do it. Therefore, I am grateful that my good friend has seen it fit to bring this amendment Bill in order for us to address those concerns and make our national examinations more acceptable.

In this country, children from schools in rural areas, like Irondi Secondary School in my rural village, sit for the same exams with students in highly established urban schools like Alliance High School. That is not fair. It is not equitable. You cannot have a common exam for students in national schools and students in local schools. Therefore, the Government and the general leadership of this country have a duty to ensure that newly coming up schools are provided with enough resources to ensure that they have equal chances of preparing their students early enough to face national exams, just like students in a national school in Nairobi. Some people have failed exams at one stage of their lives because of such disparities.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Tong'i, I will interrupt you for a minute to recognize the presence of students from Christ the King Parochial School from Embakasi East Constituency, Nairobi County and Uhuru Secondary School from Ol Jororok Constituency, Nyandarua County. You are all welcome to observe the proceedings of the House.

Hon. Tong'i, please proceed.

Hon. Tong'i: Hon. Temporary Deputy Speaker, we have a big challenge of convincing upcoming generations of graduates that education is key to success, when we have poor, jobless graduates on one hand, and rich criminals who have stolen from the Government surrounding our leadership on the other hand. We lose the spirit of encouraging students to believe that education and hard work pays. We have so many unemployed youths out there. The Government and the leadership of this country should be very concerned and think of how best to address this problem, if we are to inspire students to achieve their full potential. Most students come from very humble backgrounds. They have worked very hard to get to where they are. However, after finishing school, they neither get employed nor have opportunity to pursue their dream businesses. Therefore, as leaders, we have the challenge of ensuring that we do whatever it takes to make Kenya a better place to live in.

As I said, failure at one level of education should not condemn a person in totality. People fail because of many reasons. It could be that, at the time of writing the exams, one was going through family challenges. People have failed exams because at the time of the examination, they were having some personal problems. The youth are people whose maturity comes in different stages. Some of them could be experiencing adolescence challenges at the time of the exams, and such experiences could affect their performance in the exams. Later in life, they could discover that education is important and start working harder. Some of them discover their potential at the college level or after high school education. Therefore, we cannot say that people who failed in their national examinations in whichever system of education are not good enough to serve their country.

In the United States of America and other developed economies, if you think you have what it takes to study medicine, you will be given a chance to do so as long you pass the exams. As an emerging nation, we also need to embrace those kinds of innovative ideas. If one wants to pursue education, one should be given a chance to do so notwithstanding one's previous performance in the national examinations. One should be given a fair chance to grow because people's perceptions change with time. As they interact with people and get new ideas, they discover existing opportunities out there. The biggest contribution we can give to mankind is inspiring others to achieve their full potential. As leaders, we have a duty to ensure that the few people in our midst who have worked against all odds to emerge tops and become role models to other students, should be encouraged and not condemned.

I support this Bill because it is good. It has come at a good time to ensure that we address the examination challenges that we have been having. It is good for us to have an examination appeals tribunal. The tribunal will be listening to students' complaints before they are condemned. At least, somebody will get a chance to be heard. That is what the law of natural justice demands of us; before you condemn me, you must give me a chance to be heard.

I will bring a few amendments during the Committee of the whole House because there are few areas which need shaping up. My brother has done very well in his contribution. Hon. Alfred Agoi has ensured that this Bill is enacted into law to support KNEC in order to make Kenya a better place to live in.

The Temporary Deputy Speaker (Hon. Omulele): Which minutes are you donating, Hon. Agoi? Hon. Wesley, Member for Cherangany and Hon. Silverse Anami want to contribute. It is all right. He knows what to do. As you reply, you may allow them to make a contribution in a minute.

Hon. Agoi, proceed.

Hon. Masadia: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to reply to the Kenya National Examinations Council (KNEC) (Amendment) Bill (National Assembly No. 44 of 2016). Before I reply, I would like to donate a minute to the hon. Member who wants to say a point because this is a matter of national importance. Then after that, I will give a minute to Hon. Wesley.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Silverse Anami.

Hon. Anami: Thank you, Hon. Temporary Deputy Speaker. I came rushing to make a contribution to this Bill. Along with this amendment, we may want to consider broadening the Bill to embrace the aspect of continuous assessment. It is very important because some of those certificates and examination results are being politicized. If we have an opportunity for continuous assessment to be accommodated alongside the certificates, that will help us.

There is also the awards programme. We need to stress on the awards programme within the examination process. It is where we look at the questions that have been set and say whether it is the candidate who failed the exams, the setter of the exams or the marker who failed. Some questions fail before they are even attempted.

There is also the issue of the rights of victims. Kenyans have rights. If a child was involved in examination cheating because the teacher initiated it, then that child should not be condemned. I support the idea of investigations, so that we can establish who initiated the process of cheating. I also want to support the issue of getting the students to be free from some of the mistakes that are made by school administration, examination inspectors and supervisors because the child has a right. We have incidents where children are denied opportunity to sit for exams because they are poor, and are not able to pay their fees in time. This principle of zero balance should be investigated and stopped.

I want to thank my brother, Hon. Agoi, for giving me this chance to contribute.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Wesley.

Hon. Korir: Thank you, Hon. Temporary Deputy Speaker. I thank the Mover for donating his time to me. I would like to support this Bill. As a country, we should be going towards zero cheating in exams. That is where we should make sure that the integrity of our exams is very high, and there will be no child who will cheat.

The exams in this country have become a condemning issue for our students. It has become a chance for people to condemn others. Exams should not be used to condemn people, but to test the progress of students. As we dissolve this House and go to the 12th Parliament, we have not brought clear reforms in the education system. First of all, we should look at whether we need exams which enable us to get Kenya Certificate of Primary Education (KCPE). We are condemning our children as young as 12 years old. Right now, kids as young as 12 or 13 years old will not sit for their KCPE exams. I want to ask the nation and the Ministry of Education, Science and Technology: What do you do with a child who has failed KCPE exams at the age of 12 years old? That is the question we should all be asking. If you condemn them and you cannot allow them to continue with education or go to Form One, what happens to them? They go home. If they are girls, they get married and if they are boys, they become thugs and *boda boda* riders. We are losing the next generation of youths because of condemning them as early as when they are sitting for exams, which enable them to get KCPE. This House and nation should really look at that, and make sure that we scrap KCPE exams and Kenya Certificate of Secondary Education (KCSE) exams as a continuous assessment towards joining the university. We will be saving this country.

The Temporary Deputy Speaker (Hon. Omulele): That was a very good contribution. Hon. Agoi, you can wind up now.

Hon Masadia: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to reply to this Bill. I want to start by thanking all the Members of the National Assembly who have supported this Bill without exception. It shows that this Bill is of national importance. Everybody has been affected, and wants to make sure that we have a solution to this problem of irregularities in this country. I thank you.

I also want to thank the great people of Sabatia Constituency because they are the ones who gave me this chance to come here to do legislative work. They had a problem in Chavakali High School, and I promised to give a solution to them. This will happen. I thank them very much. I hope we will have another chance to come here to do more legislation for them.

This Bill is giving true meaning to Article 43(1)(f) of the Constitution which guarantees everybody the right to education. Many students go to secondary school and they spend their first 15 or 18 years in school. KNEC was given powers to administer examinations to students, but they condemn them by nullifying the results without any reason. KNEC was given power which it has misused. We said in this Bill that KNEC powers must be distributed now. They have misused and used them arbitrarily. They do not cater for the interest of the students and their future. We have said some of its powers must be given to a tribunal. We will not take away its powers. It still remains with its powers under Section 10(2)(e) of the Act which gives them the authority to nullify, withhold or cancel the results of any candidate who is involved in cheating. The Constitution provisions must be upheld. Section 35 of the Constitution gives the students a right to be heard and corrected.

Section 47 of the Constitution gives everybody a right to fair administration. Everybody must get a chance to be heard and to be told what went wrong, and what solution was to be done and it was not taken care of. The students should not worry now. This august House has a solution for them. They should work hard. They should not get involved in any malpractices. If they do that, when the tribunal comes, the truth will come out and they will be seen to have cheated. We want to encourage them to have their sweat on the paper, and succeed based on their sweat. We also want to tell the students that the tribunal has been given the mandate to finish their work at the time that is right for them to sit for an examination in that year. They have a chance of sitting for that exam. If there is a matter before the tribunal, they have a period within which they must finish that matter, so that before the next examinations, the matter is completed so that if the aggrieved student wants to repeat that exam, he or she is able to do it.

My issue goes to KNEC. I want them to raise the bar of professionalism in the investigations of examination irregularities. Members in this House have said that there have been malpractices, bribery and buying of results. This should stop. If they do not raise their bar, when the tribunal sits, that evidence will come out. We have lifted the blanket amnesty under section 9 of the Act. It protects all of them from all the mistakes they have committed.

Attention should be paid to Clause 45(f) of the Bill which states that if they are found to be guilty, they will be held responsible and taken to jail. The prescribed sentence is a jail term of five years or a fine of Kshs5 million or both.

I would like to thank all those who have supported this Bill. I encourage Members to support me in the next stage so that this Bill becomes law. I beg to reply.

The Temporary Deputy Chairman (Hon. Omulele): Very well. All bases are covered. For obvious reasons, we will not do what we have to do. We will do it later.
Next Order.

(Putting of the Question deferred)

Second Reading

THE NATIONAL POLICE SERVICE (AMENDMENT) BILL

Hon. Nassir: Thank you, very much Hon. Temporary Deputy Chairman. I know many people would take it as a surprise that this Bill that seeks to ensure the welfare of police officers and their families is catered for is coming from me because I have been very critical when it comes to some of the things that the police have been doing, even in this very Parliament. I have been on record

that we have good police officers who need to be well compensated.

Clause 2 of this Bill seeks to amend Section 2 of the principal Act to provide for the definition of the---

The Temporary Deputy Chairman (Hon. Omulele): Hon. Abdullswamad, you need to move the Bill.

Hon. Nassir: Hon. Temporary Deputy Chairman, I beg to move this particular amendment.

The Temporary Deputy Chairman (Hon. Omulele): You need to read it.

Hon. Nassir: Thank you. We are dealing with the National Police Service (Amendment) Bill, 2016. A Bill for an Act of Parliament to amend the National Police Service Act, and for connected purposes, enacted by the Parliament of Kenya as follows:

This Act may be cited as the National Police Service (Amendment) Act, 2016.

The National Police Service Act, (in this Act referred to as “the principal Act”), is amended in section 2 by inserting in proper alphabetical sequence the following new definition-

“Injury suffered on duty” means an illness or injury sustained by a member of the Service whilst in the execution of their duties or in the course of travel to or from a place of duty.

In Clause 3, the principal Act is amended by inserting the following new section immediately after Section 72-

72A(1), “A member of the service who sustains a wound or injury or contracts an illness while on duty or undergoing training is, under such conditions and for such period as may be prescribed, entitled to be provided with medical, dental and psychological or other necessary---”

The Temporary Deputy Chairman (Hon. Omulele): Hon. Abdullswamad, you are doing well, but you need to just say: “I beg to move.” You would then continue with your contribution. You do not have to read the whole Bill the way you are reading now.

Hon. Nassir: I did that.

The Temporary Deputy Chairman (Hon. Omulele): Did you do that?

Hon. Nassir: Yes.

The Temporary Deputy Chairman (Hon. Omulele): So, are these your contributions?

Hon. Nassir: Yes. As I was rightfully saying, this has come as a surprise to many that I am bringing these amendments.

In 2009, the Government adopted the Ransley Report, which was meant to reform blue prints adopted regarding the police service. In the process, the Government came up with an insurance scheme that was to cover police officers and their families. That has not happened very well. We have tried to get information from the National Police Service with regard to this matter. As a matter of fact, Parliament wrote to the National Police Service to request for this information. There has been no response at all.

As per Article 254(1) of the Constitution of Kenya Section 26(c), the National Police Service Commission is supposed to provide an annual report to Parliament regarding the welfare of police officers. They have not been doing that. Basically, this Bill seeks to ensure that our police officers are well taken care of. We know what has been happening of late, and I will give incidences.

In the year 2014, 21 police officers were killed by bandits in Kapedo. Two years earlier, 40 officers were murdered in Baragoi, Suguta Marmar Valley. There was the killing of seven police officers, including a General Service Unit (GSU) Recce Commando in July 2016. This is after a rogue police officer attacked the Kapenguria Police Station. There are many other cases.

The number of police officers who have died in the line of duty in the year 2014 are 40 and 77 were injured. In the year 2015, 28 police officers were killed and 102 were injured. This

is as per the Annual Crime Report for those particular years. When we make laws, we need to ensure that we put faces on them. We need to ensure that those we represent are equally well catered for. I would like to give two or three particular incidences where Kenyans have forgotten the names of those officers.

Constable Boniface Oketch from Soweto Police Station was shot and killed on 28th March 2017 while he and his colleagues were pursuing a gang in Kayole. We need to look at what is going to happen to his family. On 12th January 2016, three gangsters on a motorbike in Shika Adabu area of Mombasa County ambushed and killed a police officer known as Nelson Mwadime and stole his loaded G3 rifle and unknown amount of cash. The officer was escorting a lorry which had goods of considerable value. He lost his life because of that. Inspector Michael Nziki, in charge of Kiwanja AP Camp in Kahawa West was shot and killed on 26th January 2016 by a gang of five. He was responding to a distress call from bar patrons in Kambi Moto commonly referred to as KM near Kenyatta University. There are many other incidences. I would like my colleagues to support me on this particular matter. I request Hon. Richard Tong'i to second me.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Richard Tong'i.

Hon. Tong'i: Thank you, Hon. Temporary Deputy Speaker and Hon. Sheriff for the well thought-out National Police Service (Amendment) Bill. It is interesting as you have said that this is coming from the other side of the House. I think that is the spirit of the nation. What is good is good and the source of the information does not matter.

We are glad that you have enumerated the cases which have prompted you to think of this Amendment Bill. I think this is very timely because we have lost young police officers who have left behind families which are hurting. Their children are not going to school because their breadwinners died in the course of serving Kenyans. This (Amendment) Bill is going to address the challenges that we face as a country. When we lose police officers, the loss is not just to the family, but also to the country. This is a person who has been trained using public money and taxes of this country. It is a loss to the nation. I am glad that you have come up with this (Amendment) Bill. We know those police officers who have passed on were breadwinners of their families.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Tong'i, I want to remind you to have your eye on the clock. If you have many things to say, you will have another chance when we resume. But if you have a few things to say, I can give you a minute.

Hon. Tong'i: I am ably guided, Hon. Temporary Deputy Speaker. I fully support and second this (Amendment) Bill. I believe it will address the challenges that we are facing. I also hasten to mention that the Jubilee Government has tried so much to improve on those challenges. I know the biggest room on earth is for improvement and there will always be provision for change. I am glad these changes are coming from our people who have looked at them while putting aside party issues. They want to make Kenya a better place to live in.

If our security system is improved, all of us will have an enabling environment to engage in business, which will then generate income for the country. That income will make Kenya a better place to live in, in terms of infrastructure and all the other facilities that we require.

I beg to second.

(Question proposed)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Omulele): The time being 1.02 p.m., the House stands adjourned until today in the afternoon at 2.30 p.m.

The House rose at 1.02 p.m.