NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 26th April, 2016

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

DEMISE OF FORMER FIRST LADY MRS. LUCY M. KIBAKI

Hon. Speaker: Hon. Members, this is Communication No. 21. It is on the sad demise of the former First Lady, Her Excellency Mrs. Lucy Muthoni Kibaki.

Hon. Members, it is with profound sadness that we have learnt of the demise of the former First Lady, Her Excellency Mrs. Lucy Muthoni Kibaki, while undergoing treatment at the Bupa Cromwell Hospital in London, United Kingdom (UK).

Hon. Members, Her Excellency Mrs. Lucy Muthoni Kibaki, who was the spouse of the Third President of the Republic of Kenya, His Excellency Mwai Kibaki, was born in 1940 in Mukurweini, Nyeri County, to the Reverend John Kagai and Rose Nyachomba. She joined Alliance Girls High School and later trained as a teacher, rising to the position of headmistress.

She will be remembered for her enormous improvement in leadership, development and charity. She served as patron of the Kenya Girl Guides Association, chaired the organisation of the Forty African First Ladies Against HIV/AIDS and was a pivotal and un-towering supporter of the under-privileged in society. In her life, she never shied away from defending and raising issues facing the disadvantaged and people with disabilities.

In addition, she spearheaded the establishment of the Mama Lucy Kibaki Hospital in Nairobi County. Hon. Members, on behalf of all Members of the National Assembly, the Parliamentary Service Commission and, indeed, on my own behalf, I wish to take this opportunity to condole with His Excellency Mwai Kibaki and his family, the people of Othaya and the friends of the family for the great loss. As the National Assembly, we assure the family of our support during this period of great sorrow.

In tribute to Mama Lucy Kibaki, and recognition of her impeccable service to the nation and society, I request that we all stand to observe a minute of silence.

(Hon. Members observed a minute of silence)

May her soul rest in eternal peace. Thank you.

Let us have the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I also take this opportunity to send my condolences and the condolences of my family and the people of Garissa Township to the family of former

President Mwai Kibaki, his children, the people of Othaya and the people of Kenya that he served for 10 years, following the demise of the former First Lady, Mama Lucy Kibaki.

Mama Lucy Kibaki had a history. She made her contribution to the nation. I want to say it here that I knew her very well. After I was chased from the Orange Democratic Movement (ODM), Mzee Kibaki and Mama Lucy Kibaki adopted me politically. It was through Mama Lucy Kibaki and Mzee Kibaki that a number of projects went to my constituency. I am sure many of us who served in the last Parliament had the rare opportunity to engage with her. I send my sincere condolences to Mzee Kibaki, his family and the people of Othaya at this very trying moment.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Daniel Maanzo.

Hon. Maanzo: Thank you, Hon. Speaker. I also condole with the family of His Excellency Mwai Kibaki. In your Communication, you mentioned that she was helping the Girl Guides Association in the country. She also played a very critical role in the establishment of Starehe Girls Centre in Nairobi, which is near Kiambu. His Excellency Mwai Kibaki has been the Chairman of Starehe Boys Centre since 1969. I believe she picked from him. She was very instrumental in starting Starehe Girls Centre, which is now going to be there for a long time and help many poor and needy girls in the Republic of Kenya. In the initial days, she was really common.

She has left a great mark in this country. We thank God for her life and for having started such an initiative. At this very great moment of grief, we send our condolences to the people of Othaya and the people of Kenya generally.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Yusuf Chanzu.

Hon. Chanzu: Thank you, Hon. Speaker. I also want to join my colleagues in sending a message of condolence to the family of the former President, His Excellency Mwai Kibaki, the people of Othaya and all Kenyans. It is said that behind every successful man, there is a woman. I believe that the successes that we saw the President making not only as a President, but even in his career as a politician and even when he was teaching at Makerere University, there was a big contribution made by the former First Lady, Lucy Kibaki.

It is during the time when Kibaki was President that we saw a lot of women issues coming up. It was because of Mama Lucy Kibaki. So, she contributed immensely to the successes we have made as a country. In fact, it took a long time for us from the western part of Kenya to get the Masinde Muliro University. It is only when Kibaki was President that we got the university. I am sure the way we saw the President moving hand in hand with the wife, Mama Lucy Kibaki, he contributed to our getting the University. So, on behalf of myself, my family and the people of Vihiga Constituency and Vihiga County, I send my condolences.

Thank you.

Hon. Speaker: Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker. May I take this opportunity to send my deep-felt condolences to the family of former President Mwai Kibaki. May the Almighty God give this family strength and comfort at such a difficult time.

I am reminded of one time when I was with Mama Lucy in one of the Catholic churches and she was singing during the gospel time. This was a lady who was very firm, decisive and open. She meant what she said. She was a no-nonsense lady. We call upon leaders to emulate her

openness and way of doing things, instead of being pretenders who preach water and drink wine. This was Mama Lucy.

Where Kibaki has reached as an established scholar and politician is because of Mama Lucy Kibaki. As it is said, behind every successful man, there is a woman. We politicians will only succeed politically if there is comfort and peace from our wives. We pray for the family. May the Almighty God rest her soul in eternal peace.

I thank you.

Hon. Speaker: Hon. Justice Kemei.

Hon. Kemei: Thank you, Hon. Speaker, for giving me this opportunity. On behalf of the people of Sigowet/Soin Constituency, I condole with the family of former President Kibaki, the people of Nyeri and, indeed, the whole nation of Kenya.

Mama Lucy Kibaki was a great personality and the contribution that she made in the society was immense. In particular, was her contribution to the education of the girl-child, the under-privileged and the weak in the society.

Thank you, Hon. Speaker.

Hon. Speaker: Dr. Christine Ombaka.

Hon. (Ms.) Ombaka: Thank you, Hon. Speaker, for giving me this opportunity. On behalf of the people of Siaya, I take this opportunity to send our condolences to the family of the former President Mwai Kibaki, the people of Othaya and the Kenyan people.

Mama Lucy was a role model to all of us. She was very stern and outspoken. She stood for family values. I remember very well when the media was on her case and the name of the family was going to be damaged. She stood very strongly to defend her family. I think that is one admirable part of her life that will go down in the annals of history of this country. Mama Lucy was highly respected. I believe she has left a lot of us remembering her and seeing her as a role model for life. The people of Siaya stand together with the family.

Thank you.

Hon. Speaker: Hon. Cecily Mbarire.

Hon. (Ms.) Mbarire: Thank you, Hon. Speaker. On behalf of myself, my family and the people of Runyenjes Constituency, I want to add my voice in condoling with the family of the former President, Hon. Mwai Kibaki, and the people of Othaya for losing the former First Lady, Mama Lucy Kibaki.

As women leaders and as Kenya Women Parliamentary Association (KEWOPA), we have lost a great woman leader who taught us how to be brave and speak our mind without fear. We will all remember her for having made the people of Kenya realise that there was an Office of the First Lady. Having stayed for so many years without that office, she certainly made a mark in that office. She also taught us how not to fear men.

(Laughter)

Mama Lucy Kibaki had no time to waste if she thought that a certain man had not done things rightly. It did not matter about your position. She told you to your face that you have done a wrong thing. She did not fear to tell you something. The many men who crossed her path know that. As women leaders, we learnt that it is actually possible to stand up as a woman and speak your mind without fear. For that reason, I will remember her very fondly.

I remember her at a very personal level. During the 2007 elections, she came to Runyenjes Constituency. When she arrived, she found very many male candidates next to me and she told them this to their faces: "I did not come here for you. I came here to support a fellow woman." When she stood to speak she said: "I have come here to support Cecily Mbarire, my daughter." That really shocked me. Even when the then President Hon. Mwai Kibaki came three days later, he did not even have the courage to seek support for me and yet, I was a member of the Party of National Unity (PNU). But his wife, the First Lady, sought support for me. From that day, I felt a lot of love and support for her. Definitely, I will miss her at a personal level. I hope that women leaders who have watched her will move a notch higher in asserting our position as women leaders.

May she rest in peace.

Hon. Speaker: Hon. Adan Keynan.

Hon. Keynan: Thank you, Hon. Speaker. I have learnt with sadness the death of the former First Lady. As a Muslim, one of the tenets of our faith is that every soul shall taste death. It is called *Kullu nafsin za'iqatul maut* in Arabic. We need to remember the great things that have been done by the former First Lady. I know some of the things that many of us will remember are her courage, consistency, forthrightness and her ability to say things that everybody else would not want to say even at night. I think that earned her the respect and admiration of not only women, but many Kenyans.

On my own behalf, on behalf of my family, the people of Eldas and by extension the people of Wajir County, I want to send my condolences to Mzee Kibaki and his immediate family. I ask them to bear with the loss of a great pillar in their lives. I am sure with the support of Kenyans and the graciousness of God, they will bear with this difficult period and accept the reality that all of us are destined to go that route.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Richard Tong'i.

Hon. Tong'i: Thank you, Hon. Speaker, for giving me the opportunity to also mourn with fellow Kenyans such a wonderful lady who was a bastion of virtue in our society by what she did and the contribution she has given to the country.

Hon. Speaker, on my behalf and that of Nyaribari Chache constituents, we are hurting and sending our heartfelt condolences to the family of the former President, His Excellency Mwai Kibaki. We share the pain with other Kenyans.

It is difficult to lose a mother. It does not matter how old we are. Losing a mother is a very painful experience. Losing a First Lady is more painful because she was a mother to many of us. She was a mother to the country. We all are hurting.

Like my colleagues have said, it is true that Mama Lucy Kibaki was a wonderful lady. She was a paragon of virtue. She is a lady who stood firm on what she believed in. She clearly demonstrated leadership in ladies. She proved that, indeed, there has to be a very hardworking and focussed lady behind every successful man. Mama Lucy Kibaki was such a lady to us. We will miss her as a country.

We are hurting with the former President, who initiated many projects in Kisii County and across the country. I am sure that is because Mzee Kibaki was supported by the former First Lady.

I share the pain with Kenyans. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Robert Pukose.

Hon. (**Dr.**) **Pukose:** Thank you, Hon. Speaker. On my behalf, on behalf of my family and the people of Endebess, I send our condolences to Mzee Mwai Kibaki, his family and the people of Othaya Constituency for the loss of Mama Lucy Kibaki. She was a great lady. As you read from the activities she undertook, one of them was to champion against HIV/AIDS. This will save many lives.

As a tribute to her, the setting up of Mama Lucy Kibaki Hospital was completed. The current county governments and the national Government should support Mama Lucy Kibaki Hospital in remembrance of that lady. It is a hospital that requires a lot of support, considering that it is in a very bad state. It should be supported as a memory to this great lady.

With those few remarks, I say thank you and pole sana.

Hon. Speaker: Hon. John Waluke.

Hon. Koyi: Hon. Speaker, thank you very much for giving me a chance to send my condolences to the family of Mama Lucy Kibaki.

Madam Lucy Kibaki, who was our First Lady, was a lady of courage, as many Members of Parliament have expressed. When the announcement of her death came, I thought about how she invaded a national media house. If she did not have courage, she would not have done so. This is a lady of courage. The country and many Kenyans will miss her. We encourage other ladies in this country to copy and read how Mrs. Kibaki was. Let them also have courage.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Naomi Shaban.

Hon. (**Dr.**) **Shaban:** Thank you, Hon. Speaker. I send my condolences to the family of His Excellency Mwai Kibaki for losing our former First Lady, Mama Lucy Kibaki. She had done a lot for this country. She really helped us, as the Kenya Women Parliamentary Association (KEWOPA), in making sure that the Government's employment policy of ensuring that, at least, one-third of public service employees are women became a reality. It became the policy of President Kibaki's Government.

She also fought for the rights of the very poor and sick people, especially those who were suffering from HIV/AIDS or affected by it. We have lost a great lady and a mother. Mama Lucy cared for poor Kenyans.

May God rest her soul in eternal peace.

Hon. Speaker: Hon. Katoo ole Metito.

Hon. Katoo: Thank you, Hon. Speaker. On my behalf, and on behalf of the people of Loitokitok or Kajiado South Constituency, I condole with the family of His Excellency the former President, Mwai Kibaki, for the loss of the former First Lady.

The people of Loitokitok associate very closely with the Kibaki family. That dates way back to the era of agitation for multi-party democracy, when the retired President started the Democratic Party (DP) of Kenya. The people of Loitokitok started voting for President Kibaki and DP since 1992 up to the date of his retirement. At one point in time, the people of Loitokitok were the only people in Maasailand who were in DP and in the Opposition.

I speak on behalf of the people of Loitokitok. I would like to say that the passing on of Mama Lucy Kibaki is a big loss to this nation. I remember during the launch of the tarmacked Emali-Loitokitok Road, Mama Lucy Kibaki was there. She also went there to witness the official opening of the Constituencies Development Fund (CDF) Office in Loitokitok, and during the inauguration of Loitokitok District. Therefore, we feel so close to the Kibaki family.

Mama Lucy Kibaki started many social projects. Many schools and hospitals are in her name. Among others, those are the things that this country will remember her for many days to come.

May her soul rest in peace.

Hon. Speaker: Hon. John Olago Aluoch.

Hon. Aluoch: Thank you, Hon. Speaker. Kisumu West Constituency joins the rest of Kenya in mourning Mama Lucy Kibaki.

I will disagree with Hon. Cecily Mbarire that Mama Lucy Kibaki taught women not to be afraid of men. As Hon. Mutava Musyimi will tell you, in the Book of Ephesians, Chapter 5 verses 22 to 25, husbands have been told to love their wives and wives to respect or submit to their husbands.

(Applause)

That is what Mama Lucy lived by. She was fiercely protective of her family, and she was respectful to her husband. To that extent, Kenyans will remember her.

As we say this, we must also wish Mzee Kibaki the best of health. He is going to go through a very rough time now that *Mama* is not there. However, Kenyans are with him. We look back at Mzee Kibaki with nostalgia as we look at what is going on in the country now.

Thank you, Hon. Speaker.

Hon. Speaker: Finally, let us hear from the Isiolo County Women Representative, Hon. Tiyah Galgalo.

Hon. (Ms.) T.G. Ali: Thank you, Hon. Speaker. On my behalf, and on behalf of my family and the great people of Isiolo County, I take this opportunity to send a word of condolence to the family of former President Mwai Kibaki.

The late Lucy Kibaki remains a great role model to Kenyans. Lucy was a former teacher, an activist, a professional and a very strong lady. Mama Lucy is a protector of family values. She was never shaken when she stood to protect her family. This is one of the things that many Kenyans, especially women, do not have. I stand to appreciate her on that. She had a very strong personality. She was consistent in everything she did. Kenya has lost a very strong role model.

I also take this opportunity to pray to God to give her family and Kenyans strength during this difficult time. We all appreciate the lady who has been very strong.

I thank you.

Hon. Speaker: Finally, by popular demand, the Chairman of the Defence and Foreign Relations Committee.

Hon. Gethenji: Thank you, Hon. Speaker, for giving me the opportunity to join the rest of Kenya in paying tribute and condolences to the late Mama Lucy Kibaki. I wish to give my personal condolences and that of my immediate and the greater Gethenji family - who are close friends to Mama Lucy and the Kibaki family - and that of the people of Tetu and by extension, the people of Nyeri County.

Having gone to school with the sons and daughters of the Kibaki family, I virtually grew up under the wings of Mama Lucy Kibaki. We feel a personal sense of loss and, indeed, a national sense of loss by losing a great matriarch who was a mother to this nation.

One of the greatest challenges of our times is to say what you mean and mean what you say. Mama Lucy Kibaki, in her lifetime, lived up to that challenge. She was forthright in all her

sayings and doings. Who can forget how Mama Lucy brought sanity to the corridors of State House and cleared the waiting rooms and corridors of hangers-on, brokers and people who were just wasting time in the first Kibaki administration? Who can forget the 40 years plus that Mama Lucy stood by the then Vice-President Mwai Kibaki sinking to a regular Member of Parliament and then rising again to be the President of the Republic of Kenya?

We feel a great loss and we wish to condole with the family. We stand with them as the people of Nyeri County and the people of Kenya. May God rest her soul in eternal peace.

Thank you.

Hon. Speaker: Finally, the Leader of the Minority Party

Hon. Nyenze: Thank you, Hon. Speaker. I want to join the rest of the leaders in mourning the passing on of Mama Lucy Kibaki, who was a great leader. Behind every successful man, there is a woman. Mama Lucy Kibaki defended her family very well. She set good values for future first ladies by initiating several projects. One such successful project is Mama Lucy Hospital, which I urge the Jubilee Government to renovate and improve.

Mama Lucy Kibaki was a no-nonsense person. She would say her mind and fight for her rights. She was truthful, forthright and very straightforward. Very many Kenyans admired her. We want to assure the retired President, Mwai Kibaki, that the country and its leaders stand with him as the country mourns the death of Mama Lucy Kibaki.

May her soul rest in eternal peace.

Thank you.

Hon. Speaker: *Mhe.* Maison Leshoomo.

Hon. (Ms.) Leshoomo: Ahsante sana, Mhe. Spika, kwa kunipatia nafasi hii pia niseme pole kwa familia ya Rais Mstaafu, Mwai Kibaki, na watoto wake. Kila Mkenya anajua kuwa niko hapa Bunge kwa sababu yake. Siku yake aliyowekewa na Mwenyezi Mungu imefika na tunasema pole.

Pia, natoa pole kwa niaba ya Wasamburu wote. Alipofika Samburu, aliangalia na akajua kuwa kuna kiongozi na akanichagua kati ya Wasamburu. Hakuna mwanaume Msamburu aliyejua kuwa kuna kiongozi mwanamke Msamburu.

Kwa hivyo, ile baraka alipea Wasamburu na kile ameonyesha Wasamburu ni kwamba mwanamke anaweza kuwa kiongozi. Hatutamsahau hata kama Mwenyezi Mungu amemchukua. Ni mama tutakayemkumbuka kwa yale ametufanyia.

Nasema pole kwa familia. Tutakuwa pamoja kwa yote watakayofanya.

Ahsante.

Hon. Speaker: Thank you, hon. Members. Next Order! Hon. Members, before we go to Order No. 4 on Petitions, allow me to recognise the Members seated in the Speaker's Gallery, as well as pupils from various institutions.

These are Hon. Members of the County Assembly of Wajir County and the staff. They are led by Hon. Bishar Omar, Speaker; Mr. Osman Kuresh, Member, Madam Rukia Abdullahi, Member and Mr. Mursal Omar, Member. They are accompanied by Mr. Osman A. Mohamed, Clerk and Mr. Bulle Suleiman Yusuf, Principal Clerk Assistant.

There are also Hon. Members and staff of Baringo County Assembly, led by Mr. Toroitich Elijah, Member; Mr. Chepsongol Reuben, Member; Mr. Joseph Makilap, Member and Mr. Minito Thomas, Member. They are accompanied by Mr. Joseph Koech and Mr. Henry Tekewa, who are members of staff.

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There are also pupils from Elijah Kagiri Academy, Thika Town Constituency, Kiambu County, seated in the Public Gallery; pupils from Marvel Education Centre, Bura Constituency, Tana River County, seated in the Public Gallery as well and officers from the Samburu County Assembly seated in the Speaker's Gallery. They are all welcome to observe the proceedings of the National Assembly.

Member for Loima Constituency, Hon. (Dr.) Protus Akujah.

PETITION

ALLEGED FINANCIAL IMPROPRIETY BY NIB GENERAL MANAGER IN TURKANA COUNTY

Hon. Akujah: Thank you, Hon. Speaker. I rise on a Public Petition by concerned residents of Turkana County on alleged financial impropriety by the General Manager, National Irrigation Board in Turkana County.

I, the undersigned, on behalf of concerned residents of Turkana County, (list attached) draw the attention of the House to the following:-

THAT, Article 201(d) of the Constitution underscores financial probity, accountability and transparency, as cardinal principal management of public resources by providing that public money shall be used in a prudent and responsible way.

THAT, the National Irrigation Board (NIB) has been responsible for facilitating irrigation projects with a view to empower communities in the Arid and Semi-Arid Lands (ASALs) of the country, including Turkana County.

THAT, the allocation and management of funds for irrigation projects in the region by the Board has been characterized by massive impropriety, thereby causing many projects to stall for years.

THAT, in other instances, resources have been allocated to non-existent projects, a case in mind being the Katilu Drip Irrigation Project, for which colossal amounts of money were paid to contractors and yet, there is no such project on the ground.

THAT, the General Manager has been seriously violating the procurement procedures set out in the Public Finance Management Act and the Procurement and Asset Disposal Act, 2015, when implementing irrigation projects in the county.

THAT, efforts by the Petitioners and area legislators to engage the General Manager to address these concerns have been met with defiance, casting possibilities that he could be complicit to the impropriety intended to defraud the Government of public resources and deny residents of the intended benefits from the stalled irrigation projects.

THAT, the matter raised in this Petition is not pending before any tribunal or court of law.

Therefore, your humble Petitioners pray that since the issues raised in this Petition touch on imprudent financial investment practices, the National Assembly, through the Public Investments Committee (PIC):-

(a) Investigates the activities of the National Irrigation Board (NIB) in Turkana County and, particularly, the conduct of Engineer Daniel K. Barasa, HSC, for his unwillingness to address the alleged financial imprudence, financial impropriety and allocation of resources to non-existent projects;

- (b) Investigates the circumstances behind the abandonment of works by contractors on stalled irrigation projects in Turkana County and neighbouring regions and when works on the said projects shall resume;
- (c) Recommends a special audit of the capital projects undertaken by NIB in Turkana County, its environs and countrywide, with a view to ascertain their level of implementation and value for money;
- (d) Recommends appropriate disciplinary action for financial imprudence by the General Manager and other persons, including contractors, culpable of financial impropriety aimed at defrauding the Government; and,
- (e) Makes any other and/or direction that it deems fit in the circumstances of the case. Your Petitioners will ever pray.

Hon. Speaker: Order, Members! Take your seats so that we can proceed. Hon. Mary Emaase, just take a seat.

I have read the Petition presented by Hon. Akujah. It raises issues of prudence in the management of public resources. More particularly, the prayer sought seems to fall under the provisions of Standing Order No.206 (6), which gives the functions of the Public Investments Committee as being, *inter alia*, to examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

Among other things, this Petition seeks to raise issues of audits. Before I decide where to refer this matter to, I may wish to know from the Chair of the PIC whether there are any audit issues that touch on this particular entity, so that we do not mix the mandate of both the Departmental Committee and the Select Committee, namely, PIC. Let us have Hon. Keynan.

Hon. Keynan: Thank you, Hon. Speaker. I wish to confirm that this issue is already before the Committee. The management of NIB is scheduled to appear before PIC on Tuesday to explain the same issues. The same issues are also captured in the audits of the Financial Years 2013/2014 and 2014/2015. The audit of the Financial Year 2014/2015 is not yet concluded, but is about to come before the House. I can confirm that the issues are before the Committee.

It is not the only issue. There are so many other issues concerning prudence, investment, contracting and many others. We hope that in due course, we will be in a position to give an authoritative report to the House on the same issues.

Hon. Speaker: Hon. Akujah, is it possible to join your colleagues in PIC on Tuesday and such other days that the Committee will be examining issues to do with NIB, so that you can tell us whether some of the issues you have raised have been sufficiently addressed or not, before we refer the matter to any other Committee?

Hon. Akujah: Thank you, Hon. Speaker. That will be in order. I will be there.

Hon. Speaker: Yes, Hon. Midiwo.

Hon. Midiwo: Hon. Speaker, through you, will it also be in order to ask Hon. Keynan's Committee to go beyond the audit report? I have seen a letter from the Minister of Water and Irrigation reinstating the Chief Executive Officer (CEO) after the Board sent him home to enable it to conduct investigations. As it were, the CEO is in office and has no relationship with the Board. The Board used their authority to send him home. The Minister insists that he must remain as the CEO. Could he clarify for the sake of the people who are suffering in those regions?

Hon. Speaker: Whereas that is appropriate - and I think Hon. Keynan is up to the task to deal with that - remember there is a proviso immediately after Standing Order No.206 (6) that says that notwithstanding Standing Order No.206 (6), the Committee may not do several other things. Nevertheless, in the interest of the country, Hon. Midiwo is right. Let us know what is happening in that Board. Even if it is a Government policy, let it be stated to the Committee. The country will be better off as opposed to when people are pushing forward and others backwards. Hon. Keynan, you can deal with that.

Next Order!

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Bi-Annual Report of the Commission on Administrative Justice for the period July-December, 2015.

The Report of the Ministry of Energy and Petroleum to the National Assembly on Key Projects, April, 2016.

The Report of the Auditor-General on the Financial Statements of the Petroleum Levy Training Fund for the period ended 30th June 2015 and the Certificate therein.

Hon. Speaker: Let us have the Chairperson of the Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Langat.

Hon. Langat: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Reports of the Departmental Committee on Finance, Planning and Trade on its consideration of:-

- (1) The Banking (Amendment) Bill, 2015;
- (2) The Controller of Budget Bill, 2015; and,
- (3) A Public Petition by the Consumer Federation of Kenya on the Operationalization of Section 94 of the Consumer Protection Act, 2012, and the amendment of Section 16(3) of the Finance Act, 2013.

Hon. Speaker: Very well. Can we get Hon. Keynan, on behalf of the Parliamentary Service Commission and, particularly, on behalf of the Chairperson of Commission Committee on Finance, Hon. Changorok Nyeris?

Hon. Keynan.: Thank you, Hon. Speaker.

I beg to lay the following Paper on the Table of the House:-

The Estimates of Recurrent and Development Expenditure of the Parliamentary Service Commission for the year ending 30th June 2016 and projections for 2017, 2018 and 2019.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

STATEMENT

INVITATION TO DINNER HOSTED BY KEWOPA

Hon. Speaker: Hon. Mbarire.

Hon. (Ms.) Mbarire: Thank you, Hon. Speaker. I want to take this opportunity to welcome Members of this House to a dinner that is hosted by the Kenya Women Parliamentary Association (KEWOPA) this evening at the Hotel Inter-continental. We particularly urge our male colleagues to kindly join us for dinner and to come on empty stomach. We have a lot to eat and talk about. Please, also, wear your dancing shoes.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I hope most of you are listening to this. You are being invited for dinner and you have also been advised to wear your dancing shoes.

(Laughter)

The dinner is hosted by KEWOPA. This invitation is graciously extended mostly to male Members of Parliament.

(Applause)

You cannot comment on this because that is not business! You cannot purport to comment on non-business. Hon. Lomenen, Member for Turkana South, you have an intervention. What is it you want to say?

Hon. Ekomwa: I want to contribute to the Petition of my former colleague. But on this one, I want to tell Hon. Ms. Cecily Mbarire that, with or without food, our position will remain either to support or not to support you.

(Laughter)

So, do not worry. It will look as if you want to induce us. We are already there and we will support you. The only problem is numbers. We have to mobilise to get the numbers.

Hon. Speaker: Next Order.

BILL

Second Reading

THE JUDICIARY FUND BILL

(Hon. Ababu and Hon. Mwadeghu stood in their places)

Hon. Speaker: Order, Members! Hon. Ababu Namwamba and Hon. Mwadeghu, you may just remain where you are. You do not have to struggle to sit.

Debate on this Bill was concluded last week. What remains for me is to put the Question, which I hereby do.

(Question put and agreed to)

(The Bill was read a Second Time and committed to

a Committee of the whole House tomorrow)

Hon. Speaker: Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, you can be seated.

(Several Hon. Members withdrew from the Chamber)

Hon. Members, those who are leaving the House, do it quietly. Hon. Duale and the group in front of me, the House is in session. We are in the Committee of the whole House and, therefore, those who are leaving, please, do so with decorum. Those who are here like Hon. Leshoomo and the rest, please, let us be seated.

Okay, Hon. Members, we are now on the Committee of the whole House.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I can see there is a point of order from the Chair of the Departmental Committee on Energy, Communication and Information, Hon. Jamleck Kamau.

Hon. Kamau: Hon. Temporary Deputy Chairlady, I know this particular Order is here, but there are quite a number of other amendments which have been brought before the Committee. We are meeting today at 4.00 O'clock so that we can do a good job. We request that we either do it on Tuesday or Thursday next week. It is a small Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay, Hon. Member. The Leader of the Majority Party, what do you have to say?

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, as you talk to the Chair of the Departmental Committee on Energy, Communication and Information, I am the owner of the Bill. I also have to be asked. It is now the second or third time that this Bill is being withdrawn because of more consultations.

Let me tell the Chair of the Committee that we are giving him the final time. It should be on the Order Paper next week on Tuesday. Therefore, either he or his Vice-Chair should be here on Tuesday because we shall be going for recess next week on Thursday. We must send this Bill to the Senate.

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The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair of the Departmental Committee on Energy, Communication and Information, can you give us an indication of how long and when you think this Bill should be heard.

Hon. Kamau: Hon. Temporary Deputy Chairlady, we can even proceed now, but I do not think we are going to help this country. We want to do the right thing. We will be ready on Tuesday at 2.30 p.m.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is in order. Hon. Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I actually support the Chair of the Departmental Committee on Energy, Communication and Information. This is one Bill if not addressed properly, can cause conflicts in this country. Therefore, it is very important. Countries have gone to war because of petroleum and it starts from this Bill. We do not want the fact that we now have petrol, we have an oil curse. I have had an occasion before to look at test cases of countries for whom petroleum is a blessing and for whom petroleum is a curse. We would wish that through this Bill, we make Kenya a country for which petroleum is a blessing. I support the Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Hon. Members, this is not really a debate. The Chair has asked for time and Leader of the Majority Party has accepted. We have agreed on Tuesday next week as the final time the Committee of the whole House must discuss this Bill. We have given adequate time for consultations.

Hon. Ababu and the Hon. Member for Turkana South, you have one minute each. I do not really know what you want to say and so, I give you your point of order.

Hon. Ababu: Hon. Temporary Deputy Chairlady, I am not in any way intending to throw any spanner in the works. This Bill is so crucial. In fact, I am surprised that both the Committee and the Government do not seem to believe that this Bill ought to be given utmost priority. I have a number of amendments on the Bill. I hope that the delay is not reflective of some motive that could endanger the very good purpose and motive behind this Bill. We are really looking forward that, come Tuesday, this Bill will be ready and we will put it to bed.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will give a chance to the Member for Turkana South. You are the last person on this issue and then we make a decision.

Hon. Ekomwa: Hon. Temporary Deputy Speaker. Thank you so much for giving me this opportunity. I support what the Chairman has resolved. Last week, we concluded the Community Land Bill which is very important. It underwent maximum consultations. This one also deserves consultations in the amendments because it is dynamic. Where I come from, this is the most fundamental Bill that we are waiting for.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Your point is made. Hon. Members, we can agree that we will have this Bill on the Order Paper for Committee of the whole House on Tuesday next week.

[Consideration of The Petroleum (Exploration, Development and Production)
Bill in Committee of the whole House deferred]

So, we will then consider the Private Security Regulation Bill, (National Assembly Bill No.4 of 2014) by the Hon. Leader of the Majority Party. Hon. Members, we will start from page 490 on the Order Paper.

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THE PRIVATE SECURITY REGULATION BILL

(Clause 3 agreed to)

Clause 4

Hon. Abongotum: Thank you, Hon. Temporary Deputy Chairlady. I propose that Clause 4 be part of the Bill but on Clause 2, I wish to propose that ---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We are on Clause 4. Clause 2 will come later. Please, let me direct him so that he is not directed by everybody. Hon. Chairman, would you want to expound on your amendment on Clause 4 for the benefit of Members?

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

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

"(e) private investigators."

That is because they are not provided for in the Bill and we want to include them.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I give the Floor to Hon. Chris Wamalwa. Are you on a point of order?

Hon. Wakhungu: On a point of order, Hon. Temporary Deputy Chairlady. The tradition is that, when you bring an amendment the way he has done, you are supposed to explain the import.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): He did.

Hon. Wakhungu: He has just said that private investigators had not been provided for. That is not an explanation. Who is this private investigator? Why are you bringing this? It was involved in what contest? So, you need to give him an opportunity to explain the import of this amendment. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, could you explain?

Hon. Abongotum: I will explain. I want Hon. (Dr.) Wamalwa to relax. So, we want to bring investigators under regulations of this Bill because we must have specific regulations that guide how private investigators are supposed to work. Does that answer your question?

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, the Chairman did not explain very well, but let me help because I am also the owner of the Bill.

There are too many private investigators in the streets and they cannot go round without certain regulations. So, he is putting them here so that when the regulations come, we can define them and give them specific roles. Without them being here, they cannot be regulated and I thank the Chairman. That is very good because what is happening is if my wife wants to follow what I am doing, she just employs a character in the streets who calls himself a private investigator. So, we must know who is a private investigator; their conduct, their professional qualifications and who they are answerable to. I agree with the Chairman.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Let us have Hon. Ababu.

Hon. Ababu: Hon. Temporary Deputy Chairlady, I serve in this Committee and the Chairman is reflecting on a matter that was ventilated at length by the Committee and the necessity to bring a bit of order and regulation in the arena of a private investigator. Also, the Committee did take cognizance of the fact that the work of private investigators has a security implication. The manner in which they work, the kind of reports they prepare and their conduct generally is a matter of security. Having them covered under these regulations will help to sort of bring order and certain irreducible minimum standards for those who practise in that subsector.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Members, I think that is clearly explained.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

(Clauses 5, 6, 7 and 8 agreed to)

Clause 9

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have an amendment by Hon. Mwaita. Is he in the House? His amendment is on the Order Paper, but he is not in the House. So, we will drop his amendment.

(Proposed amendment by Hon. Mwaita dropped)

(Clauses 9 and 10 agreed to)

Clause 11

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have two amendments, one by the Chair of the Committee and another one by Hon. (Dr.) Ottichilo. Let us start with the Chairman of the Committee.

Hon. Abongotum: Thank you. Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 11 of the Bill be amended—

- (a) in sub-clause (1)—
 - (i) in paragraph (b) by inserting the following new paragraph immediately after paragraph (iv)—
 - "(v) the National Intelligence Service."
 - (ii) by inserting the following new paragraph immediately after paragraph (e)—
 - "(f) one member nominated by the Kenya Private Sector Alliance."
- (b) in sub clause (2) in paragraphs (a) and (b) by deleting the expression "subsection (2)" and substituting therefor the expression "subsection (1)"

The import of this amendment is to ensure that there is thorough scrutiny of a person desiring to be registered as a security service provider. As you know, we will not entertain every Tom, Dick and Harry in the security sector. We need people who are serious and can take care of property. So, they must be thoroughly scrutinised.

(Question of the amendment proposed)

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

Hon. M'uthari: Yes, Hon. Temporary Deputy Chairlady. I rise to support the amendment by the Chair of the Committee. I support the inclusion of other organizations which were not there, like National Intelligence Service (NIS). It is important for them to be part of that particular Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Wanjiku Muhia

Hon. (Ms.) Muhia: Thank you, Hon. Temporary Deputy Chairlady. I stand to support the Chair of my Committee on this amendment. This Bill seeks to look at security matters in the private sector holistically. Therefore, it is important to bring all stakeholders, particularly those who contribute greatly like NIS. It is also important to have members who are nominated by the Kenya Private Sector Alliance (KEPSA) as stakeholders so that, when key decisions are made, they contribute.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I am assuming that if you have pressed the intervention or request button, you want to speak to this amendment. Please, if you do not, remove your card.

Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairlady. I want to support this amendment. As the Chair of the Committee has said, the whole issue of vetting agencies involved in private investigations is very important for this country. If we get quacks in this business, then it can really interfere with national security. When we talk about these bodies being vetted before they are licensed, it makes a lot of sense.

I support.

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

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have an amendment by Hon. (Dr.) Ottichilo. Is he in the House? If he is not in the House, then we drop it.

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

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

Hon. (**Prof.**) **Nyikal**: I am concerned that we have very many proposed amendments by Members who are not present. I remember when we were doing the Community Land Bill, there was a whole barrage of amendments by Hon. Tiyah Galgalo and she was not present. If you look at these amendments, they are actually useful. What is really happening? Do Hon. Members know or are they informed, especially those who bring these amendments? I know tracking Bills is not an easy job in this Parliament. I think we need to address this issue.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Nyikal, an amendment is brought by an individual, but if that Member is not present for any reason, he or she has to give specific instructions to another Member and inform the Speaker of the same. It is only the Chair of the Committee who can bring amendments on behalf of other Members.

(Hon. (Dr.) Ottichilo and Hon. Mwaita walked into the Chamber)

Hon. Ottichilo, we are discussing you. Even Hon. Mwaita has come when we have already dropped his amendment. Hon. Ottichilo, because we have not yet completed and I have not put the Question on the final vote, please, move your amendment to Clause 11. Hon. Members, please keep this in mind: If a Member is not present, he or she has to give express authority to another Member and inform the Speaker.

Hon. Ottichilo on Clause 11, please turn to the bottom of page 493 on the Order Paper.

Hon. (Dr.) Ottichilo: Thank you, Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, the Bill be amended in Clause 11—

- (a) in sub-clause (1) by—
 - (i) deleting paragraph (a) and substituting therefor the following new paragraph—
 - "(a) a chairperson selected by the selection panel in accordance with the procedure prescribed in the Third Schedule."
 - (ii) deleting paragraph (c) and substituting therefor the following new paragraph—
 - "(c) two persons representing the most representative trade union on security related matters, elected in accordance with regulations prescribed by the Cabinet Secretary;"
 - (iii) deleting subclause (d) and substituting therefor the following new paragraph—
 - "(d) two persons representing the Federation of Kenya Employers, elected in accordance with regulations prescribed by the Cabinet Secretary;"
 - (iv) inserting the following new paragraph immediately after paragraph (d)—
 - "(da) two persons representing the Kenya Private Sector Alliance, elected in accordance with regulations prescribed by the Cabinet Secretary;"
 - (b) by inserting the following new sub-clause immediately after sub-clause (3)—
 - "(4) Where the position of chairperson becomes vacant, the

President shall appoint a replacement from among the short-listed persons considered by the selection panel in accordance with the Third Schedule, giving due consideration to the rankings and comments of the selection panel, if any."

My proposal on this is because there is no facility within this Bill on how the chair of this Committee will be selected. Therefore, I am proposing a procedure on how to select the chairperson who will be chairing the Committee on Private Security.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, do you want to speak on this? He is not there.

Hon. Naomi Shaban.

Hon. (**Dr.**) **Shaban**: Thank you, Hon. Temporary Deputy Chairlady. I am just concerned because Clause 11 is very clear that the chairperson will be appointed by the President and the rest of the members by the Cabinet Secretary. Now, my colleague Hon. Ottichilo is moving on to suggest other ways. I find this a bit disturbing.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Timothy Wanyonyi, did you want to speak? I had seen your name, but I do not see it anymore.

Hon. Wetangula: Thank you, Hon. Temporary Deputy Chairlady. I wanted to speak on the amendment by the Chair, but you have already gone through the same.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, before I give a chance to the other two Members, would you like to comment on the amendment by Hon. Ottichilo?

Hon. Abongotum: Let me comment after I have heard from the two Members.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay, Hon. Ababu.

Hon. Ababu: Thank you, Hon. Temporary Deputy Chairlady. My concern is representation. In fact, the Hon. Member for Emuhaya only seemed to explain the first part of his amendment. He did not provide details on parts (ii), (iii) and (iv). My concern on part (ii) is when he says "two persons representing the most representative trade union on security related matters". One important thing about legislation is that it must be unambiguous and leave absolutely no space for contradiction or conflict. Who is supposed to determine a particular union is the most representative than another? Whose responsibility is it to make that determination? In Clause 11(a)(iii), he is proposing a replacement by bringing in the Federation of Kenya Employers (FKE). There is no explanation why we have that change.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ottichilo has got that point.

Hon. Ababu: It is important to explain a little further.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Yes, Hon. Chris Wamalwa.

Hon. Wakhungu: Hon. Temporary Deputy Chairlady, in terms of the procedure of electing the chairperson and for purposes of consistency, chairpersons are normally appointed by the President. This has been practised in other similar boards. I do not see any value addition in his proposed amendment. It is already provided for, as Hon. Shaban had earlier mentioned. Secondly, when it comes to the composition of the board, for purposes of efficiency and

Secondly, when it comes to the composition of the board, for purposes of efficiency and representation of the stakeholders, I do not see the value that FKE will add. The FKE and the

Central Organization of Trade Unions (COTU) are mutually inclusive. The moment you bring in the FKE, automatically, we will bring the issue of COTU. I do not see value addition in FKE.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, when an amendment is brought by an individual Member, we always give priority to the Chair of the Departmental Committee, who is the Mover of the Bill, to give us feedback on that amendment. The Chair of the Departmental Committee, would you comment on the amendment by Hon. Ottichilo?

Hon. Abongótum: Hon. Temporary Deputy Chairlady, with all due respect to Hon. Ottichilo, who is a serious scientist, I oppose this amendment because this Bill gives the President the power to appoint the chairperson. It is prudent to do so since this is an issue of national security. As you know, the President is the Chairman of the National Security Council (NSC). Therefore, I plead that this amendment is opposed.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member's views in support and in opposition have been given. Please, proceed, Hon. Ottichilo.

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, I have listened to the Members and I agree with them that we can drop this amendment.

(Proposed amendment by Hon. (Dr.) Ottichilo dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, since Hon. Ottichilo has dropped his amendment, there is nothing to be debated. Therefore, I will put the Question of the amendment to Clause 11 by the Committee Chair.

(Clause 11 as amended agreed to)

(Clauses 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 agreed to)

Clause 23

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ottichilo, again, you have an amendment to Clause 23.

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

THAT, Clause 23 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (b)—

"(ba) holds at least a primary school certificate;

(bb) has attended training in security matters in an institution accredited by the Authority;"

I have two amendments. One is to allow for whoever applies for this job to be a holder of, at least, primary school certificate. Secondly, I propose that apart from having a primary school certificate, one should be able to show that he or she has attended training in security matters in an institution accredited by the Authority.

(Question of the amendment proposed)

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

Hon. (**Prof.**) **Nyikal:** Hon. Temporary Deputy Chairlady, I support this amendment because security is a very important issue. We need a bare minimum of some standards. As far as training is concerned, I know security firms may train their people, but it would be nice to have a mandatory training before they are employed.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Wanjiku Muhia.

Hon. (Ms.) Muhia: Thank you, Hon. Temporary Deputy Chairlady. I fully support the Hon. Member's amendment. It is important for one to have basic education like it would be displayed in a primary school certificate. It is also important for one to have attended training in security matters. We are aware that most guards at supermarkets and hotels have not attended any training. We witnessed Madam Barasa lose her job because of a misunderstanding between her and a security guard. I am not necessarily saying that the guard was not trained, but time and again, we have seen security guards handling people unprofessionally. Training is very important.

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

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

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

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, is the Member in order to refer to Madam Kerubo? She is a Form Four leaver. She knew what she was doing. It was the former Deputy Chief Justice who misbehaved. Is she in order? She needs to withdraw because Mrs. Kerubo was a Form Four leaver. Her lawyer, Hon. Kang'ata, is a Member of this House.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Leader of the Majority Party, I listened carefully to what Hon. Wanjiku Muhia said. She did not argue in the way you are arguing. I am not even going to give her the Floor to respond to you. Hon. Chair of the Departmental Committee, do you want to speak on the amendment by Hon. Ottichilo?

Hon. Abongótum: Hon. Temporary Deputy Chairlady, I support this amendment. It is a good amendment. We need people who can read, write and keep records. Literacy is fundamentally critical in security matters. I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, do we have anybody who is not in support? Do you have a different opinion, Hon. Chris Wamalwa?

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. I want to oppose this amendment, particularly the bit on primary school qualification. We know that majority of the people in security service are Form Four leavers. Even the basic academic requirement for enlisting in the National Police Service is a mean Grade D+ in the Kenya Certificate of Secondary Education (KCSE). In terms of ensuring proper record management, it should be noted that some holders of Kenya Certificate of Primary Education (KCPE) in the rural areas cannot even communicate. In this case, I wish Hon. Ottichilo gave a justification. Why are we talking of primary school certificate holders? For purposes of consistency, the basic qualification should be a KCSE certificate as is the case with the National Police Service. The qualification proposed by the Mover of the amendment will give us problems in terms of record keeping and communication.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have made your point, Hon. Wakhungu. Let us hear Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I neither oppose nor support the amendment. However, I plead with Hon. Ottichilo that primary school education in this day and age in Kenya is so threadbare. If we are going to look at private security regulation, there are so many Form Four leavers in this country. I would wish to plead with my good friend to propose a further amendment to provide for, at least, a Form Four certificate. Primary school certificate is so threadbare.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chepkong'a.

Hon. Chepkong'a: Hon. Temporary Deputy Chairlady, there are very many people who did not transit to secondary school after completing Standard Eight. It is very important that they be allowed to have some gainful employment. The only issue I have is on Clause 23(ba), which is unclear. It provides "holds, at least, a primary school certificate".

There are people who hold several primary school certificates. The High Court turned down a Bill passed by the 10th Parliament because it was not clear. I would like to request my good friend to make an amendment to read "holds at least a certificate of primary education". It needs to be very clear. You must identify the certificate because one can come with any certificate. You cannot say a secondary school certificate. I have seen several secondary school certificates that have been issued irregularly.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. (Dr.) Ottichilo, would you like to speak to that concern? Can you clarify it before he comments?

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, we all know that after primary education, there is only one certificate that is offered, namely, the KCPE. To the best of my knowledge, no other certificate is offered.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. (Dr.) Ottichilo, since you cannot move a further amendment, can you be clear on that?

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, I do not see the need to do that because we only have one certificate for primary education.

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

Hon. A. B. Duale: Hon. Temporary Deputy Chairlady, I totally agree with Hon. (Dr.) Ottichilo. As I speak, we are doing a reform agenda on the curriculum. If we have KCPE, tomorrow the name might change to something else. Let us just say a primary school certificate.

The Chairman of PAC, Hon. Gumbo, comes from an area with highly learned people, but in my area, we have 200,000 Standard Eight dropouts according to the figures given by the Cabinet Secretary for Education. We want those ones to be security guards and Form Four leavers to be police officers.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, let us not bring back the debate that has already been heard on the Floor. In the Committee of the whole House, you either agree or disagree with the amendment. Even if you debate for hours, there is nothing that can change the amendments that we have.

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

(Clause 23 as amended agreed to)

(Clauses 24 and 25 agreed to)

Clause 26

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

THAT, Clause 26 of the Bill be amended by deleting Sub-clause (2) and substituting therefor the following new Sub-clause—

- "(2) An application for renewal under this section shall be made to the Authority in such form and manner as may be prescribed and shall be accompanied by—
 - (a) the prescribed application fee; and
 - (b) evidence of having undertaken training in security matters of not less than a week in the preceding year."

The import of this is to elaborate and give more information. I am deleting sub-clause 2 because it is not very clear. I want to make it clear that an application for renewal under this section shall be made to the Authority in such a form or manner as maybe prescribed and shall be accompanied by the prescribed application fee, and evidence of having undertaken training in security matters of not less than a week in the preceding year.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman of the Departmental Committee on Administration and National Security.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, before one is admitted to the private security arrangement, it is prudent that he or she is exposed to some form of security training. I support.

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

Hon. Nakara: Hon. Temporary Deputy Chairlady, I support. I wish the regulation would specify the amount of fees to be paid, so that we do not burden poor people who are looking for jobs.

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

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Chairlady. I wanted to speak on the previous amendment. I forgot to switch off my request button. I apologise.

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

Hon. (**Dr.**) **Shaban:** Mhe. Naibu Mwenyekiti wa Muda, nakubaliana na Mhe. (Dkt.) Ottichilo kuwa ni muhimu kuwe na sheria wazi wazi bila tashwishi yoyote. Wenye kufanya shughuli hizi ni lazima wawe wamesomea masuala haya na haswa wawe wamesomea muda ambao sio mrefu kutoka wakati wanapolipa ada yao.

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

Hon. Omulele: I support. People who are looking for these jobs should have basic training.

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

Hon. Oyoo: Hon. Temporary Deputy Chairlady, I would like to support my good friend, Hon. (Dr.) Ottichilo, but I am not very sure that someone who has undertaken very basic training in security matters for a week or two will be better suited to be given this recognition. We should have someone who has vast knowledge of security matters and has served in the police force or any other security apparatus.

(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 26 as amended agreed to)

(Clauses 27 and 28 agreed to)

Clause 29

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I beg to move:-THAT, Clause 29 of the Bill be amended in Sub-clause (2) by inserting the following new paragraph immediately after paragraph (c)—

"(d) has been security-vetted and nothing adverse has been established."

This is to ensure that thorough scrutiny of the person desiring to be registered as security service provider is done.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I do not disagree at all with the substance of the amendment, but I was wondering if it is grammatically correct to say "security-vetted". I thought it should be "has undergone security vetting". What does security-vetted mean? We make grammatical mistakes in the Bills that we pass here and in my over 40 years of interacting with English, I have never heard of "security-vetted".

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Abongotum, I will give you a chance to respond to the concern raised by Hon. (Eng.) Gumbo. Hon. Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. I find this amendment vague and repetitive. The vetting committee must come up with a criterion like the one we have been using to vet Cabinet Secretaries, giving the different attributes that one must look at or a questionnaire tool. Saying that the person who is eligible for registration as a private security service provider must be security-vetted is vague and not necessary. Since this is a private investigator and there is training on security matters, the tool for vetting must be valid and reliable. It must have the security element. So, we do not need this amendment.

I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair of the Departmental Committee, just a minute. Let me give opportunity to two more Members and then you will respond.

Hon. Fatuma, you have the Floor.

Hon. (Ms.) F.I. Ali: Thank you, Hon. Temporary Deputy Chairlady. This amendment will not add any value. As indicated in most of the clauses, the security agency that will vet people will deal with this issue. I do not know why it is being introduced here as a requirement. It does not add any value.

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

Hon. Wetangula: Hon. Temporary Deputy Chairlady, I support the amendment. It is important for a person who wants to be a private security service provider to be vetted. He must be of high integrity because he will be in the security sector.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us hear Hon. Ababu.

Hon. Ababu: Hon. Temporary Deputy Chairlady, I have heard Members talk about "implied" or "intended". We are making a law we have never made before. This is the very first time we are providing a legislative framework to manage this critical sector. It is a very fast growing sector. We must not leave anything to intention or implication. This is a matter which the Committee has considered.

I agree with my brother, Hon. (Eng.) Gumbo, on the question of phonetics, semantics and the architecture of the language, but as far as clarity and intention are concerned, we should not leave any space for ambiguity or imagination. This is a good clause which makes it absolutely clear that you must have gone through a process of screening to be considered. It is a good amendment.

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

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Chairlady. I want to support the amendment with the proposed correction by Hon. (Eng.) Gumbo. We cannot allow assumptions in legislation. What is important is explicit and specificity.

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

(Clause 29 as amended agreed to)

Clause 30

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we have two amendments on this clause. One amendment is by the Chairman of the Departmental Committee while the other is by Hon. Wilber Ottichilo. We will start with the amendment of the Committee.

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

THAT, Clause 30 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (e)—

"(f) it considers that it is not in the national interest to grant a licence."

The import of this amendment is to ensure that one can be denied a licence if the interest of the State is in danger. I want to call upon Members to support this amendment, so that we do not just give licences to crooks who will endanger the interest of the country.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Marakwet West. Hon. Kisang: Hon. Temporary Deputy Chairlady, I support the amendment by the Chairman. The amendment is like the earlier one where people will be required to go through a vetting process. It is also important to have a procedure and ensure that those who get licences are not crooks that can endanger our lives.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I want to give the Floor to the Member for Magarini. Is he in the House? Since he is not in, I give the Floor to Hon. James Nyikal.

Hon. (**Prof.**) **Nyikal**: Hon. Temporary Deputy Chairlady, I stand to oppose this amendment. This amendment is opaque. It does not tell us what the State considers to be in its interest. There is never any interest of the State that is not the interest of the people. We have said earlier that there will be need for vetting. That gives us enough security. This offers itself to abuse such that if the licensing officer does not like the person who has made an application, he declines to license that person and cites the interest of the State without giving explanation.

If you are a politician and you want to venture in this business, if you are not politically correct, this is the kind of thing that will be used against you. The other amendment is more specific and we should stick to it.

With those few remarks, I oppose the amendment.

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

Hon. Macharia: Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment by the Chair of the Committee. I believe that when the Bill is left with Clause 30(2)(e), any malicious person or anyone who has a personal grudge may refuse to grant the licence.

I support the amendment.

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

Hon. Kipyegon: Thank you, Hon. Temporary Deputy Chairlady. I wish to oppose the amendment because most of the people who are supposed to grant licences may use malicious grounds to deny some people licences. I have an example in my constituency where the Deputy County Commissioner woke up one morning and declared that security firms have *Al Shabaab* militants or were training *Al Shabaab* militants. There was no proper procedure to establish whether it was true or false. That amendment is very dangerous. I oppose it.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I want to give opportunity to one more Member.

Proceed, Member for Rangwe.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairlady. This amendment is a blanket cheque to the vetting committee that is supposed to issue licences. This will breed corruption. If somebody refuses to play ball, they will cite Clause 30(f). Clause 30(2)(a) to (e) is sufficient to determine that the person being granted the licence is capable of respecting the security interest of Kenya. I do not see what national interest would mean because it is not specified here. Anybody can say that anything means national interest.

I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Marakwet East, have you contributed to this amendment?

Hon. Bowen: Thank you, Hon. Temporary Deputy Chairlady. I believe this amendment was looked at by the Committee. By the time it was brought to this House, the Committee had looked at it thoroughly. Members are raising some things which should go to the regulation of the Bill. Not everything can be legislated here. Some things will be covered by regulations. For example, under what circumstances can the State withdraw your firearm licence? Those are some regulation issues which the Departmental Committee Chair should consider.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you are saying it should be in regulations. You support the Committee. Committee Chair, do you want to speak before I put the Question?

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I call upon my colleagues to support this amendment because it has gone through scrutiny by the Committee. I remember we even met members of the Private Sector Alliance. Let us not be suspicious that some people will use it to deny others that privilege of getting a licence. Let us support it and if there are issues, they can be taken to the regulations and we can fine tune the issue to suit the interests of those who are opposing. So, Hon. Members, let us support it.

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

(Several Hon. Members stood up in their places)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Shouting louder than the others does not make you winners. Hon. Members, we have another amendment by Hon. Ottichilo on the same clause.

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

THAT, the Bill be amended by deleting Clause 30(2)(e).

I am proposing this amendment because this is subject to abuse. We have already specified the qualifications in Clause 26. This person must have undergone some prior training. So, this person is just applying for a licence. You have qualified earlier on. So, in my view, this becomes redundant and is also subject to abuse. I am proposing that it be deleted.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I can see a very thin line to what we have just done. Committee Chair, can you give us direction? What is the Committee's position on this amendment by Hon. Ottichilo?

Hon. Abongotum: Hon. Temporary Deputy Chairlady, Clause 30 of the original Bill states as follows:-

"The Authority shall consider application for a licence received under this Act and shall, if the applicants meet the requirements under this Act, issue a licence."

Clause 30(2)(e) states:-

"---it considers that the applicant is not a fit and proper person to be granted a licence."

Just as you have said, there is a very thin line between the two. Those who are in charge are able to know who is fit and who is not. You may go dressed like a *Mungiki* or *Al-Shabaab*. You really have to think twice before you can give that kind of person a licence. Again, I plead with Members to oppose this amendment.

Hon. (Eng.) Gumbo: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gumbo, what is your point of order which, I am sure, will be an intervention?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, this is the National Assembly of the Republic of Kenya. Honestly, some of us spent a lot of time in school. I have never, in my life, heard of something called "a proper person". When does somebody become a proper person? When we continue going this way---

(Hon. Abongotum and Hon. (Ms.) Muhia interjected)

No, no, no! I beg the Committee Chair to listen to me. Let us use the correct language.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Wanjiku and the Committee Chair, please, do not interrupt other Members when they are giving their opinion.

Hon. (Eng.) Gumbo: When does a person become proper or improper? If somebody is proper, there has to be an improper person. I really plead with the Committee Chair. We have spoken about this issue so many times. The kind of grammar that finds its way into Bills makes us appear like people who do not take their work seriously.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think your point is made. Hon. Naomi Shaban.

Hon. (Dr.) Shaban: Hon. Temporary Deputy Chairlady, we make laws for posterity and they have to be very clear. They should not be shrouded in ambiguity. The words "proper" and "improper" are ambiguous. They are relative terms describing anybody who is going to do this work. So, I agree with Hon. Ottichilo.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Kabondo Kasipul, you have the Floor.

Hon. Onyango: Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment. While supporting the amendment, I want to say that these are the kind of statements that we introduce just through the mentality of Clause 29. This is some archaic and despotic mentality of neo-colonialism where somebody does not want to believe that agencies that have been put to preside over these functions can be incompetent. How do you say somebody is not fit? If I am dressed like a Maasai, does that make me not fit?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Your point has been made. Let us have Hon. Wanjiku Muhia.

Hon. (Ms.) Muhia: Thank you, Hon. Temporary Deputy Chairlady. I want to bring to the attention of Hon. (Eng.) Gumbo the meaning of the word "proper", so that we can be in agreement that this is not engineering, but rather security.

According to the Oxford Dictionary, the word "proper" means "truly, real, genuine, actual, true". So, when we speak of an improper person, it is a person who is not genuine. So, I oppose very strongly. I urge Members to oppose this amendment because someone can bring *Mungiki* or *Al Shabaab*. That is the meaning.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us hear from Hon. Wamalwa. If you keep it short, we will have more Members contribute.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. I stand to support Hon. Ottichilo. The way it is stipulated in Clause 30(2)(e), it is ambiguous and vague. It gives room for discretion. The moment you give room for discretion, there is likely to be abuse and room for corruption. So, we do not know this and I oppose.

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

Hon. Ababu: Hon. Temporary Deputy Chairlady, I do not know why we are imputing ill motive on the men and women that will be given the responsibility to do this task of vetting and screening. We are already imputing the possibility that they will take bribes. This country suffers a crisis of trust. We are a nation of trust deficit. It is possible to determine what a fit person is. It is possible to determine a person who is of proper and acceptable standard in terms of their character.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, are you supporting?

Hon. Ababu: I oppose this amendment and urge the House that this requirement is necessary. We are talking about security here and not just about any other matter.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ottichilo, I will give you the last word.

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, in Clause 26, we have specified the requirement for application. We have said that this person must undertake some training prior to being given this licence. So, we have already put a benchmark. Why do we, later on, deny the same person? The person will not go through the training process if he or she is deemed unfit or improper. So, we have already done that in Clause 26. We have specified the type of person we require.

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

(Clause 30 as amended agreed to)

(Clause 31 agreed to)

Clause 32

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have an amendment by the Chair of the Committee.

Hon. Abongotum: Thank you, Hon. Temporary Deputy Chairlady. I beg to move: THAT, Clause 32 of the Bill be amended in Sub-clause (1) by inserting the following new paragraph immediately after paragraph (d)—

"(e) the licensee is or has engaged in acts prejudicial to national security or national interests."

The import of this amendment is to raise the threshold and to provide an additional ground for cancellation of a licence in order to safeguard national security and interests. It is quite straightforward.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Joyce Emanikor.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment. We should go all length to ensure that security is guaranteed.

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

Hon. Manje: Thank you, Hon. Temporary Deputy Chairlady. I want to also support the amendment. Due to increased ICT penetration currently, we have seen some organisations engaging in clandestine activities which jeopardise our national security. So, I support the Chair.

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

Hon. Ogalo: Hon. Temporary Deputy Chairlady, once more, I oppose. The reason I oppose is when you say that "the licensee has engaged in acts prejudicial to national security or national interests", I presume anybody who engages in acts prejudicial to national security should be taken to court and the court should adjudge them to have engaged in that.

The other day, we saw Hon. Joho being denied his gun licence. A political matter can be said to be against national interests. If you allow something like this to be a yardstick of determining whether a licence continues in force or it is cancelled, we are giving unnecessary discretion. Hon. Ababu has said that we have trust issues, but these are not trust issues. Every time we give discretion to anybody in authority, the result is always one in this country, that they use it for corrupt practices.

I oppose.

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

Hon. Wetangula: Hon. Temporary Deputy Chairlady, I support this amendment. I believe that the public good always overrides the interests of any individual. Matters prejudicial are sometimes not necessarily unlawful. Maybe somebody has just engaged in something that will compromise his integrity. That is why we want to have this amendment the way it is.

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

Hon. Oyoo: Thank you very much, Hon. Temporary Deputy Chairlady. I wish to oppose this amendment because experience is the best teacher. Those of us who have lived in this country have seen how, in the name of State security, freedom of Kenyans has been trampled on. I do not think this is an amendment to support. What happens if tomorrow the hotel business is not doing well and my good friend, the father of multipartyism, Kenneth Matiba, decides that he wants to venture into this business? Would he be allowed or would he be disallowed simply because he was once detained and perceived to have been acting against the interest of State security?

Kenyans must think in terms of the new constitutional dispensation. We should not be like chicken and think we are in the past, so that when it comes to State security, somebody else is supposed to determine our destiny. I oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Chair of the Committee, I want to give you opportunity to have the last word on this, so that I can put the Question. Do you want to speak to it?

Hon. Abongotum: I just want to plead with Members to understand that the rationale behind this is that if a person has engaged in crime like theft or associated with criminals, that is a dangerous person to be issued with a licence. I request the Members to support this for the sake

of national security. Do not be suspicious. The Opposition of today is the Government of tomorrow and vice versa. So, let us not be scared about this. It is straightforward and I plead with Members to support it.

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

(Clause 32 agreed to)

(Clauses 33, 34, 35, 36, 37 and 38 agreed to)

Clause 39

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have an amendment by the Chair of the Committee.

Hon. Abongotum: Thank you, Hon. Temporary Deputy Chairlady. I beg to move: THAT, Clause 39 of the Bill be amended in Sub-clause (1) by inserting the following new paragraphs immediately after paragraph (e)—

- "(f) is an agent of foreign power;
- (h) is or has engaged in acts prejudicial to national security or national interests."

This is meant to raise the threshold by providing an additional ground for thorough vetting of potential security service providers. Those with criminal records will be denied licence in the interest of the State. This amendment is meant to weed out potential criminals, people who threaten State security and agents of foreign powers. We know that we have such characters. I plead with Members to support this.

(Question of the amendment proposed)

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

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I wish to support the first part of this amendment.

I have a problem with the amendment proposed in part (h) because it says that people who have engaged in acts prejudicial to national security or national interests will be denied licences. It is very easy to subject that to both subjective and objective considerations. Even the same prejudices that it talks about are easily subjected to the same. I plead with my brother to consider it, so that we do not shoot down this good amendment. I would be totally opposed to the possibility that we will license somebody to provide private security while he is acting in the interests of foreign powers. That is not in order.

When you bring in subjective amendments or clauses like these which are prejudicial in themselves yet you state that those who have engaged in acts prejudicial to national security and interest will be penalised, it is wrong.

I support (f), but oppose (h).

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman, because you are introducing two new paragraphs, will you want us to go one by one? I think it is more prudent to do that.

Can we discuss the first paragraph? We are discussing the new insertion of (f). Hon. Manje.

Hon. Manje: I also want to support this amendment. It will be awkward to register an organisation that has foreign interests. I support this amendment for security purposes.

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

Hon. Mulu: Hon. Temporary Deputy Chairlady, it has been a long wait. I thought my intervention button is not working. I support the amendment to insert 39(f) because it makes a lot of sense.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We now go to paragraph (h). Hon. Chairman had pronounced himself on it. I open it up for interventions. I will start with Hon. Kibunguchy.

Hon. (**Dr.**) **Kibunguchy:** Thank you, Hon. Temporary Deputy Chairlady. This amendment (h) is very similar to Clause 32 which we have considered and rejected.

I oppose it for the same reasons.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Naomi Shaban.

Hon. (**Dr.**) **Shaban:** Hon. Temporary Deputy Chairlady, I support the Chairman's amendments. He has already given the explanation. That is the way we should go.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Dalmas Otieno.

Hon. Anyango: Hon. Temporary Deputy Chairlady, Hon. Members may be taking this matter lightly. It is important to clarify that there are two levels of information. Information that is able to sustain a conviction in court and one that is adequate for Government action.

In the absence of a clause like (h), we cannot be safe. The best examples have been the Mombasa Republican Council (MRC) and some *Al-Shabaab* members who have been released by the courts. That is because there are no clauses through which the prosecution can articulate the dangers posed by an individual. If we delete this second amendment which is on people who may be prejudicial to national interest, it will not be right. Though it appears vague, it is a deterrent to some of the devious characters we will be dealing with under this law.

Though it can be abused, deleting it exposes us to people who are able to hide their actions. Without such clauses, we literally cannot reach them yet we may have adequate intelligence information. That information will only be used administratively to take action under this law. If we are to take such deviants to court, it will be difficult to sustain a conviction under this clause without this amendment.

I support the amendment.

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

Hon. Wangwe: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment. Security is not a matter that can be exposed. Information can be acted upon because a few administrative officials are informed of it. Deleting the amendment will be exposing us and the country.

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I support.

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

(Clause 39 as amended agreed to)

(Clauses 40, 41, 42, 43, 44 and 45 agreed to)

Clause 46

Hon. Abongotum: Thank you, Hon. Temporary Deputy Speaker. I beg to move: THAT, Clause 46 of the Bill be amended in Sub-clause (3) by inserting the words "in addition to cancellation of license" immediately after the words "commits an offence and shall".

This is to provide for the cancellation of a licence where an offence has been committed. It is to prevent further harm to citizens. It is also to ensure that the fundamental rights of persons as safeguarded by the security services provider or a security guard are upheld. I plead with Members to support this because it will enable us rein in on criminals who have committed criminal acts and intend to harm citizens. It will also take care of issues of fundamental rights of our citizens.

(Question of the amendment proposed)

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

Hon. (**Prof.**) **Nyikal:** I support this because it makes sense. It is clear. You have evidence. I have issues with some clauses like Clause 32 which we have passed.

I support.

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

Hon. Omulele: Hon. Temporary Deputy Chairlady, I support the amendment although I am a little worried. When police officers are exercising the power of arrest, they are allowed to use some reasonable force. That force is at times necessary when effecting arrest. In this, we are hobbling up these officers or the people we are giving powers of arrest with limitation on fundamental rights. We are giving on one hand and taking on the other. However, the principle is well supported.

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

(Clause 46 as amended agreed to)

Clause 47

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

THAT, Clause 47 of the Bill be amended in Sub-clause (4) by inserting the words "in addition to cancellation of licence" immediately after the words "commits an offence and shall".

There is a thin line separating the two. In the same vein, I wish to state that this will assist in the provision for cancellation of a licence where an offence has been committed. It will also prevent further harm to any citizen and ensure that fundamental rights are also observed. They are almost similar. Therefore, I want to plead with the Members to support it.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The gist is the same as what we have just passed. Hon. Members, can I put the Question?

Hon. Members: Yes.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We also have an amendment by Hon. Ottichilo on the same clause.

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

THAT, Clause 47 of Bill be amended in Sub-clause (5) by inserting the words ",within three months of the commencement of this Act," immediately after the word "shall".

The import of this amendment is that the power to search is so important. We have had a lot of problems in the area of security officers searching members of the public. Therefore, I am proposing that we put a timeline when these regulations can be put because the way it is, the Principal Secretary can take a long time to put up the regulations. I am proposing that within three months, the regulations should be put in place, so that they become operational as soon as this Bill is assented to.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): He is also very clear, Hon. Members. He is giving a timeframe after the enactment of this Bill.

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

(Clause 47 as amended agreed to)

Clause 48

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chairman of the Committee you have an amendment, so does Hon. John Ndirangu. I will start with Hon. Kamama.

Hon. Abongotum: Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 48 of the Bill be amended in Sub-clause (3) by inserting the words "Subject to section 45," immediately before the words "Any information."

The import of this amendment is to enable a national security organ, the Inspector General of the National Police Service or the Cabinet Secretary to use information obtained by private security service to promote national security. When these security providers are employed, we can get a lot of information from them for comparative intelligence, so that we can use it to secure our country. I want to plead that we support it. It is very important for our security.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Who is on a point of order? Yes.

Hon. Lagat: Hon. Temporary Deputy Chairlady, is it in order for Hon. Mwaura to be in this House when he is not properly dressed? Hon. Mwaura has not tucked in his shirt?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Mwaura just be properly dressed. Hon. Lagat, I do not see the problem. Maybe you are seeing it from your side.

Hon. Lagat: He has not tucked in his shirt.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I do not see it. Let us continue. Hon. Shaban, do you want to speak to this amendment?

Hon. (**Dr.**) **Shaban**: The amendment suggested by the Chairman is very clear. Having passed Section 45 and agreed on how it is, for clarity, it is important that we take the amendment from the Chairman.

I beg to support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman of the Committee, I am trying to get the sense of your amendment. Could you just read it as it will be amended? At what point will the insertion be and how will it read? Could you just read it out?

Hon. Abongotum: THAT, Clause 48 of the Bill be amended in Sub-clause (3) by inserting the words "Subject to section 45," immediately before the words "Any information."

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, that is the beginning of the sentence?

Hon. Abongotum: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Therefore, that is the beginning of the sentence. I get that clearly now. Hon. Member for Kiminini, do you want to speak to this?

Hon. Wakhungu: It was the other one.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay, there is no problem. Member for Baringo Central, do you want to speak to this?

Hon. Mwaita: Yes, Hon. Temporary Deputy Chairlady. I want to support the Chairman's amendment because it enhances security and makes the Bill clean and neat.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Is Hon. John Ndirangu in the House? He has an amendment, but he is not in the House. So, we drop his amendment.

(Proposed amendment by Hon. Kariuki Ndirangu dropped)

(Clause 48 as amended agreed to)

(Clause 49 agreed to)

Clause 50

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have two amendments; one from the Chairman of Committee and the other from Hon. Wilber Ottichilo. We will start with Chairman of the Committee.

Hon. Abongotum: Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 50 of the Bill be amended—

- (a) in sub-clause (1) by inserting the following new paragraphs immediately after paragraph (c)—
 - "(d) use the names, logos, initials and emblems similar or resembling those of a national security organ or a disciplined service.
 - (e) use or install equipment that is capable of intercepting or otherwise interfering with another person's communication; and
 - (f) use or install such other equipment as the Cabinet Secretary may from time to time prescribe."
- (b) by inserting the following new sub clause immediately after Sub-clause (3)"(4) A person who contravenes this section commits an offence and shall, in addition to cancellation of the license, be liable, on conviction, to a

penalty prescribed in this Act or any other written law, whichever is higher."

The import of this amendment is to ensure that private security service providers cannot dress or use equipment ordinarily reserved for officers in national security organs.

Secondly, this is to prevent confusion that may be exploited by criminal groups to harm citizens and thirdly, it will help in identifying and punishing offenders, either in private security service providers or members of national security organs. This is meant to clear confusion even when you are conducting an operation, so that you know whether you are dealing with officers of the National Police Service or just normal security guards. I plead that we support this good amendment.

(Question of the amendment proposed)

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

I support the amendment.

Hon. Bowen: Thank you, Hon. Temporary Deputy Chairlady. This is a very straightforward amendment. We have seen before some security companies coming up with uniforms, logos and vehicles that are similar to those that belong to the police. This Bill will clear that confusion and make sure that the security of this country is not endangered.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. It is important in the sense that it will ensure that we do not have copycats or lookalikes in the name of the Administration Police (AP), so that we can identify our police officers. We do not want people to dress like policemen without guns. Sometimes, some policemen walk around without guns. We do not want to have security guards who look like policemen, arresting people when they cross the road to Uhuru Park. You may think they are policemen yet they are people of questionable character.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I give the Floor to Hon. Beatrice Nyaga of Tharaka Nithi. I will come to that side.

Hon. (Ms.) B.N. Nyaga: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment by the Chair. This is very important because it is going to differentiate between the equipment of private security service providers and those of police officers.

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

Hon. (**Prof.**) **Nyikal:** Hon. Temporary Deputy Chairlady, I support the amendment. It is extremely useful that we make a clear distinction so that people who like to pretend or use things that will confuse the public are kept at bay. However, and perhaps this can be taken up in the regulations, 50(f) states that "use or install other equipment as the Cabinet Secretary may from time to time prescribe. There may be need under the regulations to be more specific and give guidelines to the Cabinet Secretary.

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

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. I rise to support this very critical amendment. I have been a victim. You are driving on a road and you find a roadblock somewhere manned by people who have uniforms similar to those of police officers. You stop only to realise that they are thugs. It is very important. The offence should have a higher penalty because this is something which has been going on. These private security firms must be warned that their uniforms should be totally different from those of officers in the police force.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Your point is made. Let us have the Member for Embakasi West, Hon. George Theuri.

Hon. Theuri: I wanted to contribute to the next item, but I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Rose Mitaru.

Hon. (Ms.) Mitaru: Thank you, Hon. Temporary Deputy Chairlady for giving me a chance. I support this amendment because in this nation, we need to support each other by knowing who is who and where they are.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Before I put the Question, let me give a chance to Hon. Shaban.

Hon. (**Dr.**) **Shaban:** Asante sana Mhe. Naibu Mwenyekiti wa Muda. Rekebisho hili litaondoa utukutu na utundu unaofanywa na wahalifu hapa nchini. Hivyo basi, sheria hii itakuwa muhimu sana kuonyesha wazi kuwa wenye kusimamia usalama ni akina nani na wenye kufanya kazi kwenye kampuni hizi ni akina nani.

Naunga mkono rekebisho hili.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We will now consider the amendment by Hon. Wilbur Ottichilo. What is your point of order, Hon. Gumbo?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, when discussing Clause 50, we only talked about part (a) of the amendment which seeks to insert new paragraphs (d), (e) and (f). We did not talk about part (b) of the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, when moving, the Chair moved the whole amendment.

Hon. (Eng.) Gumbo: He did not talk about part (b) and some of us had issues with it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair, did you move the whole amendment including part (b)?

Hon. Members: No!

Hon. (Eng.) Gumbo: He did not move part (b) for sure. I have been very attentive.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chair, because we have not finished considering the clause, could you speak on part (b) of the amendment, so that we vote in totality?

The Member is speaking about part (b) of the amendment to Clause 50.

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

THAT, Clause 50 of the Bill be amended—

(b) by inserting the following new sub clause immediately after Sub-clause (3)—
"(4) A person who contravenes this section commits an offence and shall, in addition to cancellation of license, be liable, on conviction, to a penalty prescribed in this Act or any other written law, whichever is higher."

The import of this is to ensure that those who commit this offence are punished using the provisions of this Act or any other written law. The penalty will be as prescribed in any written law or in this Act, whichever is higher. We want to ensure that those who break the law, especially this particular provision, are severely punished, so that they cannot repeat it.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Can I now hear from Hon. Nicholas Gumbo?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I have no problem with this amendment. It is a good one. I wish the Chair could just clarify. He says that a person who contravenes this section commits an offence and shall, in addition to cancellation of the license, be liable, on conviction, to a penalty prescribed in this Act. I want to stop there. Why is he not using the word "fine"? A fine is not a penalty and a penalty is not a fine. I am not a lawyer, but traditionally, we have used the word "fine" so that we are consistent in the way we make Bills. I would like to know from the Chair why he is not using the word "fine" and using the word "penalty" instead. The word "penalty" could as well just be withdrawal of a licence or something

much less. In all our Bills, it has always been a fine on conviction. I just want clarification on why he is using the word "penalty" and not the word "fine".

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Chepkong'a and then I will come to you Chair.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairlady. It looks like Hon. Ababu has the answer because he belongs to that Committee. Just like Hon. Gumbo, I was wondering why there is no prescription of the penalty. Ordinarily, every piece of legislation is self-contained, particularly clauses similar to what we are dealing with. If you prescribe a penalty, you do not say "a penalty prescribed in this law." There are many penalties that are prescribed in this law. It is not standard. If you say that somebody will be sentenced to a maximum of five years' imprisonment or fined Kshs1 million, it should be self-contained because you have already prescribed the offences. Why are we not prescribing the penalty too, so that we have a self-contained clause or section?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ababu, you are in this Committee. Let us have your contribution before I give a chance to the Chair.

Hon. Ababu: Hon. Temporary Deputy Chairlady, of course, I know the Chairman is going to explain the rationale behind this. But the thinking was on latitude. It was to allow some latitude in terms of the penalty. Eng. Gumbo, of course, knows that a fine is a penalty, but a penalty is not confined to a fine. The rationale was purely latitude; to allow and afford a certain measure of latitude in determining what penalty would be appropriate whether a fine or otherwise.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman, do you want to speak on it or is it well taken care of?

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I agree with Hon. Namwamba because he is a Member of this Committee. The import of this amendment was to give a bit of latitude or discretion when you want to punish these offenders. The dividing line between a penalty and a fine is too thin.

The last part of this section mentions "any other written law" so that issues of ambiguity may really not arise. It also indicates "whichever is higher". A judge should have this kind of latitude. I know a situation where Members of Parliament were in the Netherlands and some crooks used police uniforms to rob them. They claimed that they were investigating drugs and money launders. So, I plead with Members that we support it the way it is to give a judge or a magistrate that discretion and latitude.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is the point of order? We can vote on this amendment.

Hon. Omulele: It is just housekeeping, Hon. Temporary Deputy Chairlady. Mine is about the ordering of the sub-sections in this clause. We have Sub-clause (3) which talks about the rules and regulations that the Minister may set out. We also have Sub-clause (4) which provides that anybody who contravenes or commits an offence may be subjected to conviction and penalties.

The proper reading of this section would be that if the Minister were to fail to do the matters that are prescribed under Sub-clause (3) then he would be subject to the penalties and conviction that is prescribed under Sub-clause (4). So, the proper thing would, probably, be Sub-clause (4) to come where Sub-clause (3) is and vice versa.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is cleaning up. Hon. Chairman, I have also noted that. I had seen that bit. Would you like to look at the sequence? If you follow what the Hon. Member has said, you will see that when you read Sub-clause (3) and Sub-Clause (4), does it follow logically? Members of the Committee, please, help the Chair on this one.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I do not oppose the sequence of the logical flow proposed by my good friend, the Member for Luanda because it will amount to the same thing. So, if that sequence is supported by Members, I have no problem with that.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. So, I will put the Question.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh):Hon. Ottichilo, move your amendment, please.

Hon. (**Dr**) **Ottichilo:** Hon. Temporary Deputy Chairlady, Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 50 of the Bill be amended—

- (a) in Sub-clause (3)(a) by inserting the words "and tools" immediately after the words "types of equipment";
- (b) in Sub-clause (2) by inserting the words "and private security providers" immediately after the word "Authority".

What I am introducing under Sub-clause (2) is that while these regulations are being enacted or proposed, the private security providers must be involved. This is very crucial. We are talking about tools of work; the type of equipment or tools to be used. It would be very prudent that the private security providers be part and parcel of this process of regulation-making.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I start with the Chair of the Committee.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, when you talk about inserting the words "and tools" immediately after the words" types of equipment", it is very much in order. I support the amendment by Hon. Ottichilo.

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

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. I support this very important amendment. It is, indeed, in line with Article 118 of the Constitution which talks about public participation. In this case, we are looking at the critical key stakeholders. As it says, it is the shoe wearer who knows where it pinches. So, I totally agree with Hon. Ottichilo that as these regulations are brought in, they should include these critical people; the key providers.

I support.

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

(Clause 50 as amended agreed to)

(Clause 51 agreed to)

Clause 52

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We will come to the new clauses at the end. Hon. Members, are we together? If you normally take part in the Committee of the whole House, you will know that the new clauses and Clause 2 come at the end.

Hon. Members, we want to hear the amendment proposed by Hon. Ottichilo on Clause 52.

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, I want to withdraw this amendment because I have realised that what I wanted to propose is covered. Since it says "not exceeding five hundred thousand", it takes care of even the small security firms. I was interested more on the small security firms, but I can see that they are covered.

Therefore, I withdraw my proposed amendment.

(Proposed amendment by Hon. (Dr.) Ottichilo withdrawn)

(Clause 52 agreed to)

(Clauses 53, 54, 55, 56, 57 and 58 agreed to)

Clause 59

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have an amendment by Hon. Wilber Ottichilo.

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

THAT, Clause 59 of the Bill be amended in Sub-clause (3) by inserting at the end of the sub-clause the words "and to organise training workshops or seminars for private security providers."

The import of this proposed amendment is that, I want this Fund to be used for the training of security officers. You remember earlier on, under Clause 26, we said they be trained for, at least, a week.

This Fund should be used for that purpose apart from other uses. So, I am introducing the aspect of training private security officers on an annual basis.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, that is straightforward.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted,

put and agreed to)

(Clause 59 as amended agreed to)

(Clauses 60, 61, 62, 63 and 64 agreed to)

Clause 65

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

THAT, Clause 65 of the Bill be amended in Sub-clause (4) by inserting the words "in at least two daily newspapers of national circulation" at the end of the sub clause.

The import of this is that we want all these information to be available to the public. That is why I have indicated that, at least, the information should be printed in two daily newspapers of national circulation for the general information of the public.

(Question of the amendment proposed)

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I support this amendment because we do not want to hide information from citizens. So, they should appear in two daily newspapers of national circulation and even major radio stations and chiefs' offices at some stage. So, I support. I want to promise that we will fine tune the regulations to ensure that this information is cascaded to the level of Assistant Chiefs' offices.

Thank you.

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

(Clause 65 as amended agreed to)

(Clauses 66 and 67 agreed to)

Clause 68

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

THAT, Clause 68 of the Bill be amended in Sub-clause (2) by-

- (a) inserting the following new paragraph immediately after paragraph (d)— "(da) the provision of protective gear and tools;"
- (b) inserting the following new paragraph immediately after paragraph (e)—

"(f) membership of private security service providers to corporate bodies."

I am including a new subsection which includes provision of protective gear and tools. So, as they are making the regulations this should be one of the areas where regulations should be enacted so that it is very clear which protective gear and tools we are talking about. I am also including that the member of private security providers should also be seconded or be member of the corporate bodies. My understanding was that some security providers have a body which deals with corporate organisations and there should be representation from the private security.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon Chairman, I start with you again.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, the proposed amendment enriches this Bill so that even corporate bodies are also included.

I support the amendment.

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

Hon. Bowen: This is a very critical amendment especially on the protective gear and tools. We have seen security guards whose uniforms are in tatters and they are not well protected. They sleep out in the cold the whole night and suffer from pneumonia. Eventually when they die, the security companies do not even compensate them. So, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Let us have Hon. Rotino.

Hon. Rotino: Thank you, Hon. Temporary Deputy Chairlady. I support this because it is important that we protect our security guards. This is because many of them stay outside when it is very cold. They suffer from pneumonia and they do not have protective gear that helps them in protecting themselves from the cold. So, all the security providers must be compelled to provide protective gear.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Members, this is straightforward. Let us put the Question.

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

(Clause 68 as amended agreed to)

Hon. Members, we are now going to the new clauses.

New Clause 11A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Ottichilo, move the New Clause 11A to be read a Second Time.

Hon. (Dr.) Ottichilo: It was withdrawn, so there is no amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I am talking about New Clause 11A. We have gone to the new clauses unless you want to drop it now.

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, I thought we dropped Clause 11.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): That is New Clause 11 A. Go to your Order Paper on page 494.

Hon. (Dr.) Ottichilo: Hon. Temporary Deputy Chairlady, that is what we withdrew.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, can you just withdraw it on record because this is the right time? So, just go ahead and withdraw it.

Hon. (Dr.) Ottichilo: Hon. Temporary Deputy Chairlady, I beg to withdraw that amendment.

> (Proposed amendment to New Clause 11A by Hon. (Dr.) Ottichilo withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Thank you Hon. Ottichilo. If you have dropped that, there is nothing to discuss. So, we will move on to the next New Clause.

New Clause 49A

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Asman Kamama, Please move New Clause 49A.

Hon. Abongotum: This is on page 492 for those who are not aware, Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, the following New Clause be inserted immediately after Clause

49—

Powers excludes police powers.

49A. For the avoidance of doubt, nothing contained in this Part shall be construed as conferring upon a private security service provider, a security guard or a security officer the powers of a police officer or member of a disciplined service.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I think it is self-explanatory and clear to Members

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 51A

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The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We will start with the amendment by the Chair of the Committee.

Hon. Members, just for clarity, if we carry the amendment by the Chair then that of Hon. Mutura will be dropped. Hon. Kamama, please move the New Clause 51A to be read a Second Time.

Hon. Abongotum: Thank you, Hon. Temporary Deputy Chairlady, I beg to move: THAT, the following new clause be inserted immediately

after clause 51—

Use of firearms.

- 51A. (1) A private security service provider shall not use or allow the use of firearms in the rendering of a security service.
- (2) A person who contravenes the provision of this section commits an offence and shall in addition to cancelation of license, be liable on conviction to a penalty prescribed in this Act or any other written law, whichever is higher.

I beg to move that it be read a Second Time.

The import of this new clause is that Article 239 of the Constitution provides that the national security organs are:- the Kenya Defence Forces (KDF), the National Intelligence Service (NIS) and the National Police Service (NPS) which has two departments or services that possess firearms to safeguard national interest. There are no proper safeguards against abuse and this may lead to confusion.

This is a very controversial amendment. Initially, a good number of our Members were supporting it. We were convinced not to give private security guards firearms because they are not trained and disciplined. This will expose Kenyans.

At the same time we also found out that even the current police officers, who are fully trained sometimes, hire out their firearms. Quite a number of them have been charged for hiring out guns. If we give guns to people who attend a short course of one week, we will be exposing this country.

Again, we have employed very many police officers. In fact, we are almost reaching the threshold of the United Nations (UN) of 450 citizens *vis-a-vis* one police officer. At the same time, we have introduced very many CCTVs to take care of security surveillance. So, we oppose this issue of giving people who are not properly trained and without discipline firearms.

I beg that we support that position.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I will start with the Member for Rarieda.

Hon. (Eng.) Gumbo: I rise to oppose this proposed new clause. I have had a chance to live in Uganda for a long time. Security guards in Uganda, for over 30 years, have been carrying guns. We are running away from reality. One of the reasons why thugs are on the rampage in our country is because they know our guards with their *rungus* cannot contain them. We are running

away from reality and crime in this country is run away. Let us give these guns to private security guards, increase education and training levels and impose punitive penalties for the misuse of those guns.

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

Hon. Kang'ata: Thank you, Hon. Temporary Deputy Chairlady. One argument that has been given by the Chair of the Committee is that we are about to reach the threshold of the UN. That argument is not desirable because for us to fill all vacancies in Government, it will be expensive on the taxpayer. So, it makes sense for us to privatise some services and in my opinion, this is one of the areas that private sector can play a good part.

In any event, that which the Government does, private sector does it better. With regard to training, the Chairman had said guards will be trained in one week. The proposal by Mutura states that they should be trained for a period of---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, we are not debating Hon. Mutura's proposal so far.

Hon. Kang'ata: No, you gave a direction and said if the Chair's proposal goes through, then Hon. Mutura's proposal dies. So, it makes sense for us to argue in a---

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): So, you either oppose or support this particular one that we are now debating.

Hon. Kang'ata: Thank you, Hon. Temporary Deputy Chairlady. I oppose on the basis that if we are able to defeat his proposal, Mutura's view will go through, that we should train these people who are having guns for a period of more than six months. Also look at the proposal about a written contract for a person who is going to be given a gun.

The other issue is that, for one to have a gun, he or she should, at least, have a minimum of Form Four certification. The final point is very crucial. This Government gives guns to private citizens who are the rich and elite. They only use their guns to safeguard themselves. It makes sense to give a gun to a private security guard who will guard about 1000 people in a hall.

So, I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Your point is made. Thank you. Let us hear from the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairlady. I support. Let us reflect this matter and not compare Kenya with Uganda.

One, there are private citizens in this country from the pastoralists' community called "Kenya Police Reservists (KPR)", who are not rich and private sector players, who are allowed by the law to access guns. Hon. Mutura's amendment is that watchmen or security guards in this country be given guns. This is calling for chaos.

We have cases where security guards collaborate with criminals and even the police in stealing. Imagine, if you have given them guns they will not need to collaborate. In our homes they will use those guns to rob our families. Hon. Members of Parliament seated here always go to constituencies. If you want to have a gun, the law is very clear you go buy it and it is tested.

Why should one have a Form Four certification? Carrying a gun does not need anyone to have a certificate. Therefore, I support the inclusion of this new clause and it should be carried. In the chaos which happened yesterday at Anniversary Towers, the guards around there could have killed people.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Member, thank you. Let me give the opportunity to Hon. Mutura.

Hon. Mutura: Thank you, Hon. Temporary Deputy Chairlady. I oppose the amendment by the Chair. First and foremost, we need to take cognisance of the fact that Kenya is at war, and the police ratio is not enough to guard everyone. I am proposing that we provide firearms to the private security guards. There is also a technology of tracking firearms, and so the issue of misuse should not arise at any one time because we can track firearms where they are. Look at the case of Westgate, if the security guard there had firearms the killings that happened could have been minimal.

Therefore, I am opposing the amendment by the Chair.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairlady. I rise to support this amendment.

Allowing private security firms to own guns is opening a Pandora's Box. Most of the security guards have not gone through any training. Somebody being paid a monthly salary of Kshs5,000 can use that gun to generate more income. We cannot allow that to happen. This is something which has been going on. I call upon Hon. Members to oppose this idea. Kenya is not at war. I heard Hon. Mutura mention war. We already have the disciplined forces who are responsible for our security. If you want to own a firearm, you can apply for a licence and go through the thorough vetting procedure that is prescribed under the law.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have made your point, Hon. Wakhungu.

I give this opportunity to the Member for Luanda.

Hon. Omulele: Hon. Temporary Deputy Chairlady, I rise to support the amendment by the Departmental Committee Chair. We know the security situation in this country as well as the level of impunity that prevails in this country. As much as we have very serious security issues in this country and people may wish to own weapons that are superior to *rungus*, *pangas* and other weapons they use, the proper approach would be to amend the Firearms Act to accommodate such needs rather than put such provision in this Bill that every private security guard can be entitled to a gun. We will be creating chaos in this country.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Letimalo!

Hon. Letimalo: Hon. Temporary Deputy Chairlady, I support this amendment. It is important for Members to remember that the Government trains police officers for nine months before deploying them to serve but some officers still discharge ammunitions recklessly, hurting and even killing people.

(Hon. A.B. Duale consulting loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Leader of the Majority Party, you are making my work very difficult. I cannot hear what the Member is saying. Please, do not make my work difficult.

Hon. Letimalo: Hon. Temporary Deputy Chairlady, if a police officer is trained for one year, as I have just been informed, but we still find cases of discharge of ammunitions due to carelessness by some officers, imagine a person who has been trained for one week. They cannot handle firearms.

I support this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have Hon. Rose Mitaru.

Hon. (Ms.) Mitaru: Thank you very much, Hon. Temporary Deputy Chairlady for giving me this chance.

The Departmental Committee Chair has done a good thing in proposing that we should not arm the private security guards that we employ for a month or a week. Those are the people we entrust with the responsibility of guarding our residences. There are times when people come late and you do not know where they have come from. They have not been trained properly and some of them are not even properly educated.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Mitaru, are you supporting or opposing?

Hon. (Ms.) Mitaru: Hon. Temporary Deputy Chairlady, I am supporting the Departmental Committee Chair so that we can protect our people.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): You have made your point. Let us listen to Hon. Ayub Savula.

Hon. Angatia: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment brought by the Departmental Committee Chair. Private security guards should not be armed. Let us not drive this country to chaos. What if some rogue governors give guns to their private security guards? Look at how the county *askaris* behave in this city. Look at the Kakamega and Malindi incidents. Let us debate this matter soberly and ensure that we do not drive this country to that level.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The last person whom I will give opportunity to speak on this amendment is Hon. Waluke.

Hon. Koyi: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment. This country should not be driven that way. There is an office that deals with vetting. Let us go the way this country has been operating. If you wish to apply for a firearm licence, you will be vetted. We cannot just give firearms to watchmen. We are driving this country into problems.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I have many Committee Members requesting for chances to speak. During the Committee of the whole House stage, the Departmental Committee Chair speaks for the Committee. We give as many chances as possible to Hon. Members who do not sit in the Departmental Committee that handled the Bill. Therefore, Hon. Members, do not keep on shouting at me about being Committee Members. In fact, I should be hardly giving you any opportunity, but I have been giving you opportunities.

Hon. Kipyegon: Hon. Temporary Deputy Chairlady, I totally oppose the amendment. In this country, there are no special people who should enjoy the right to carry guns while others do not. We are being told that some people may misuse guns. We have private citizens in this country who own guns. There are regulations which prohibit people from misusing guns. We are also talking about training. Police officers are trained for nine months but it does not mean that they are trained on how to misuse or use guns. We can as well train private security guards for nine months. Hon. Members will remember the Westgate situation. If the private security guards who were protecting that facility had guns, they would have minimized the number of deaths that were caused by the terrorists.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, you are now repeating what other Members have said.

(Loud consultations)

Hon. Members, I will have to wait for the Leader of the Majority Party to allow the House to be quiet.

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)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, as I had already indicated, the new clause by Hon. Mutura has been dropped.

(Proposed amendment to New Clause 51A by Hon. Mutura dropped)

We are going to another new clause which you will not find in your Order Paper. The new clause was mistakenly left out of the Order Paper. We are allowing it even though it is not in today's Order Paper.

The Departmental Committee Chairman, I am saying this on your behalf. We do not have this amendment in today's Order Paper but it was on the Order Paper of Wednesday, 30th March, 2016, when we were supposed to do the Committee of the whole House for this Bill. It is an amendment by Chairperson of the Committee on Justice and Legal Affairs, Hon. Chepkong'a. It is New Clause 68A.

Hon. Chepkong'a, can you read it clearly for the sake of the Members who do not have it on their Order Papers?

New Clause 68A

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

THAT, the Bill be amended by inserting the following new Clause 68A immediately after Clause 68–

Amendment section 10 No.11A of 2011

No.11A of 2011

Consequential amendment to No.11A of 2011

No.11A of 2011

Consequential amendment to No.11A of 2011

Amendment of of of of of of amended in paragraph (na) by-

- (a) deleting the word "designate" and substituting therefor the word "appoint"
- (b) deleting the word "designated" and substituting therefor the word "appointed"

This amendment was there when this Bill first came up for consideration by the Committee of the whole House. It seeks to amend Section 10(1) of the National Police Service Act as proposed above.

Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Departmental Committee Chairman, do you have a copy of this amendment?

Hon. Chepkong'a: Yes, I have even showed it to him.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): I wanted to give you a copy. If you have it, go on.

Hon. Chepkong'a: Hon. Temporary Deputy Chairlady, in the whole world, Kenya is the only country which has two police forces, namely; Administration Police and regular police. At the county level, we have two county commandants; one for the Administration Police and the other one for the regular police. As we speak, we do not know the person in charge. There was a proposal to arm security guards.

Initially, the Officer Commanding Police Division (OCPD) was in charge of a district, but right now, we do not know the person in charge of the entire security apparatus within a particular county. This will ensure that the Inspector-General of Police (IGP) designates one of them, whether it is the Commandant of the Administration Police or the regular police to be the overall commandant of that particular county. As you know, this is a national function and in my own county, there is a lot of confusion. We chase *busaa* brewers all over the place.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. (Ms.) Millie Odhiambo, what is your point of order?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairlady, I do not know whether I am growing old or rusty but I do not know when we started amending this law unless I did not get the amendment well since it is not reduced into paper. The Private Security Regulation Bill is not an amendment Bill. I do not think it is in order to amend the National Police Service Bill through the Private Security Regulation Bill. I do not know whether I am rusty or confused. I have just come from Mbita so you might excuse me.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let me allow Hon. Chepkong'a to explain why we are amending another Bill.

Hon. Chepkong'a: I am not amending the wrong Act. You can amend any legislation using an amendment of another legislation. The Standing Orders do not prevent that. I have read the Standing Orders and we have done this in all the other Bills. I have moved those amendments before as the Chairman of the Departmental Committee on Justice and Legal Affairs. Hon. (Ms.) Millie has never objected to this unless she is objecting to the amendment itself. There is nothing

wrong with amending this. I do not want to fight with Members. If this is the feeling of the Members, I can as well drop it and it will not break a bone.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Can we hear from the Chairman of the Departmental Committee on Administration and National Security?

Hon. Abongotum: Hon. Temporary Deputy Chairlady, Hon. Chepkong'a's amendment is good but we are amending the wrong Act. We already have a provision in the National Police Service Act and we even inserted that in the chaotic National Security Act that we passed. They are provided for in other laws. If Hon. Chepkong'a feels that the National Police Service Act should be amended to accommodate his concerns, I think he should bring it under the Statute Law (Miscellaneous Amendments) Act so that we can do a cleanup on this.

By way of decree, the IGP has tried to appoint county commandants. Some areas are being manned by the Administration Police Service while others are manned by the Regular Police Service officers. It is an area that we must clean. I would like to propose that he takes it further and brings it through the Statute Law (Miscellaneous Amendments) Act. I think we should only deal with the Private Security Regulation Bill. I am happy that he has dropped his amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chepkong'a, having listened to the explanations from the Chairman and Hon. (Ms.) Millie, would you like to be on record dropping your amendment?

Hon. Chepkong'a: Hon. (Ms.) Millie was purely on procedure. The Chairman of the Committee agrees with me that we need to do a cleanup because it is messy. In light of what he has said, I hereby drop my amendment and hope that the Committee will carry this.

(Proposed amendment to New Clause 68A by Hon. Chepkong'a dropped)

Hon. Bowen: Thank you, Hon. Temporary Deputy Chairlady. Hon. Chepkong'a raised a very fundamental issue. He said that our Standing Orders do not prevent amendments in any Act. I want your ruling so that it is not again used by any Member. It should be clear whether it is proper when you are debating a Bill such as this you raise an amendment to amend another law.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Bowen, we have heard you and we will refer it to our legal team and the substantive Speaker will speak on it.

(First Schedule agreed to)

(Second Schedule agreed to)

New Schedule

Hon. (**Dr.**) **Ottichilo:** Hon. Temporary Deputy Chairlady, I beg to withdraw the New Schedule.

(Proposed New Schedule by Hon. (Dr.) Ottichilo withdrawn)

Clause 2

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Abongotum, we always conclude with Clause 2.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, Hon. Mwaita wanted recommital of Clause 9, what is your take on that?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Please finish moving the amendment to Clause 2. The Chairman will go back to the House and that is when you can ask for recommital.

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

THAT, Clause 2 of the Bill be amended by inserting the following new definitions in their proper alphabetical sequence—

Cap. 114 "firearm" has the meaning assigned to it under the Firearms Act; "foreign power" means a foreign government, foreign organization or an entity that is directed or controlled by a foreign government or foreign organization.

The import of this amendment is to ensure that there is clarity in the use of the two terms.

(Question of the amendment proposed)

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

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairlady, I wish to support the amendment by the Chair of the Committee, particularly on the definition of the word "foreign power". It brings clarity to that term because it has been used in the Bill. Without that definition, it would be ambiguous as to what you refer to when you talk about foreign power.

I support the amendment.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I do not think there is much to discuss on this amendment.

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause lagreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we are through with the Committee of the whole House. I now call upon the Mover of the Bill, who is the Leader of the Majority Party, to move reporting to the House. You will move that we report to the House. When we get to the House, you will officially move for re-committal of the clause that is supposed to be re-committed.

Hon. (**Dr.**) **Shaban**: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Private Security Regulation Bill (National Assembly Bill No.4 of 2014) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

THE PRIVATE SECURITY REGULATION BILL

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, a Committee of the whole House has considered the Private Security Regulation Bill (National Assembly Bill No.4 of 2014) and approved the same with amendments.

Hon. (Dr.) Shaban: Hon. Temporary Deputy Chairlady, I beg to move that the House doth agree with the said Report subject to re-committal of Clause 9.

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Members, we will go back to the Committee of the whole House.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE PRIVATE SECURITY REGULATION BILL

Re-committal of Clause 9

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The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we are back in the Committee of the whole House to reconsider Clause 9 following its re-committal, as proposed by Hon. Sammy Mwaita, whom I call upon to move his proposed amendment.

Clause 9

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

THAT, Clause of the Bill be amended by inserting the following new paragraph immediately after paragraph (c)—

"(ca) maintain a data bank of the operations, conduct and employment history of persons registered and licensed under this Act".

The import of this amendment is to maintain a data bank of all security guards who work in this country. The problem with security guards is that they work for a company and commit an offence, and then move to another one and commit another offence. They circumvent the issue of certificate of good conduct. The amendment will curb that practice.

(Question of the amendment proposed)

Hon. Abongotum: Hon. Temporary Deputy Chairlady, I totally agree with the Mover of this clause because as we all know, most of the guards look for work, steal from a particular business and then move to another one. In one year, you will find them having worked in eight companies with very bad records of theft and criminality. This amendment will assist to identify criminals within private security providers.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, I will give opportunity to two people because it is quite clear.

Let us have the Member for Rangwe.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairlady. I totally agree with Hon. Mwaita. If we are bringing regulation into this sector, it is important that we take this opportunity to improve efficiency, ensure security and limit the rate of crime committed by people who are in this sector.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Sabina Chege.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Chairlady. I support the amendment. It is important that we know the membership of the security firms in this country. It is not only because they may commit crimes but because some employers abuse them and their rights. Sometimes, employers disown these guards when they suffer injuries while working in their premises. It is important that we have a database of people working for specific security firms so that we can follow up for those who want to complain or for the security of the people whose homes and premises are secured by guards.

Thank you.

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

(Clause 9 as amended agreed to)

Hon. (Dr.) Shaban: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Private Security Regulation Bill (National Assembly Bill No.4 of 2014) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE PRIVATE SECURITY REGULATION BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Members! Can we have the Chairperson to report to the House?

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Private Security Regulation Bill (National Assembly Bill No.4 of 2014) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Mover to move the agreement to the Report.

Hon. (**Dr.**) **Shaban:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Kamama, the Chairperson of the Departmental Committee on Administration and National Security, to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Abongotum: Thank you, Hon. Temporary Deputy Speaker. I wish to state that I am in total agreement with the Report by the Mover.

I second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Can we have the Mover of the Bill to move the Third Reading?

Hon. (**Dr.**) **Shaban:** Hon. Temporary Deputy Speaker, I beg to move that the Private Security Regulation Bill (National Assembly Bill No.4 of 2014) be now read the Third Time. I also request Hon. Kamama, the Chairperson of the Departmental Committee on Administration and National Security to second.

Hon. Abongotum: I beg to second.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Member! Order! It is important we follow the rules and procedures of this House, including the freezing.

(Question proposed)

(Hon. (Eng.) Gumbo raised his hand)

Hon. Gumbo, we do not raise hands, do we? Can you make your request so that you can catch my eye? You have not caught my eye yet. Hon. Gumbo, the Member for Rarieda, let me be good to you.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. This is, in more ways than one, a landmark Bill for this House. The service offered by private security firms is essential for our country. However we have had no regulation for over 50 years. The only regret I have is the refusal by this House to licence private security firms under restricted environments to carry guns. We are trying to imagine that these people are irresponsible. It has been proved that in countries where private security guards carry guns under restricted environment, security improves. I can tell you for a fact, having lived in the two cities, the security in Kampala is much better than the security in Nairobi because of the guns being carried by guards.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): We are at the Third Reading of the Bill. We are not debating; we are just making comments. Hon. Members, you know what happens at the Third Reading.

Let us have the Member for Garissa Township.

Hon. A. B. Duale: I am also the Leader of the Majority Party.

(Laughter)

Hon. Temporary Deputy Speaker, I want to thank Members because it is the first time in the history of Kenya we have passed a law that will regulate the private sector security firms. Many of our people suffer. The men and women who are security guards at night and during the day are denied safety protections, clothing, shoes and helmet. They are paid very poorly and they are mistreated. I am sure the moment this Bill is assented to, they will have a piece of legislation that can help them.

Two, I want to thank the Members for rejecting in totality the amendment by the Member for Makadara. I had a cup of tea with him and convinced him that giving the guards in this country guns is increasing chaos.

Finally, I want to thank Hon. Junet. He was not part of the whistleblowing during the Presidential Address. Yesterday he did the best at the Independent Electoral and Boundaries Commission (IEBC) offices. I am sure the people of Migori have seen him.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Leader of the Majority Party, be relevant!

Let us have the Member for Lugari.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker. Let me just add that what Members have done today is great to the security sector in this country. We have recognised the private security sector as a formal sector. This Bill will go a long way in making sure that the private security sector is a formal employment sector recognised by law and the regulations will be followed to the letter.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Asman Kamama.

Hon. Abongotum: Hon. Temporary Deputy Speaker, first, I want to take this opportunity to thank all Members for supporting this Bill. I want to thank those who brought amendments to enrich this very good Bill, led by Hon. Ottichilo. For the first time we are bringing sanity to the management of private security providers.

This Bill has stayed in the Office of the President for close to seven years. So, I am happy that the 11th Parliament has made sure that we pass this Bill. I am also sure that the over 400,000 security guards out there are happy that they now have a Bill that will guide matters of their welfare, including dressing and kits. Sometimes you find them in cold places with no special clothing like sweaters.

I also wanted to remind Eng. Gumbo that Uganda is a quasi-military system. Do not talk about Kampala. Go to the northern part of the country, such as the Acholi region and the Karamoja. The whole place is militarised. So, let us not compare ourselves with Uganda. However, we have a few things to borrow from Uganda.

I totally support this Bill. I want to thank Members in a very special way for supporting this very important Bill.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let me have the Hon. Member who chose to follow our rules and regulations. He froze when the Hon. Temporary Deputy Speaker spoke. It is the Member for Kabondo Kasipul.

Hon. Onyango: Thank you, Hon. Temporary Deputy Speaker.

I think we have moved an edge near where we are going as a country in so far as private security is concerned. It is a key component in complementing the work done by our security agencies in this country.

I am praying for the time when we will put stringent measures where those firms that have developed proper monitoring shall be allowed to have their people hold guns and assist our security persons, as it happens in Uganda. Our country is far from that but this is a good step ahead. It is what Hon. Gumo fought for on the streets. We have succeeded in the House.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Silvance Osele the Member of Parliament for Kabondo Kasipul.

Let me have the Member for Marakwet East, Hon. Kangongo.

Hon. Bowen: Thank you, Hon. Temporary Deputy Speaker. I rise to support.

This Bill is very important. It will go a long way in streamlining private security operations in this country. I am happy that some clauses in the Bill have taken care of important aspects, like the one on their identification. Before, we have seen private security firms copying our security officers. Some of them have vehicles, uniforms and logos similar to those of the police.

For the first time, I am happy that even the welfare of those who work as private security guards is catered for in this Bill. We have seen several guards die because of pneumonia. They work at night and yet their security firms do not take care of their welfare. With this Bill, their welfare is catered for; their tools and protective clothes are catered for. They are going to work in a more effective way in supplementing security in our country.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, the County Women Representative for Murang'a.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Speaker.

I just want to join my colleagues in congratulating the people who came up with this Bill. You know all of us rely on these security personnel.

Private security workers are among those mostly abused by their employers. We have tycoons who have formed these private security companies. They charge an arm and a leg to the people who hire these security services but pay peanuts to the people who do the actual job.

In rainy seasons like now, you will find most of the guards are not well protected. They do not have umbrellas or raincoats and yet they stay out at night. You will find that the people who are mostly affected are those from the lower cadres. Some of them have to work during the day and at night to try and make ends meet.

I support the Bill.

I am very happy because there is sanity in private security firms. I hope this is not just a Bill that is going to be passed in this House but one which will be followed to the letter. That is so, so that these Kenyans who are mostly abused can enjoy their work and serve the country.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for that.

Hon. Members, make brief comments so that you give time to others.

Let us have a senior Member, Hon. Wamunyinyi of Kanduyi Constituency?

Hon. Wamunyinyi: Thank you very much for giving me the opportunity to make brief comments, Hon. Temporary Deputy Speaker.

First of all, I thank Members for supporting this important Bill which not only seeks to bring a framework within which those providing security services operate but also order within the industry.

This Bill will go a long way to ensure that those within that industry enjoy the benefits of recognition and regulation. I am sure they are going to enhance their important role of providing security.

I wish we rein on companies which do not pay security guards well or look after their welfare.

I support

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Suna East.

Hon. Nuh: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. This is a very important Bill that will help streamline a huge industry. It is very unfortunate that we did not give the private security guards guns. Now that the House has refused to give them guns, we will make sure we give them *firimbis* so that when thieves come, they can whistle. It is very important. You cannot guard things using your empty hands, *rungus* and such kind of things. Those are outdated ways of guarding properties.

Whistles will do.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let me have the Member for Nyandarua.

Hon. (Ms.) Muhia: Thank you very much, Hon. Temporary Deputy Speaker. First, I am happy to know that all stakeholders of private security will go home smiling because this Bill was not controversial in any way. It is looking at the security guards themselves in terms of protective gears and the sector itself, in terms of guidelines on how they should work. Mostly, it is looking at the data entry because we need to curb crime. This is something that will help our country. I am very happy about this clause denying security guards guns. Clearly, we are aware they have whistles. They can continue using them because the police who are present and those who are being recruited are enough for the country.

I thank the Members who have supported this Bill.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I give the Floor to the Member for Taveta, the Mover.

Hon. (**Dr.**) **Shaban**: Mhe. Naibu Spika Wa Muda, ninajiunga na wenzangu kusema kuwa kuna umuhimu wa sheria hii. Hata ingawa ilichelewa kidogo, lakini sasa hivi muda umefika. Sheria hii ikipitishwa, itasaidia kurekebisha matatizo ambayo askari gongo wa hapa nchini wamekuwa wakipata.

Kuwapatia bunduki lingekuwa janga nchini. Kwa hivyo, sheria hii ikipita itawawezesha kupata mishahara inayofaa ili waweze kujimudu kimaisha.

Ukweli ni kwamba askari gongo wana firimbi, na Wabunge walisahau kuwa wao ni Wabunge na wakafanya tabia kama za askari gongo.

Ninaunga mkono.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Asante. Let us have Hon. Wilber Ottichilo, the Member for Emuhaya.

Hon. (**Dr.**) **Ottichilo**: Hon. Temporary Deputy Speaker, I am a very happy person. I have been waiting for this Bill for a long time. One reason is that private security employs many people from our own homes, schools and everywhere. All these people work under very hard conditions and there are no regulations. Their lives and welfare are at the whims of the employers. For the first time now, we have put a law that is going to regulate this huge industry that has not had regulations.

For the first time, this industry will be regulated. The workers in this industry will have their rights respected and they will be able to negotiate for their benefits. The most important issue is that this law, if given assent by the President, will allow private security to have access to training. The Private Security Regulatory Authority will mount annual trainings for all members.

This is a very important Bill. I want to support it and congratulate the Committee that brought it up.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Lastly, let me have the Member for Rangwe, Hon. George Ogalo.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker. I am happy that today, the slavery in this sector has come to an end with the passage of this Bill. Lords of slaves have been running this sector exploiting innocent Kenyans. With this Bill, this comes to an end.

I am also very happy that this House did not succumb to the temptation to override the Firearms Act through a Private Security Bill. I am very happy that we have kept the Firearms Act

alive and for once, we are going to be able to keep a data bank of all those who work in this sector.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! We are not in a position to put the Question. I order that the Question to the Private Security Regulation Bill (National Assembly Bill No.4 of 2014) be put in the next sitting at the most appropriate time.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Because this is a House of rules and procedures and the time being 6.30 p.m., this House stands adjourned until tomorrow, Wednesday, 27th April, 2016 at 9.30 a.m.

The House rose at 6.30 p.m.