

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 7<sup>th</sup> November 2018

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

### PRAYERS

**Hon. Deputy Speaker:** Order Members. I can confirm that we have the required quorum to transact business. Therefore, business will begin.

### COMMUNICATION FROM THE CHAIR

**Hon. Deputy Speaker:** Hon. Members, under that particular Order, I have a Communication to make.

Hon. Members, Standing Order No.225(2)(b) requires the Speaker to report to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a Petition from one, Ms. Mercy Wambua, regarding review of Section 18 of the Law Society Act, No.21 of 2014. The review is aimed at lowering the threshold for eligibility of a candidate who seeks to be elected as president or vice president of the Law Society of Kenya (LSK).

Hon. Members, the petitioner submits that Section 18 of the Law Society of Kenya Act, 2014 establishes that a person is eligible for election as a President of...

*(Hon. Deputy Speaker consulted the Clerk-at-the-Table)*

Order Members. I think we have jumped the gun. We will proceed to the next Order as I prepare for the Communication to be made.

Next Order.

### PETITION

#### REVIEW OF THE LAW SOCIETY OF KENYA ACT ON ELIGIBILITY FOR ELECTION AS PRESIDENT OR VICE PRESIDENT

**Hon. Deputy Speaker:** Hon. Members, what I was already beginning to do was presentation of a petition. I, therefore, proceed to do so.

Under Standing Order No.225(2)(b), which requires the Speaker to report to the House any petition other than those presented through a Member, I wish to convey to the House that my office has received a Petition from one, Ms. Mercy K. Wambua, regarding the review of Section 18 of the Law Society of Kenya Act, No. 21 of 2014. The review is aimed at lowering the

threshold for eligibility of a candidate who seeks to be elected as the president or vice president of the LSK. The petitioner submits that Section 18 of the Law Society of Kenya Act 2014 provides that a person is eligible for election as president or vice president of the LSK Council if the person is qualified to be a Judge of the Supreme Court and has at least 15-year experience.

Following the judgement delivered on 5<sup>th</sup> February 2018 regarding constitutional Petition No.607 of 2017 challenging the said statutory provision, the judge dismissed the Petition citing that the court is hesitant to be involved in internal matters of professional bodies. The petitioner, therefore, contends that the court verdict dissuaded courts from involving themselves with internal matters of professional bodies, but encourage them to seek redress through other means, including, but not limited to, legislative interventions.

Therefore, following a resolution made at the Society's Annual General Meeting held on 24<sup>th</sup> March 2018, the Law Society of Kenya, pursuant to Section 4 of the Law Society of Kenya Act, 2014 resolved to petition Parliament to consider this matter.

The Petition, therefore, prays that the National Assembly, through the relevant department committee, considers and legislates in order to amend or repeal Section 18 of the Law Society of Kenya Act, in line with the said judgement.

This Petition, therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is required to consider the Petition and report its findings to the House and the petitioners in accordance to Standing Order No.227(2). May I also encourage the Committee to consider introducing separate legislation to address the concern of the petitioners or use the avenue of the Statue Law (Miscellaneous Amendments) Bill (National Assembly Bill No.12 of 2018) to cause the House to legislate in the manner prayed by the Law Society of Kenya.

Thank you.

Let us get a comment or two on the Petition. Let us start with Hon. Akoth Odhiambo. Is that Hon. Millie Odhiambo? The name sounds different. Proceed anyway.

**Hon. (Ms.) Odhaimbo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity.

First of all, I apologise for being a bit absent minded. I did not realise that you were on your feet. I am glad you did not notice. Because I am a good citizen, I have duly apologised.

**Hon. Deputy Speaker:** Now that you have, on your own volition, apologised...

**Hon. (Ms.) Odhaimbo-Mabona** (Suba North, ODM): I have apologised because I am a very good citizen.

**Hon. Deputy Speaker:** I am almost preventing you from contributing to this particular one. But because of your honesty, proceed.

**Hon. (Ms.) Odhaimbo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker. First of all, I thank you for the Communication. Given that a court had made a decision that they do not want to be involved in the internal affairs of a society, I am happy that the Law Society of Kenya has said that they sat and deliberated. I hope the Petition shall be in line with the decision and vote of members because if members have decided, have voted and have a majority, I urge that the membership do consider the Petition. As a member of the Law Society of Kenya, I would support, based on that decision. Unfortunately, I did not attend the last AGM.

Finally, I am surprised to see that nowadays, we allow religious regalia. I have seen a Member in the regalia of *Roho maler*. We call it *Roho maler* in my constituency. The Member is wearing the uniform of *Roho maler*. Is it a parliamentary dress code? It is called *Roho Msambwa*

in Luhyaland. Are we allowed to dress like that? Tomorrow, I may come dressed in the Seventh Day Adventist or the Evangelical dress codes because I belong to both.

**Hon. Deputy Speaker:** I am not going to concern myself so much with what you said at the end of your contribution because it had been canvassed and decided in the morning. It, therefore, means you were absent. That is the problem with being absent and coming to create an issue that had been resolved. I also do not understand what *Roho maler* is, specifically. So, I am not able to go in that direction. Somebody tells me that "*maler*" could be white. You could be describing that he is in a white attire, which was ruled on in the morning as being a national dress. It looked so much like a national dress. We will proceed.

Let me give a chance to Hon. Opondo Kaluma.

**Hon. Raphael Wanjala** (Bundalangi, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Wanjala? I had given the Floor to Hon. Kaluma and he is not out of order.

**Hon. Raphael Wanjala** (Bundalangi, ODM): Hon. Deputy Speaker, in Kenya, we have not decided on a national dress. This is the National Assembly and we are surprised that you have said that the herdsman there is wearing...

**Hon. Deputy Speaker:** Hon. Wanjala, you are out of order. I stated very clearly that it looks like the national dress that was being experimented on. Nominated Member 001 is beautifully dressed in the national colours. Those are colours of the national flag. I see them from here. That matter was sufficiently canvassed in the morning. Members are encouraged to dress properly. I find nothing improper about the dressing of Member 001.

Hon. Kaluma, proceed.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Deputy Speaker. Two weeks ago, we had a meeting with your Petitioner as Members of the Departmental Committee on Justice and Legal Affairs. Maybe, in another Petition, which also sought to reduce the age for the membership of the Law Society of Kenya in the Judicial Service Commission, this Petition was also attached. So, I bring it to the attention of the House that this is a matter we dealt with substantially. I take it that it is a matter we will be re-doing because it was not separately put forth. There is a way in which the Petition was brought together with another one.

Allow me to say that the Law Society of Kenya is just one of the organisations we have established under the statute. Unlike others, the Law Society of Kenya has some public obligations like to protect the administration of justice and others. In as much as there is huge clamour nationally that we should open up qualifications to anybody who wants anything, the Law Society of Kenya needs to begin thinking whether they would be wise to have the president of the Law Society of Kenya, who, for instance, has practised law for one year or less. There is good reason as to why we determined that for one to be president of the Law Society of Kenya, one needs qualifications similar to those of the Chief Justice of Kenya. As the president of the Law Society of Kenya, you are interacting on behalf of that profession with everybody, including the Chief Justice and the entire legal sector. I do not think we can just take politics into some of these positions. I do not pre-empt, I am making it clear that there was a good reason why the age was set. As a Members of Parliament, I insist that age limit must be there so that we do not have a lawyer in office who does wrong things or has no competency to do the right thing.

The president of the Law Society of Kenya appoints many arbitrators, if you remember. Many arbitration clauses will say that if there is a dispute, the president should appoint an arbitrator. How do you entrust the position of the president to a person who has practised for less

than 15 years? There is wisdom in the stipulated experience. The Petitioner needs to talk to members of the Society to see the wisdom in the amendment we proffered last time.

Thank you.

**Hon. Deputy Speaker:** I see no other Member who wants to speak on this one. Any Member who wants to speak should press the intervention button so that I am able to differentiate. I will give a chance to Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Deputy Speaker. It is not the first time the issue of age has been brought to Parliament. In fact, the issue was brought before the Departmental Committee on Justice and Legal Affairs. It is important.

I support my colleague, Hon. Kaluma, that we differentiate between an age limit and experience. In fact, it is not about the age limit since you can be admitted to the roll of advocates at 25 years or at 70 years. Both persons admitted at the same time at 25 or 70 years do not have the experience required to deal with the objectives and the mandate of the Law Society Kenya. I am certain that this Petition will be brought yet again to the Departmental Committee on Justice and Legal Affairs, but I support the sentiments expressed by Hon. Kaluma. It is not an issue of age limit, but an issue of experience. Indeed, it is for this reason that certain offices have not only an age limit, but years of experience in a particular profession.

**Hon. Deputy Speaker:** Maybe I should be looking for a much more youthful lawyer. Let us hear Hon. Mogaka Kemosi.

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Deputy Speaker, for this opportunity. I also want to raise my views regarding the Petition. I am of the view that the 15 years required for somebody to be president of the LSK is too much. Initially, it was 10 years. I am of the opinion that 10 years is quite reasonable for a member to be appointed as president of the LSK. This will also give some lawyers an opportunity while they are strong enough to lead the LSK. I am convinced that somebody who has already practised for 10 years, like me, if given an opportunity can lead the LSK, can do so. Therefore, I submit that 10 years is enough for somebody to be appointed the LSK President.

Thank you.

**Hon. Deputy Speaker:** Very well. Let us also hear from some other professions. Hon. (Dr.) Wamalwa.

**Hon. Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Deputy Speaker. We have had conflicts of interest in this Parliament when it comes to matters of legislation. We have seen the issue of the health laws being manipulated by one of the pharmaceutical technologists at the expense of pharmacists. So, when it comes to matters of the LSK, the people who can debate objectively are non-members. You must take that into consideration. Article 118 of the Constitution talks of public participation. A matter like this should have been dealt with by the LSK at their annual general meeting. Obviously, if this matter comes to the Departmental Committee on Justice and Legal Affairs, if at all we are going to do amendments or whatever the case, it must be subjected to public participation.

In this context, obviously, we know very well that the LSK will be called to come and give its views. Hon. Kaluma has just mentioned that they are seized of this matter. There is that issue of other people fearing others to come up. I know majority of the lawyers right now are the young ones with one, two or three years of practice. The older ones are maybe getting threatened. It is high time we revisited this matter and debated it objectively for purposes of posterity, not to put some clothes on yourself to safeguard yourself because of conflict of

interest. I am requesting the Departmental Committee on Justice and Legal Affairs to move with speed. We will also come there to represent the interest of lawyers in this Parliament.

Thank you.

**Hon. Deputy Speaker:** Even as you cite conflict of interest, Hon. Wamalwa, you must also be careful not to impute improper motives. Members here are free to give their views one way or the other. It does not matter whether you like it or not. When other Members were speaking, you had a very good point and you were arguing it very well. The only problem is that you want to belittle the points of others. So, let us be careful when we are debating some of these things. I see Hon. Duale wants to have a say on this particular one.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I wanted to bring to your attention that 50 per cent of the Petition has been debated. I am wondering what you are going to refer to the Committee. Secondly, Hon. Wamalwa has raised a substantive issue. Unfortunately, both the Speaker and the Deputy Speaker are lawyers. So, it is like - if you allow me to use many of the great statements I have learnt from the former Prime Minister - taking goats to a court of hyenas.

*(Laughter)*

**Hon. Deputy Speaker:** You are out of order.

**Hon. Aden Duale** (Garissa Township, JP): I said I want to use what I learnt from the former Prime Minister, with your permission.

**Hon. Deputy Speaker:** I grant you no permission.

**Hon. Aden Duale** (Garissa Township, JP): You are taking goats to be judged and prosecuted by hyenas. It looks like the owners of this Petition are in the House. They need to declare their interest. It is coming from the secretary, the CEO of the LSK. So, how it found its way to Parliament must be investigated. It looks like the owners are here. We need people to declare conflict of interest. I agree with the Member who said that 15 years are too many. Those of us who are doing legislation are using 10 years. Let us use 10 years when the amendment comes to the House. I agree with Hon. Wamalwa that those of us who are non-lawyers are very keen on this matter.

*(Laughter)*

**Hon. Deputy Speaker:** Fortunately, when the Speaker sits on the Chair, he is not a lawyer, he is just a Speaker. Again, fortunately, both the Deputy Speaker and the Speaker, even if they are lawyers, are not Members of the Departmental Committee on Justice and Legal Affairs. The Speaker will not have a vote. Nobody should be worried. Members are free to debate this thing as objectively as they can.

Let us hear from Hon. Mbadi and then Shollei.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I heard Hon. Duale say that the owner of this Bill could be here. I do not know whether the owners are led by Hon. Millie because she seems to be rattled more than anybody else. But because she is near me, I want to be careful enough not to rattle her further.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order!

**Hon. Deputy Speaker:** Hon. Millie Odhiambo, you might be very loud, but I see no card placed here. So, if the card is not placed, I am going to ignore.

**Hon. John Mbadi** (Suba South, ODM): She should know that her leader is on his feet. So, she should take care. This is also the Chair of her party.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order!

**Hon. Deputy Speaker:** What is your point of order, Hon. Odhiambo? You are being disorderly, but let us hear what you are saying.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker. Is my neighbour, Hon. Mbadi, in order to impute improper motive on the part of Hon. Millie Odhiambo? You know that I am definitely an advocate of beyond 10 years' standing, but I support the young ones. I have even said on record that I support 10 years. To declare interest, my brother is the deputy CEO of the LSK, but he is not the one who has brought the Petition. So, is he in order to impute improper motives on me? I am a very confident person as a lawyer. I do not want to stop the young ones from coming up. Let them also grow and become Millie Odhiambos like me. Beyond that, women in America have done us very proud today. That one, I have to say.

**Hon. Deputy Speaker:** Hon. Mbadi, kindly wind up because this is a matter that you will still debate in the Departmental Committee on Justice and Legal Affairs and the plenary eventually.

**Hon. John Mbadi** (Suba South, ODM): Interestingly, it appears Millie has just spoken for me. She has taken my time and you are telling me to wind up even before I start. Anyway, let me wind up in the next one minute.

First, let me withdraw if I imputed improper motive on my sister. She should take care. She should know I am the chairman of her party.

*(Laughter)*

Hon. Deputy Speaker, I just wanted to say two things. One is that we need to balance between experience and encouraging those who are coming up to get to positions which they were traditionally barred from. Something that I just want to find out as this Committee is going to look at this matter is what was the genesis of 15 years? Probably, there was a reason for it those days. Currently, it may be sufficient to have 10 years, for example. So, I want the Committee not to be just confined into thinking about the traditional way of doing things. Let it be a bit more accommodative and accept some little flexibility. Also, let them not forget that we also need some level of maturity to reach some level. That should also not be overlooked.

Thank you.

**Hon. Deputy Speaker:** Okay. I would have stopped it here, but I remember I had promised Hon. Shollei. So, I will give her the opportunity.

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): Thank you, Hon. Deputy Speaker for this opportunity.

I want to agree with what Hon. Kaluma and Hon. Shamalla said. It is because it is rather clear that this is not really discrimination on account of age, but a set experience required for one to hold the position. The LSK is not the only profession that requires a minimum years' of experience. The medical profession has it. In universities, for one to become a professor, they need to have taught for so many years, written so many research papers and had so many years of teaching. Every profession has it.

It is not about age when we talk about seniority in a profession. I will give a very good example of Yash Pal Ghai who was only admitted to the Bar four years ago. He is my junior in the profession. He, definitely, is not as good a lawyer as myself because of my years of experience in practising as a lawyer. This has been clearly set out. When we say that one must have 15 years of experience as the minimum to become a Chief Justice, it is because we know. If you look at the recruitment of the Chief Justice in this country, we have never taken a CJ of 15 years' experience. Sometimes, it is even 20 and more years. So, I would like that to be made clear. For those Members who are contributing, that is the issue that is being raised in this Petition.

**Hon. Deputy Speaker:** Very well. Let me recognise in the Public Gallery students from New Life Mission School from Kajiado East Constituency and Kajiado West Constituency of Kajiado County.

*(Applause)*

Next Order.

### PAPERS LAID

**Hon. Deputy Speaker:** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House.

Annual Report and Financial Statements of the South Eastern University for the year that ended 30<sup>th</sup> June 2017, and;

Report of the Auditor General and Financial Statements in respect of the following constituencies for the year that ended 30<sup>th</sup> June 2017 and the Certificate therein:

1. Ruaraka;
2. Mandera West;
3. Embakasi West;
4. Kamukunji;
5. Embakasi East;
6. Dagoretti North; and
7. Dagoretti South.

**Hon. Deputy Speaker:** Chairperson of the Committee on Members' Services and Facilities, Hon. Machogu, proceed. Chair, you also must have cards. If you had a card there, I should have seen it. Now, I do not seem to see it. Get the next one.

**Hon. Ezekiel Ombaki** (Nyaribari Masaba, NAPK): Thank you, Hon. Deputy Speaker. I beg to lay the following Paper on the Table of the House.

Fourth Report of the Committee on Members' Services and Facilities on Study Visit to the Parliament of India from 6<sup>th</sup> to 14<sup>th</sup> August 2018.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order. The Chairman of the Committee on Members' Services and Facilities is one of my very good chairs, but I have watched him for the last few months and he has only been tabling study tour reports. I confirm that these study tours have not helped change the services and welfare of Members. The services we receive in our restaurant since 2007 when I became a Member of Parliament, have never changed. The *mandazis* are still the same. The tea is still the same. The tea was Kshs80. The

chairs are the same. They have not even changed the colour and the gadgets. So, we need to discuss these reports and study tours. The Committee is doing very good study tours. These tours should translate to better services. The only thing that I have seen changed in the 10<sup>th</sup> Parliament, and Hon. Mbadican attest to this, is that the price of tea was Kshs80 and it is now Kshs100. The quality has not changed.

It is the same if you go to the gym. I really want the Chair to crack the whip. Whatever you learn outside should be implemented. I am sure you have gone to places where services are very good. You should come back and implement that. What you learn is what you implement. I am sure you have done enough trips out there. Otherwise, we must outsource this restaurant. Give it to Java or anybody else. Give it to one of the renowned brands. They can do better. Give it to businesspeople. Parliament or the Legislature cannot do the business of cooking. The Legislature is supposed to deal with Bills, oversight and representation. The Legislature cannot be in the business of cooking food. This should be given to people who are competent enough.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Leader of the Majority Party, you have fallen into the trap that you had just set. You have proceeded to debate. But you have made very good comments. The only thing that I would want to tell the members of the public, because I am sure they are listening, is that this is no longer the Catering Committee. It is the Committee on Members' Services and Facilities. There are quite a number of things other than just something to be eaten. There are many issues and facilities.

What is it, Hon. Machogu? I thought that should not be. You will have your time. Hon. Machogu, what is it that you want to say? You can as well say it in a third of seconds.

**Hon. Ezekiel Ombaki** (Nyaribari Masaba, NAPK): Thank you, Hon. Deputy Speaker. I would like to react to the Leader of the Majority Party. I tabled a Report containing 50 recommendations to the Parliamentary Service Commission (PSC). Members, you are aware that the PSC, established under Article 127 has a mandate and responsibility to ensure, first and foremost, that services and facilities for Members are provided. We have been following this. We have called upon the Chairman of the PSC and the commissioners because what we brought to the House and was adopted must be implemented. So far, it is at 20 per cent.

My Committee is as concerned as the other Members. It is for that reason that I have called the Chairman and the other Members of the Commission and I will be reporting to you very soon the discussions that we have had with the PSC on the progress achieved so far. Thank you.

**Hon. Deputy Speaker:** Okay, now that has been resolved. Even as we go to the next one, what is it, Hon. Abdullaih Sheikh.

**Hon. Major (Rtd) Bashir S. Abdullaih** (Mandera North, JP): Thank you, Hon. Deputy Speaker. First and foremost, Kenya is part of the global and international circle. I want to congratulate one lady who was a refugee from Dadaab who has made it to the congress in the United States of America. Kenya should be proud of that. I want to congratulate Ilhan Omar.

**Hon. Deputy Speaker:** You are completely out of order, but your congratulation message has gone, anyway. There are better ways of bringing it up.

## NOTICE OF MOTION



REPORT OF COMMITTEE ON MEMBERS' SERVICES AND  
FACILITIES ON STUDY VISIT TO PARLIAMENT OF INDIA

**Hon. Deputy Speaker:** On this order, let us hear from the Chair of the Services and Facilities Committee.

**Hon. Ezekiel Ombaki** (Nyaribari Masaba, NAPK): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, the House notes the Fourth Report of the Committee on Members' Services and Facilities on a Study visit to the Parliament of India from 6<sup>th</sup> to 14<sup>th</sup> August 2018, laid on the Table of the House on Wednesday 7<sup>th</sup> November 2018.

### QUESTIONS

**Hon. Deputy Speaker:** Hon. Members, under this particular one, we will start with Questions. We will start with the Question from Hon. Malulu Injendi, because he had made a request that he is rushing for an appointment.

*Question No.145/2018*

#### QUARRYING ACTIVITIES IN MALAVA CONSTITUENCY

**Hon. Moses Injendi** (Malava, JP): I rise to ask Question No.145/2018 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

(a) Is the Cabinet Secretary aware of the quarrying and stone crushing activities by M/s Jiangxi Zhongmei Engineering Company (JZEC) in Bukhakunga and Makhwabuye areas in Malava Constituency?

(b) Is the Cabinet Secretary further aware that the situation has led to environmental degradation, loss of life and destruction of properties?

(c) What action is the Ministry taking to ensure that the victims of the said activities are compensated?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Transport, Public Works and Housing. The next one will be by Hon. Joash Nyamache, Member for North Mugirango.

*Question No.113/2018*

#### INVESTIGATION INTO CAUSE OF FIRE IN SCHOOLS IN NORTH MUGIRANGO

**Hon. Joash Nyamoko** (North Mugirango, JP): Thank you, Hon. Deputy Speaker. I would like to ask Question No.113 to the Cabinet Secretary in the Ministry of Education, Science and Technology.

(a) Is the Ministry aware that four schools, Kea and Etono boarding primary schools, and Misambi and St. Francis Gekendo secondary schools on diverse dates, had their dormitories razed down by fire leading to loss of property and disruption of learning?

(b) If aware, has the Ministry conducted investigations into the cause of the fires in said schools and if so, state when the outcome of the investigations will be made public?

(c) How does the Ministry intend to assist the affected schools in reconstructing the affected facilities?

(d) What measures has the Ministry put in place to ensure that such incidences do not recur?

**Hon. Deputy Speaker:** Very well. That will be replied before the Departmental Committee on Education and Research.

The next is the Member for Kikuyu, Hon. Kimani Ichungw'ah. Members are discouraged to participate in pastoral activities in the Chamber, they can do it elsewhere.

### *Question 130/2018*

#### ISSUANCE OF WORK PERMITS TO FOREIGNERS

**Hon. Kimani Ichungw'wah** (Kikuyu, JP): Hon. Deputy Speaker, I wish to ask the Question to the Cabinet Secretary for Interior and coordination of National Government.

(a) How many foreigners have been issued with work permits in the last three years, what are their nationalities and what particular type of jobs do the issued permits relate to?

(b) How many of these foreigners have been issued with work permits to conduct retail trade in the Nyamakima, River Road and Kamukunji shopping district areas in Nairobi City County, and in other major towns?

(c) What measures have been put in place to ensure that foreigners are not issued with work permits for work that could be done by locals thereby taking up jobs and trades that would ordinarily be handled by Kenyans?

Thank you, Hon. Deputy Speaker.

**The Hon. Deputy Speaker:** That will be answered and replied to before the Departmental Committee on Administration and National Security. The next Question is by the Member for Sigowet/Soin, Hon. Koros Kipsengeret.

### *Question 140/2018*

#### COMPENSATION FOR THE FAMILY OF LATE JANET CHEPNGENO

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): Thank you, Hon. Temporary Deputy Speaker for this opportunity. My Question goes to the Cabinet Secretary for Energy.

Could the Cabinet Secretary state whether there are plans by the National Government towards compensating the family of the late Janet Chepngeno, who lost her life through electrocution on 17<sup>th</sup> January 2018 at Karaprono next to the District Officer's Office in Kipsitet Sub-Location in Soin Ward, Sigowet/Soin Constituency?

**The Hon. Deputy Speaker:** Very well. The next would have been the Question by Hon. Simba Arati, but he has made a request that for reasons which are well understood, he is not able

to ask it today. So, it will be asked tomorrow. The next Question is from Igembe South Constituency, Hon. John Paul Mwirigi.

*Question No. 141/2018*

REFUSAL TO TRANSFER THE LATE JAMES NGANGA  
TO KENYATTA NATIONAL HOSPITAL

*(Question deferred)*

*Question 142/2018*

DELAYED CONSTRUCTION OF MAUA-ATHIRU-  
KIRAONE-KILILI-MERU NATIONAL PARK ROAD

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Deputy Speaker. My Question is directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

(a) Is the Cabinet Secretary aware that the construction of Maua-Athiru-Kiraone-Kilili-Meru National Park road has stalled?

(b) How much money was allocated for the construction of the road?

(c) When is the construction of the road expected to be completed?

(d) Noting the delayed construction of the road, could the Ministry consider taking disciplinary action against the contractor and awarding the tender to a more competent contractor?

**Hon. Deputy Speaker:** Very well, that will be answered before the Departmental Committee on Transport, Public Works and Housing. Next is the Member for Mandera West, Adan Haji Yusuf.

*Question 143/2018*

ACQUISITION OF THE E-PASSPORT

**Hon. Yussuf Adan** (Mandera West, EFP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government:

(a) When is the deadline for acquisition of the new generation national passport, popularly referred to as the “e-passport”?

(b) Is the Cabinet Secretary aware that there are many Kenyan students in foreign countries, including over 500 students studying in Turkey, who might not be in a position to travel back to the country for the purpose of acquiring the said passports?

(c) Could the Ministry consider facilitating all Kenyan embassies, including Kenyan Embassy in Istanbul, Turkey, to enable them issue the said passports?

**Hon. Deputy Speaker:** The Member has asked it to the Cabinet Secretary for Interior and Coordination or National Government. I, however, rule that this one is more relevantly going to be answered before the Departmental Committee on Defence and Foreign Relations. That is

the Committee that that matter will be replied to. Is that okay, Hon. Hon Haji? Unless you have a specific reason why you want it to go to the Interior and Coordination of National Government.

**Hon. Gichuki Mugambi** (Othaya, JP): It is okay.

**Hon. Deputy Speaker:** What is it, the Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, if you look at the Executive Order of the Government, immigration is under the Ministry of Interior and Coordination of National Government. There is no way the Cabinet Secretary for Foreign Affairs can come and address those questions. So, there is a difference and he should appear before the Committee on Administration and National Security.

**Hon. Deputy Speaker:** Yes, there is an element of passport issuance. It is in between, but if the Member is convinced that it will be sufficiently handled at the Interior and Coordination of National Government, I would grant that particular one. Let us proceed. Let it be answered by the Cabinet Secretary for Interior and Coordination of National Government. That marks the end of Question Time. What is it, Hon. Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Deputy Speaker. This is in line with your direction on matters where certain Questions or petitions have been placed and in thinking they are supposed to be taken to other committees.

We have a petition by the Member for Mwingi South regarding coal mining. If you look at the petition and most of the things that have been raised there, the prayers relate more to the Departmental Committee on Environment and Natural Resources more than the Departmental Committee on Energy. In the Energy Committee, we just deal with issues of coal and energy when you start talking of compensation and other related matters of coal mining. It becomes hard for us to handle. In our Committee, we agreed that we will be bringing it before the Speaker to look at it. Most of the prayers are more related to the environment than the Energy Committee and so, you could give some direction and we would be grateful.

**Hon. Deputy Speaker:** I can only give direction on a live matter. I wish I had seen it. Is it in the Order Paper today? If it is not in today's Order Paper, we can transact it in a different manner because it would be difficult for me to make that ruling now.

Next Order.

## REPORT AND THIRD READING

### THE URBAN AREAS AND CITIES (AMENDMENT) BILL

*(Hon. Mbarire walked into the Chamber)*

**Hon. Deputy Speaker:** Order. You must freeze. Confirming that we have the required numbers, I will put the Question

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I beg to move that the Urban Areas and Cities (Amendment) Bill (Senate Bill No.4 of 2017) be now read a Third time. I request Hon. Cecily Mbarire to second.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP) seconded

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

## **BILL**

### *Second Reading*

THE COUNTY GOVERNMENTS (AMENDMENT) BILL  
(SENATE BILL NO.11 OF 2017)

*(Hon. Aden Duale on 06.11.2018)*

*(Resumption of Debate interrupted on 06.11.2018)*

**Hon. Deputy Speaker:** Again, I confirm that we have the required numbers. Therefore, I put the Question.

*(Question put and agreed to)*

Next Order.

## **REPORT AND THIRD READING**

THE HEALTH LAWS (AMENDMENT) BILL

Hon. Deputy Speaker: Hon. Leader of the Majority Party, you have something on this? If you do, I will not put the Question, I will propose the Question.

*(Question proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I beg to move the Motion in an amended form, which is that the Motion for agreement with the Report of the Committee of the whole House, be amended by inserting the following words at the end thereof—  
“subject to recomittal of the Bill, with regard to—

(i) the provisions relating to the Pharmacy and Poisons Act (Cap 244), in respect of sections 2, 3, 6, 9A, 20, 23 and 27(4); and

(ii) the provisions relating to the Kenya Medical Supplies Authority Act (No.20 of 2013) in respect of new section 5(1)(a).”

Recommitting the Bill is intended to address the concerns raised by several stakeholders and pharmacists relating to the Pharmacy and Poisons Board and the Kenya Medical Supplies Authority. I will ask the Chair of the Health Committee to second.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you Hon. Deputy Speaker, I would like to second with further amendments. On the provisions of Pharmacy and Poison's Act Cap 244...

**Hon. Deputy Speaker:** Is that an amendment or recomittal? So, you have seconded?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Yes

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Deputy Speaker:** Is that the mood of the House? Is there any Member who wants to speak to this one? So, I put the Question.

*(Question put and agreed to)*

Hon. Members, of course, we had not anticipated that. That is why the Order Paper did not capture this, but for the reason of the new circumstances, the next Order will be amended and it will be the Committee of the whole House.

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman (Hon. Patrick Mariru) took the Chair]*

### THE HEALTH LAWS (AMENDMENT) BILL

#### RECOMMITAL OF CLAUSES 2, 3, 6, 9A, 20, 23 AND 27(4)

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are now in the Committee of the whole House on the recommitted clauses. We shall go slowly so that Members are able to understand the intent of the recommittal. Obviously, we will give a chance to a few Members and then we will be making progress.

#### PHARMACY AND POISONS ACT, CAP.244

##### *Pharmacy and Poisons Act, Cap. 244, Section 2*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(i) in the proposed amendments to the Pharmacy and Poisons Act, Cap. 244—

(a) by deleting the proposed amendments to section 2 and substituting therefor the following new amendments—

s.2 Delete the definition of the term “enrolled pharmaceutical technologist”; and substitute therefor the following new definition—

“enrolled pharmaceutical technologist” means a holder of a diploma in pharmacy from a training institution recognised by the Board and whose name appears on the Roll;

Delete the definition of the term “Inspector of Drugs” and substitute therefor the following new definition—

“inspector of Drugs” means a person who is competitively recruited by the Board as a pharmaceutical inspector and who holds a minimum of a diploma in pharmacy;

Delete the definition of the term “pharmaceutical inspector”;

Delete the definition of the term “registered pharmacist” and substitute therefor the following new definition—

“registered pharmacist” means a holder of a degree in pharmacy from a training institution recognised by the Board and whose name is entered on the register;

(ii) Insert the following definitions in proper alphabetical sequence—

“clinical trial” means any systematic study on pharmaceutical products in human subjects, whether in patients or other volunteers, in order to discover or verify the effects of, identify any adverse reaction to, investigational products, to study the absorption, distribution, metabolism and excretion of the products with the object of ascertaining their efficacy and safety;

“Good Manufacturing Practice” also known as “GMP” means a system for ensuring that products are consistently produced and controlled according to quality standards, and is designed to minimise risks involved in any pharmaceutical production that cannot be eliminated through testing the final product;

“health facility” has the meaning assigned to it in the Health Act;

“health product” includes human and veterinary medicines, medical products, medicinal substances, vaccines, diagnostics, medical devices, blood products, traditional & alternative medicine, therapeutic feeds & nutritional formulations, cosmetics and related products”

“health technology” means the application of organized knowledge and skills in the form of devices, medicine, vaccines, procedures and systems developed to solve a health problem and improve the quality of life;

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“investigational medicinal substance” means a pharmaceutical form of an active substance or placebo being tested or used as a reference in a clinical trial, including products already with a marketing authorisation but used or assembled (formulated or packaged) in a way different from the authorised form, or when used for an unauthorised indication, or when used to gain further information about the authorised form;

“medical device” means any instrument, apparatus, implement, machine, appliance, implant, in vitro reagent or calibrator, software, material or other similar or related article—

(a) intended by the manufacturer to be used, alone or in combination, for humans or animals for: -

(i) diagnosis, prevention, monitoring, treatment or alleviation of disease;

(ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury;

(iii) investigation, replacement, modification or support of the anatomy or of a physiological process;

(iv) supporting or sustaining life;

(v) control of conception;

(vi) disinfection of medical devices; or

(vii) providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body; and

(b) which does not achieve its primary intended action in or on the human or animal body by pharmacological, immunological or metabolic means, but which may be assisted in its intended function by such means.

“pharmaceutical device” includes human and veterinary medicines, medical products, medicinal substances, vaccines, diagnostics, blood products, therapeutic feeds, nutritional formulations, beauty products and related products;

“pharmaceutical equipment” means equipment used in the manufacture and quality control of pharmaceutical products;

“pharmaceutical product” means any material or product intended for human or veterinary use presented in its finished dosage or form, that is subject to control by or under this Act;

“pharmacovigilance” means the practice of monitoring the effects of medical drugs after they have been licensed for use, especially in order to identify and evaluate previously unreported adverse reactions, and includes the science and activities relating to the detection, assessment, understanding and prevention of adverse effects or any other possible drug related problem;

“post market surveillance” means the practice of monitoring the safety and quality of a pharmaceutical drug or medical device after it has



been released on the market and is an important part of the science of pharmacovigilance;

“practicing license” means a license issued under section 9A; and

“specialist pharmacist” means a registered pharmacist who has completed an approved postgraduate training programme in a particular field of pharmaceutical sciences, and who has gained sufficient experience and demonstrated to the Board’s satisfaction, adequate knowledge and skill in his or her chosen field.

Hon. Temporary Deputy Chairman, the proposed amendment seeks to provide additional definition of the terms that are needed in this Act, but have previously been included in the interpretation section such as “good manufacturing practice,” “clinical trials” and “pharmaceutical.”

So, in essence, the proposed amendment does not deviate from the amendments that have been previously passed by the House save for the definition of “specialist pharmacist” and, of course, retaining the definition of the term “drug” as currently is found in the Act.

The other important thing that we are doing is that this amendment also proposes the deletion of the term “pharmaceutical practitioner.” The Committee has introduced the use of that term. However, the introduction of that term “pharmaceutical practitioner” in the Bill appears to be in conflict with the practice in the pharmaceutical profession in general. That was the genesis that brought back this element of doing a recommittal.

Where is the conflict? It combines two different professions, namely, the pharmacist and the pharmaceutical technologist. So, this amendment further seeks to provide comprehensive definitions of the term “registered pharmacist” and “enrolled pharmaceutical technologist.” This is the best practice.

Hon. Temporary Deputy Chairman, you are a renowned lawyer. It is like combining an advocate of the High Court and his legal clerk in the office. This was very important. We wanted to bring sanity. I really thank the Chair of the Committee and Members who listened to the stakeholders.

I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have the Chair.

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. As the leader has explained, I just want to be very clear. We just did not want unnecessary conflict. I was even consulting with Hon. (Dr.) Pukose here. When we say ‘medical practitioners’, we refer to doctors, nurses, clinical officers and anybody who is practising medicine. So, when we talked as a Committee and came up with the term “pharmaceutical practitioners”, we had still retained the definition of a pharmacist and the definition of a pharmaceutical technologist. So, we came up with the term “pharmaceutical practitioners” because both of them practice pharmacy. However, there was a lot of misinterpretation. I pray that we will stop the fights against cadres and against each other and people feeling the sense of entitlement. On this one, we agreed as a Committee because we did not want misunderstanding and further fighting. The terms “pharmacist” and “pharmaceutical technologist” are well defined in the Act.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): As I said, we want to give one or two other opportunities so that Members can express themselves, but we must make progress.

Let me go to my left to Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. I thank Hon. Duale for this because it had brought a lot of concern. Some of us received a lot of petitions from pharmacists that we represent in our respective areas of jurisdiction. The pharmacist has done a degree, but a pharmaceutical technologist has done a diploma. When it comes to their functions, they must be distinct because they have different expertise. As we said earlier, it is important that as we legislate, we do so objectively. Some cadres can have advantage of being represented here, but that does not mean that you push your interest at the expense of another cadre that maybe, one way or another, is not represented here. After we did this, the outcry was so much. So, it is, indeed important. When it comes to matters of pharmacy, it is like life and death. So, that distinction has to be there. I thank the Leader of the Majority Party and the Chair, Hon. Sabina Chege, for bringing that clarity for purposes of posterity.

I support.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Mugambi.

**Hon. Gichuki Mugambi** (Othaya, JP): Thank you, Hon. Temporary Deputy Chairman. I think that differentiation is very critical. It is critical not only for the sake of the amendments we are about to pass but also for the health of Kenyans. There is no way we can say an accounts clerk and an accountant are the same. There is no way.

**Hon. John Mbadi**(Suba South, ODM):(off record).

**Hon. Gichuki Mugambi** (Othaya, JP): Yes, that is the way it is because a pharmaceutical technologist is like a clerk. I am saying you cannot call...

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Mugambi. Speak to the Chair. Do not speak to any other Member.

**Hon. Gichuki Mugambi** (Othaya, JP): Hon. Temporary Deputy Chairman, I respect a certified public accountant (CPA), Hon. Mbadi so much. He is my fellow professional. He cannot agree that a bookkeeper and a CPA accountant can be put in the same category as accounts practitioners. It is the same way that we cannot agree that pharmaceutical technologists and pharmacists are placed in the same category.

This country has a big challenge in terms of the drugs in the market. About 40 per cent of the drugs in the market are counterfeit just because of poor practices in the pharmaceutical industry. We cannot legislate to make it worse. Therefore, that differentiation being tabled by the Leader of the Majority Party is essential and important. I support it. We must differentiate between the two. We cannot say that the two can do the same job. It is not practical.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Hon. Members, so that we make progress, I suggest giving an opportunity to just two Members and then we can make progress. Before I come to my right, let me give an opportunity to Hon. Mabonga.

**Hon. Omboko Milemba** (Emuhaya, ANC): Omboko Milemba.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Omboko. My apologies.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Chairman. The amendment being talked about is crucial. It is also happening in other areas and fields. Coming from the education sector and how we qualify people to go to university and other levels of education, a pharmacist is a very serious person. We rank pharmacy together with other top courses in this country. It would be very unfair for Parliament to legislate that

pharmacists be incorporated with other qualifiers who are at lower cadres such as people with diplomas or certificates in pharmacy.

I beg to support that amendment.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Members, there will still be further chances. We need to move on, on this one. Let us have Hon. Pukose, as I consult.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairman. I support the amendment. I thank the Committee for doing a good job.

These are all pharmaceutical practitioners. They are practitioners in the field of pharmacy. The Leader of the Majority Party has given a further distinction. If you go to a chemist, you can tell that this is a pharmacist and another is an enrolled pharmaceutical technologist. An enrolled pharmaceutical technologist is a diploma holder. A pharmacist is a degree holder. The requirements for their training are different. For you to be trained in pharmacy, you have to go to university. To be an enrolled pharmaceutical technologist, you get a diploma in a college. The requirements and period of training also vary. A pharmacist has a longer period of training, more exposure than a pharmaceutical technologist and is the boss of a pharmaceutical technologist.

This is a good further amendment. I support it.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is this further amendment being proposed? Let us have Hon. Kioni. Leader of the Majority Party, I will give you a chance.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairman. In 1983, the late Darius Mbela introduced Section 13(d) into the Estate Agents Act that completely killed the profession of estate agents in this country. The definition of a “registered pharmacist” refers to a holder of a degree in pharmacy from a training institution recognised by the board. The question that begs for an answer is: Which are these training institutions that give degrees? Degrees come from universities. Why can we not have that clarity?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kioni, so that Members appreciate...

**Hon. Jeremiah Kioni** (Ndaragwa, JP): I propose that we delete the words “training institution” and substitute it with the word “university”. That ambiguity will be misused. It is now on record. If you decide to misuse it, I leave it to the House.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kioni, you need to properly move that further amendment so that it is on record.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move...

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, you need to rule first. I am the one who moved for the recommittal of that section. The amendments in the Order Paper are mine. His further amendment is not on the Order Paper. It has not been circulated. The fundamental question is: Can somebody further amend my amendment without my permission or am I the one to do it? You need to clear that up.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We are not dealing with the amendment itself. We are dealing with an issue that the Leader of the Majority Party has raised. The Leader of the Majority Party has proposed certain amendments. Can a Member further amend an amendment that is already on the Floor? That is the question. I will give direction. Hon. Kioni, you cannot give direction on this one. It is purely on me. I will give that direction. Let me hear from Hon. Kangogo on that particular aspect.

**Hon. Kangogo Bowen** (Marakwet East, JP): Thank you, Hon. Temporary Deputy Chairman. The owner of this Bill is the Leader of the Majority Party. The amendment is good. What is the procedure? When an amendment is on the Floor of the House, a Member can propose a further amendment with the approval of the Chair.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Wamalwa on that, then I will give direction on that particular aspect.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. At this juncture, we are debating what Hon. Duale has said. Whatever Hon. Kioni has said is part of the debate. The way you amend a Motion is different from the way you amend a Bill. You can amend a Motion on the Floor as you move on, but you cannot do that with a Bill. You must circulate the amendments to a Bill. In this context, his comments were good, but he has been overtaken. It does not harm because the critical thing here is a degree. You do not just get a degree from a university. It is implied in that argument. Universities also offer diplomas. You need to know that. In that context, it is correct. You cannot get a degree from a non-university. Let us proceed.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will come to you, Hon. Chair of the Budget and Appropriations Committee. Let us have Hon. Iringo on that particular aspect only.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Chairman. I concur with Hon. Kioni because whatever he is saying makes a lot of sense. We should not just pass a Bill when we know there is a correction which could have been done early despite the fact that it is unprocedural. I request that Hon. Kioni be given a chance to consult with the Leader of the Majority Party. They can agree on the amendment right away and then it can be moved on the Floor. I find it quite sensible. I do not see why we should disregard it.

Therefore, they can consult and then it can come right way. I beg the Leader of the Majority Party not to... I can see he is being consulted and he is thinking twice. Think once and accept it.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I can tell the Leader of the Majority Party and Hon. Kioni are consulting. Hon. Limo.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairman, the issue which has been raised is whether a Member can amend an amendment which has been moved by another Member. That is very important because if we do not clear that properly, it will set a precedent. So, the right thing to do is that the Member who intends to move a further amendment has to convince the Mover of the original amendment. In this case, if Hon. Duale will be convinced, that will be right, but if not, then Hon. Kioni's amendment will fall.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Nyikal, before I come to you, let us have the Member for Kikuyu.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I want to concur with what Hon. Limo has said. He has said that, indeed, in matters to do with

amendments, the owner of the amendments, who in this case is the Leader of the Majority Party, must agree to a further amendment on his amendment. Hon. Kioni had all rights just like the Leader of the Majority Party to ask for recommitment and propose his own amendments. Honestly, I do not agree with Hon. Kioni's reading of the text as it is here. It is quite clear that it means a holder of a Degree in Pharmacy from a training institution which is recognised by the board. The import of this, Hon. Kioni, is that we know there are universities which offer degrees in pharmacy, but may not be recognised by this particular board. All I am saying is that procedurally, then, Hon. Kioni would only have brought his own amendment or agree with the Leader of the Majority Party.

Finally, I have seen a lot of lobbying on this issue, but what has taken me aback, especially on the issue of pharmacists, is that all the people who are lobbying Members of Parliament on this particular Bill, nobody is lobbying on issues that touch on ordinary Kenyans. People are lobbying based on business interests. Therefore, I want to say that, as a Member of Parliament, I have an obligation to the people I represent, more so on their healthcare. Pharmaceuticals are not things to joke around with. The prevalence of cancer in this country is because at times we take drugs that are dispensed by people who are not qualified.

Therefore, I want to support this amendment as it is.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give direction on this one now. Let me give opportunity to Hon. Nyikal because I seem to have forgotten this side. Then I will give direction because we must make progress.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon Temporary Deputy Chairman, before we sit and agree, there is an issue that has not become clear here. You are bringing the issue of accreditation of universities versus the training of pharmacists. When universities start a course in pharmacy, it is important for the Pharmacy and Poisons Board to recognise it. Universities know that. When they are starting a course, they go to the Pharmacy and Poisons Board, so that the course can be recognised. The same will go with medical practitioners. If we change this, then you will get a university which will say that it got its accreditation from this body and it does not care about what you are saying, but it will train pharmacists and ignore the Pharmacy and Poisons Board. It had nothing to do with accreditation. So, Hon. Kioni, I would leave it as it is.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Before I pronounce myself on this, the two Members who are at the centre of this, the Leader of the Majority Party and Hon. Kioni, can I give them a minute each?

**Hon. Aden Duale** (Garissa Township, JP): Hon Temporary Deputy Chairman, Hon. Ichung'wah, Hon. Nyikal and Hon. Chris said it all. What we are dealing with here in this amendment is a holder of a Degree in Pharmacy. That is the gist of this amendment.

Secondly, when you go to a training institution, you get your licence from this board. The curriculum is set by the board. So, the element of bringing in a university is when it deals with accreditation. Let us not mix it. I really want to ask my good friend to agree with me. The Chair will rule on this matter. I have also looked at the Standing Orders and it is allowed. However, in consultation with me, you can move an amendment, but the gist of the matter is a Degree in Pharmacy, which is approved by the board. That is the gist of the whole thing. When you do pharmacy, you must be licensed by the board.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Before I give the opportunity to Hon. Kioni, I am afraid I will not allow any other Member to contribute because I have to give direction. What we have is an amendment to a Bill. It is a Motion that we are

considering that is on the Floor. Standing Order No.54(9) says: “An amendment to an amendment may be moved and if necessary seconded at any time after the Question upon the original amendment has been proposed and before it has been put.”

Essentially, Hon. Members, this is not only for the current case, but even moving forward. It will be good for you to read Standing Order No.54, but more specifically, what is critical to us is Standing Order No.54(9). So, Hon. Kioni’s further amendment is allowable. Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairman. I want to say that I have heard the Leader of the Majority Party and I respect his views and those of other Members. However, as I have said, I had an experience and I mentioned the year 1983. That is when an amendment of a similar nature was moved in this House by the late Darius Mbela. From that point onwards, the board decided to disregard the issue of degrees. They have misused that gap that was created by the ambiguity that seems to be there. I hear what the people with good intentions are saying, and the courts have pronounced themselves on this. They allowed fellows without degrees from institutions from all over. A mechanic can do real estate today. He does not need to go to the University of Nairobi. For that reason, I am pleading, even with the good contributions from the PhD holder here and the Leader of the Majority Party, that they allow this amendment. It causes no harm. It only improves the legislation and brings clarity.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Can you move the amendment?

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the amendment be further amended by deleting the words “training institution” and substituting therefor with the word “university”

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well.

*(Question of the further amendment proposed)*

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

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are dealing with Section 2.

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

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

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

(Provisions relating to the Pharmacy and Poisons Act, Cap.244,  
Section 2 as amended agreed) to)

*Pharmacy and Poisons Act, Cap.244, Section 3*

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(b) by deleting the proposed amendments to section 3 and substituting therefor the following new amendment—

s. 3 Delete and substitute therefor the following new section—

Establishment  
of the Pharmacy  
and Poisons Board.

3. (1) There is established a Board which shall consist of—

- (a) a Chairperson who shall be appointed by the President and who shall—
  - (i) be a registered pharmacist of good standing with a degree in pharmacy; and
  - (ii) have at least ten years' experience in the pharmaceutical sector;
- (b) the Director of pharmaceutical services;
- (c) the Principal Secretary in the ministry for the time being responsible for finance or his representative;
- (d) one enrolled pharmaceutical technologist with expertise in community pharmacy appointed by the Cabinet Secretary;
- (e) two persons representing the pharmacy training institutions, of which one shall be a pharmacist and one shall be a pharmaceutical technologist;
- (f) three persons appointed by the Cabinet Secretary, of whom—
  - (i) one shall be an enrolled pharmaceutical technologist nominated by the Kenya Pharmaceutical Association; and
  - (ii) two shall be registered pharmacists nominated by the Pharmaceutical Society of Kenya, and one of whom shall have expertise in industrial pharmacy;
- (g) the Chief Executive Officer, who shall be an *ex officio* member;
- (h) one medical practitioner nominated by the Kenya Medical Association and appointed by the Cabinet Secretary;

(2) The persons appointed under subsection (1)(f) shall be appointed by the Cabinet Secretary from among members nominated by their relevant professional associations, each of which shall nominate two candidates in each category taking into consideration gender, ethnicity and regional balance.

(3) A person shall not qualify for appointment as a member of the Board under subsection (1)(e) and (f) unless such person is the holder of a minimum of a diploma in the relevant field from an institution recognized in Kenya and has at least five years managerial experience

This amendment basically deals with the membership of the Pharmacy and Poisons Board.

*(Hon. Jared Okelo consulted loudly)*

What is wrong with the Member for Nyando? We are not in a village fish market. We are in Chamber.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Proceed. Luckily, the Chairman did not note that.

Proceed, Leader of the Majority Party.

**Hon Aden Duale** (Garissa Township, JP): He made a very funny sound that can only be made in a fish market.

The amendment deals with membership of the Pharmacy and Poisons Board to make sure that it is all inclusive of the relevant stakeholders in the health sector. It also provides for the qualification of the chairperson of the Board.

We are only dealing with Section 3(1)(d) which previously provided that the pharmaceutical technologist with an expertise in community pharmacy shall be nominated by the Council of Governors. This amendment therefore seeks to remove the nomination of the Council of Governors and retain such an appointment as a function of a Cabinet Secretary. The reason for that is that this is a regulatory national body. The functions that this Board does are not devolved. So, there is no way the Council of Governors can propose. The slot is still for a pharmaceutical technologist with a background and expertise on community health to sit in the Board. But this time, he will be nominated by the Cabinet Secretary.

We have changed pharmaceutical practitioners in definition. There are consequential amendments to remove the use of that term in the whole set of amendments and replace it with words in sections with pharmacist and for the graduate and pharmaceutical technologist for our diploma holders.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman**(Hon. Patrick Mariru): Hon. Simiyu.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Hon. Temporary Deputy Chairman, I take this opportunity to support the Leader of the Majority Party's amendment and say something important and the Leader of the Majority Party needs to listen to it.

The Health Laws (Amendment) Bill, I think, was ill advised. Health is so important that we should not have attempted to amend laws in an omnibus Bill like this one. We should have gone Act after another. It has given the Committee a lot of problems to get to the right places. Health is too important to be treated like this in an omnibus Bill. I beg the Leader of the Majority Party not to do it again next time.

I support the amendment.

**Hon. Jared Okelo** (Nyando, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Okello?

**Hon. Jared Okelo** (Nyando, ODM): Hon. Temporary Deputy Chairman, while walking out on a health break, I heard the Leader of the Majority Party who is ...



**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order?

**Hon. Jared Okelo** (Nyando, ODM): I am building my case. Member for Mandera Central is trying to prevent me from walking out.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Okelo. Are you referring us to a past event? If it is a past event, Order Hon. Okelo. You cannot return us to a past event. You are out of order.

*(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)*

*(Provisions relating to the Pharmacy and Poisons Act,  
Cap.244, Section 3 as amended agreed)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it, Hon. Sabina Chege?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I beg indulgence of the Leader of the Majority Party who has moved the amendment.

From Section 3, there was Section 3(b). We received communication this afternoon. I apologise to the Leader of the Majority Party because the communication came very late. When we received Communication from the Speaker last time on matters touching on National Quality Control Laboratory, the Speaker advised we withdraw the amendments. When we highlighted the Section we were to withdraw, some of the sections were omitted. So, Section 3(b) which touches on the performance and mandate of the National Quality Control Laboratory in Sections 35 (a) (5) 35(1) (b) and 35(d)... I beg the Leader of the Majority Party that the way he had a soft heart for Hon. Kioni, to agree we do a further amendment on Section (b) to delete sub-sections (j) and (k) following the Communication from the Speaker.

I beg.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The good thing is that the Chairman will give direction. Let us have the Leader of the Majority Party.

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, Hon. Sabina Chege is a very good elegant Chair and a god politician in Murang'a County, but she must follow the procedure.

I have done a recommittal in the amendment I moved earlier. Section 3(b) is not one of the sections I have recommitted. So, there is no way you can stand in the middle of Committee of the whole House and want to move an amendment which has not been recommitted. So, my hands are tied. I really wanted to help this gracious lady. She is one of my good Chairs but the Standing Orders and laws that govern this House do not allow. I see Hon. Omulele is laughing because he knows these things. We can refer to the HANSARD, I did not recommit that section so it cannot be discussed.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us not engage in this because it is a straightforward matter. What we are considering now is business that was recommitted. You cannot open up a clause that was not recommitted. It is as straightforward as that. Standing Order No. 138 says that when a Bill has been recommitted, that is it.

*Pharmacy and Poisons Act, Cap.244, Section 6*

**Hon Aden Duale**(Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended-

(c) by deleting the proposed amendment to section 6 and substituting therefor the following new amendment-

s. 6 (1) Insert the words “and specialist pharmacists” immediately after the word “pharmacists”.

The Committee amendment has sought to have the chief registrar of all pharmaceutical practitioners. This is another consequential amendment to delete the words, “pharmaceutical practitioners” wherever they appear and replace it with “pharmacy and pharmaceutical technologists”. It now reads that the registrar will keep a register of all registered pharmacists under a roll of all enrolled pharmaceutical technologists, to keep a register of specialist pharmacists who have been defined in the amendment.

Basically, it is a consequential amendment that changes the word “pharmaceutical practitioner” to where we have come back to.

*(Question of the amendment proposed)*

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

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

*(Provisions relating to the Pharmacy and Poisons Act, Cap.244, Section 6 as amended agreed to)*

*(Section 20 agreed to)*

*(Section 23 agreed to)*

*(Section 27 (4) agreed to)*

*Pharmacy and Poisons Act, Cap.244, New Sections 9A, 9B, 9C, 9D, 9E, 9F*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

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THAT, the Schedule to the Bill be amended –

(d) by deleting the proposed new section 9A and substituting therefor the following new section—

New section

Insert the following new sections immediately after section 9—

Practising licence

9A. (1) The Registrar shall issue, in accordance with rules made under this Act, a practising licence authorizing registered pharmacists or enrolled pharmaceutical technologists to practice as registered pharmacists or enrolled pharmaceutical technologists.

(2) Every practising licence shall expire at the end of the practicing year in which it was issued.

(3) The practicing year shall be from 1st January to 31st December.

(4) Any registered pharmacist or enrolled pharmaceutical technologist who practices without a valid practicing licence in line with subsection (1) commits an act of professional misconduct.

Application for practising licence

9B. A person wishing to be issued with a practising licence under section 9A shall make an application to the Registrar in the prescribed form and such application shall be accompanied by the prescribed fee.

Issue of practising licence

9C. (1) Where an application for a practising licence is made by a person in accordance with section 9B, the Registrar shall issue a practicing licence if satisfied that the person—

(a) is registered under section 6 of this Act;

(b) has undertaken continuous professional development in the preceding year as prescribed by the Board; and,

(c) meets such other requirements as may be prescribed.

(2) For the purposes of this Act, a person shall be deemed to engage in the practice of pharmacy if the person—

(a) engages in, conducts or carries on the dispensing, manufacture, compounding of any drugs or medicines, or offers any form of pharmaceutical care or pharmaceutical services within Kenya; or

(b) advertises or represents himself or herself by a title, sign, display, declaration, or other item to be a pharmacist or pharmaceutical technologist.

(3) For purposes of this Act, it shall be a requirement for every practising registered pharmacist and enrolled pharmaceutical technologist, practicing in their private capacity, government, faith-based institutions, non-governmental organizations, training institutions, research organizations or any other institution, to have a valid practising licence.

Refusal to issue or  
— renew a licence

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Renewal, cancellation  
and suspension of  
license

9D. The Board may deny or refuse to issue or renew a license under this Act if it determines after due process, that the applicant has failed to comply with the requirements of this Act or its rules.

9E. (1) A registered pharmacist or enrolled pharmaceutical technologist issued with a license under this Act may apply for renewal of the license in the prescribed form at least thirty days before the date of expiry thereof.

Continuous professional  
development

(2) A registered pharmacist or an enrolled pharmaceutical technologist who fails to renew a license within the prescribed period shall, when applying for a renewal, be required to pay such late application fee as shall be prescribed.

9F. For purposes of maintaining a level of competence in his or her ongoing practice, every registered pharmacist and enrolled pharmaceutical technologist shall undertake appropriate Continuous Professional Development as prescribed by the Board.

These new sections were proposed by the Committee to provide for the procedure for the application and granting of license to practise pharmacy as well as the condition for the granting or refusal. The recommittal is therefore for the purpose of making consequential amendments to drop the term “pharmaceutical practitioners” as proposed by the Committee. In terms of amendments, a practising licence shall be issued to both pharmacists and pharmaceutical technologists.

There is also a further consequential amendment to a new section to provide for the use of the terms “registered pharmacist” and “enrolled pharmaceutical technologist.” We are trying to separate the two entities in terms of giving or refusing them licenses. Previously, there was the term “pharmaceutical practitioner.” We are now replacing it with “registered pharmacist” or “enrolled pharmaceutical technologist”.

*(Hon. (Ms.) Odhiambo-Mabona consulted loudly)*

Hon. Temporary Deputy Chairman, I do not know what signatures Hon. Millie Odhiambo is collecting. She cannot get a referendum question here unless she is working for that religious outfit in her constituency called *Roho Maler*. Is she recruiting members for *Roho Maler*? We need to know what signatures she is collecting for purpose of transparency and accountability in the House. There are chances that she might be recruiting people into a cult.

*(Question of the new sections proposed)*

*(New sections read the First Time)*

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

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. This amendment makes it compulsory for those engaging in pharmaceutical practice to attend continuous medical education. This is good because they continue updating themselves. Pharmacy is a very critical area where you deal with drugs. They need to understand what kind of medicines they are dispensing. This is a very important amendment.

I support the Leader of the Majority Party.

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

*(The new sections were read a second time)*

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

KENYA MEDICAL SUPPLIES AUTHORITY ACT, NO.20 OF 2013

*Kenya Medical Supplies Authority Act, No. 20 of 2013, Section 5(1)(a)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move a further amendment to delete section 3(a) and (b) so that the amendment reads as follows:

THAT, the Schedule to the Bill be amended-

(ii) in the proposed amendments to the Kenya Medical Supplies Authority Act, No.20 of 2013 by inserting the following new amendment immediately before the proposed amendment to section 5(1)(a)-

s.4 Insert the following new subsections immediately after subsection (2)-

“(3) A national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the Authority;

(4) Despite subsection (3), where a national or county public health facility purchases drugs and medical supplies from commercial entities other than the Authority, the national or county public health facility shall ensure that-

(a) the commercial entity is duly registered by the Board; and,

(b) the drugs and medical supplies meet the standards of quality and are efficacious as authorized by the Board.

(5) A person responsible for the procurement and distribution of drugs and medical supplies in a national or county public health facility and who contravenes the provisions of this section, commits an offence and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or to both.”

We have removed 3(a) and (b). Any public national or county public health facility must buy drugs and other medical supplies from KEMSA. On No.4, we are looking at the quality of the drugs.

*(Section 3(a) and (b) omitted)*

That is where we have a problem as a country. There are too many substandard generic drugs in the country. So, we are putting it in law that even when you go and buy from a commercial entity, that entity must, one, be registered with the Authority. Two, the drugs must be of a certain required standard.

Members will agree with me, KEMSA was ideally formed to supply drugs to both the national and county public health facilities. Because there is no kickback there, the county governments and even some national public health facilities are buying from chemists where they will get kickbacks. We have even put a penalty in this amendment. If you violate this law, you will be jailed for a certain period of time or pay a fine of Kshs5 million.

I beg to move.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give you a chance after I have proposed the Question.

*(Question of the amendment proposed)*

I can see the interest from Members, I will give chances to a few then we make progress. Let me start with the Hon. Member for Kikuyu then I will come to my left.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I want to support, especially the further amendment in having it end at the word "Authority". What the Leader of the Majority Party has said is actually what is happening today in this country. If you go to KEMSA today, and those who sit in the Departmental Committee on Health and the Public Investments Committee (PIC) will be able to tell you, there are a lot of drugs that are expiring there. At the same time, the same drugs are procured from commercial entities by our county governments and other hospitals in our national Government. It is for that simple reason that the Leader of the Majority Party has called it "the desire for kickbacks". It is immoral that we can have a Government agency whose sole mandate is to procure and distribute drugs in this country, then we allow the same public resources that we have given to county governments and other Government institutions like the Kenyatta National Hospital and the other referral hospitals to go and procure drugs, in most instances, at prices that are much higher than those being given at KEMSA.

The import of the further amendment that the Leader of the Majority Party has done is very good. I thank him. Simply, if we left it as it is, it would be very easy to manipulate, as Hon. Kioni was saying. What they will do is that a procurement officer in a county government like Kiambu County, for instance, is to simply talk to the local pharmacist to reduce the price of a drug by 25 cents therefore justify buying from those commercial entities. How efficacious these drugs are is not clear. Therefore, I support this amendment because, besides supporting KEMSA as a Government institution, it will also ensure that the quality of drugs being dispensed in our health facilities, especially those being managed by county governments are drugs that are of the right quality and price.

With that, I beg to support.

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Temporary Deputy Chairman for giving me an opportunity to speak to this. I am glad that the Leader of the Majority Party has moved to make the amendment he has proposed to this section but he has not gone far enough. If you look at the provision of the proposed New Section 4(3), it says “A national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the Authority.” He has stopped there. He now proposes to have subsection 4 which says “Despite subsection (3), where a national or county public health facility purchases drugs and medical supplies from commercial entities...” This one is useless. It is odious; it is extra; it is unnecessary. When you say “shall”, you cannot have an option. Then, this option cannot be available.

So, he must stop. This subsection 4 cannot exist if we carry subsection 3 as it is, where we are saying purchases shall be from the Authority.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. I am sure the Leader of the Majority Party and the Members are also listening. Hon. Sheikh.

**Hon. Mohamed Mohamud** (Wajir South, JP): Thank you, Hon. Temporary Deputy Chairman. I can see the point the Leader of the Majority Party has raised on this. As a Member of the Departmental Committee on Health, it is an item that I have rolled over and examined quite closely. What I see is that KEMSA is the body that we trust and have entrusted to purchase these items. Purchase of quality drugs or medicines is important. The KEMSA has considerable amount of experience in this area. Hon. Ichung’wah has said that a local pharmacy can reduce prices by 25 cent. What we want to do is avoid quacks.

The point I really want to raise is that it is important to maintain standards. Therefore, the new amendment must be examined closely and we need to understand that KEMSA is the main authority mandated to purchase medicine.

Thank you very much.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let me give chance to Hon. Nyikal. You will get a chance. I will give one or two then we make progress, I can tell from the interest.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): (*Off-record*).

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Wamalwa, you are saying yours is serious. I am sure the contribution of every Member is serious.

**Hon. (Dr.) James Nyikal** (Seme, ODM): You have to give guidance on what Hon. Omulele has said. If subsection 3 has said “shall” and (a) and (b) have been deleted, there is no more purchase from outside KEMSA. So, subsection 4 cannot exist. We have to call this in bits so that we deal with subsection 3, with (a) and (b) removed then we deal with subsection 4. It is because subsection 4 has no place now because subsection 3 has said “shall”. It must collapse.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Wamalwa. You said yours is serious. Hon. Owino says the same. All of them are serious.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. I beg the active Hon. Members to listen to me. This is a very serious amendment. It can even lead to death. It is only KEMSA that we have confidence in. I have worked in the pharmaceutical industry before, with multinational corporate organisations. Some of the private commercial entities go to an extent of repackaging the drugs and even change the expiry dates. This evidence has been there. You went to KEMSA and saw a drug with short expiry duration. That is genuine. When you go to private companies, you will find they have repackaged and changed the expiry dates. It is very dangerous. We have so many unscrupulous businesspeople.

They are the ones who are pushing for this amendment. We oppose this. We should only rely on KEMSA or the Mission for Essential Drugs and Supplies (MEDS) which is owned by the church. So, we either say the Authority or we go to MEDS. If you open up and allow private firms to come in and you talk of significant price difference, they will go and collude. This country has parallel imports that come into this country. We want to compromise the life of *wananchi*. We better remain with KEMSA and if not, we go to MEDS which is a faith-based institution. Otherwise, you are playing with the lives of Kenyans.

I oppose, oppose and oppose. I thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Mukami.

*(Loud consultations)*

Order, Members! Hon. Mukami, you have the Floor.

**Hon. (Ms.) Rahab Mukami** (Nyeri CWR, JP): I also rise to oppose because we know exactly what is happening in this country. They just want to sell those medicines which are not fit for human consumption.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Before I give any other Member, let me give it to the Leader of the Majority Party who moved this amendment then get a few other Members.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I want Hon. Nyikal and Hon. Chris to listen to me. I want to read this amendment. That we retain Section 3 which says,

“(3) A national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the authority.” But because we want to deal with quality, I say, subject to the drug being registered by the board and the drugs and the supplies meeting the standards, quality and are efficacious as authorised by the board. Is that okay?

**Hon. Members:** Yes.

**Hon. Aden Duale** (Garissa Township, JP): We must also deal with KEMSA. KEMSA cannot just import anything. KEMSA must deal with drugs that meet the standards.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Member! The Leader of the Majority Party you moved very fast. You better move slowly so that Members understand exactly the amendment.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker I beg to move:

THAT, Section 4 be amended to read;

“A national or a county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the authority subject to-

- a. The drug being registered by the board;
- b. The drugs and the medical supplies meet the standards of quality and are efficacious as authorised by the board.”

I have removed the whole of section 3. What I have brought back is the issue of standard and quality.

I beg to move.



**The Temporary Deputy Chairman** (Hon. Patrick Mariru): For purposes of procedure, The Leader of the Majority Party has brought in a further amendment and we need to speak to that specifically.

*(Question of the further amendment proposed)*

Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I just wanted to be clear on what S.4 is saying because...

**Hon. Members:** Section 4 has been deleted.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Then what have you put instead. I heard you read something.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): *(Off record)*

**Hon. (Dr.) James Nyikal** (Seme, ODM): It is okay, I agree to be taught on this.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members. Chair of the Departmental Committee on Health.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chair. I just want to explain to my senior, Hon. Nyikal. I want to thank Hon. Duale for that amendment. Hon. Nyikal, this is the amendment. After the word "Authority" in (3), you add the following: "The drug being registered by the board" and "The drugs and the medical supplies meet the standards of quality and are efficacious as authorised by the board."

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

*(Provisions relating to Kenya Medical Supplies Authority Act,  
No. 20 of 2013, Section 5(1)(a) as amended agreed to)*

*(The House resumed)*

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

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

## REPORT AND THIRD READING

### HEALTH LAWS (AMENDMENT) BILL

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Health Laws (Amendment) Bill, National Assembly Bill No. 14 of 2018 and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House does agree with the Committee in the said Report. I request Hon. Sabina the Chair of the Departmental Committee on Health to second the Committee for agreement with the Report of the Committee of the whole House.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP) seconded.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I will give to three people as we consult on something. Hon. Leader of the Majority Party you can consult with the clerk. Let me give to the Hon. Member for Kiminini. I confirm to the House that we have the numbers to put the Question.

*(Question put and agreed to)*

Can we have the Mover to move Third Reading?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that The Health Laws (Amendment) Bill, National Assembly Bill No. 14 of 2018 be now read a Third Time.

In my history as an MP, never before have I experienced the kind of interest that this Bill has attracted. The saddest I have noted is that there were self-interests from professionals in the pharmaceutical sector and sibling rivalry between the Pharmacy and Poisons Board and its subsidiary National Quality Control Laboratory. This afternoon, I found Members of the National Quality Control Laboratory in my office without an appointment. I saw veterinarians in my office without an appointment. The procedure is very clear. I would like to ask the clerk that Government officers cannot come to Parliament to lobby. The power to legislate rests with the 349 men and women of this House. I was sad when I learnt that these interests were not necessarily of the public but mostly self-preservation. As legislators, we have been called upon to legislate for the public while balancing the interest of the sector players.

I am grateful to members of the public and the consumers of the pharmaceutical products who send views, memoranda or words of encouragement to the Committee and the House. Now that we are concluding with the Bill, I challenge the Health Committee to either regulate or control the cost of medicinal services and pharmaceutical products. This Committee is under moral obligation to deal with the rising cost of healthcare in our country.

You can have a patient in Nairobi Hospital for six days and you will be told to pay Kshs 6million. Kenyans are going to India not because it has a better healthcare but because they are running away from the high healthcare cost in our country. We have turned this profession into a money minting venture. That is why many parents want their children to go to the school of medicine. They do not want their children to do any other course because they know once they become doctors that is the easiest route to riches in our country. So, this Committee must deal with the rising cost of healthcare in our country. It must deal with the rising cost of pharmaceutical products and other medical supplies.

I am sure under the leadership of Hon. Sabina Chege and members like Hon. (Dr.) Eseli, Hon. (Dr.) Nyikal and many others have what it takes to deal with that matter and save our people from the rising cost of healthcare. That is why under President Uhuru Kenyatta we are trying to implement as a Government the universal healthcare. A country will never prosper if it does not care about the health of its citizens.

So, Hon. Sabina Chege you have work. This is compounded by the fact that the market has gone rock and is setting its prices so high to practically milk the insurance fund like the National Hospital Insurance Fund (NHIF). Even the most basic service is being priced very highly. For example, a child who has been amputated is being charged for the provision of slippers by a health facility, this is indeed fraud. A child's both legs are amputated and in the bill you will find that they charged him for slippers that he never wore. I am serious and we must as a Parliament deal with this matter.

The rivalry we saw in the last one week tells you that there is something serious going on.

I really thank the Departmental Committee on Health who, again, sat with the stakeholders and listened to them yesterday and, among the many things they wanted, we ultimately agreed to recommit the few that we did this afternoon in the interest of the House. My call to pharmacists and pharmaceutical technologists and healthcare workers is that the power to legislate is only vested in this House. You cannot be a pharmacist out there and you want to legislate. You either become like Dr. Nyikal, Dr. Pukose and Dr. Eseli that while you still hold those professions, you become a Member of Parliament. I know to become a Member of Parliament is not a walk in the park.

I, therefore, request to shift their focus on affordability of healthcare services and products. Finally, I beg to move and ask the Chair of the Departmental Committee on Health, Hon. Sabina Chege, to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Sabina Chege to second.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I want to say I agree with Hon. Duale about the issue of affordability of healthcare services in Kenya. I just want to tell the leader that this is something that the Committee has already started and by the time I finish on my seconding, I want to just give Members of this House a glimpse of what we are being charged as Kenyans. These are professional fee guidelines from medical and dental practitioners. This is the right time. As we go towards universal healthcare and looking at affordability of healthcare in this country, we must review it. This House has a mandate and my Committee is ready to start regulating the healthcare prices.

I was just consulting here with Hon. (Dr.) Pukose. I tin of Paracetamol with 1,000 tablets will cost Kshs240 but when it comes to the hospitals, you will find patients charged Kshs100 per one tablet. This is crazy. We have opened the market in Kenya where people who are selling pharmaceutical products come in and they set their own prices on how much they sell drugs here. If you go outside Kenya and compare the prices of the drugs here in Kenya, we are exploited. I was sharing with Hon. (Dr.) Nyikal also where he bought a tablet that they buy at Kshs100. He went to Kisumu and bought it at Kshs10. He went to another pharmacy and bought it at Kshs5. So, we do not have regulations at all. I thank my Committee. As Hon. Eseli mentioned earlier, there were many laws that we needed to amend and we spent sleepless nights. Sometimes we even went up to 10.00 p.m. in the night when we were doing the retreat to make sure that we deliver to Kenyans.

When I was moving these amendments, I said we got presentation from various cadres. As Hon. Duale has said, we need sanity within the medical fraternity. We need to stop the fight that we have experienced. We had to drop some good amendments just to stop the fighting that came in. I also want to tell the pharmacists to be very specific because the nurses came with

several associations and we asked them as a Committee to actually form one association so that they can be able to address us as one association.

The pharmacists' dramatizing and going round to write things on social media and *twitter* will not help. There is a way of communication and we meant well to this nation. It is important for this House to know that we have over 9,000 pharmaceutical technologists who are controlling the retail and the drugs that are accessible to the public. When it comes to an issue of wholesale, we saw the kind of fight that has been put up even in the social media because people just want to control the selling part. My question to the pharmacies is: Why are we not manufacturing drugs in this nation? Why have you not brought some proposal so that we can have some waiver and have drugs cheaper in Kenya? A pharmacist has a bigger opportunity to manufacture. The pharmaceutical technologist cannot. I wish that is the kind of competition we can see.

Now to this House, our doctors have some guidelines. I just want to take the Members through some of the things I witnessed yesterday. For a doctor to come and witness a postmortem, the cost is a minimum of Kshs24,000 and the maximum is put at Kshs60,000. We know sometimes when postmortems are done, it is not just because the family wants it done. Sometimes it is an emergency and the postmortem must to be done. That means many families in Kenya cannot afford. Christmas and around this time is the time for circumcision. Adult circumcision is priced at at minimum Kshs20,000 and maximum Kshs40,000.

*(Laughter)*

These are the guidelines, Hon. Members. Paediatric circumcision... I have the booklet here and I can table it because these are professional fee guidelines. This is what the board has prescribed, Hon. Temporary Deputy Speaker.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Member! You know we have procedures. There is a Member who is rising on a point of order. Allow him to express his point. Let us get the point of order by Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, you have heard the Chair giving the price of circumcision in Kenya. That is a very private matter and it is only some people like me who can give the price. So, is Hon. Sabina in order to mislead the House that she is an expert on the prices of male circumcision?

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Duale, Hon. Sabina is the chairperson of the Departmental Committee on Health. Again, Hon. Sabina Chege is holding a guideline which she also needs to table to the House so that we can... Yes, there is another intervention, Hon. Sabina. Let us hear it.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. The Chair of the Committee was doing very well but she should not overstep.

*(Laughter)*

Issues of circumcision in this country among certain communities are not even discussed and prices cannot be listed here. So, kindly and with a very light touch, I do not think that the Chair of the Committee is in order to proceed and give prices that are not really correct for all communities in Kenya. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I need to protect the Chair. I know the issue of circumcision is very private as Hon. Duale says but Hon. Sabina Chege is talking of the medical part of it and how to make health cheaper to the common *mwananchi*. Hon. Chege, carry on.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, I wish you will add me more time because I know to some communities it is private, especially the ones who go to the river. What I am addressing in this House are professional fee guidelines for medical and dental practitioners. These are health matters. Just to be very specific for the benefit of some Members of this House who might want to take this practice, anyone who is thinking of doing vasectomy in Kenya, the minimum is Kshs12,000 and the maximum is Kshs18,000. I want to continue. Let me go for something that is lighter. I just want to inform the House so that we know when we say health is not affordable in this nation and healthcare has been left to the rich. As we look towards universal health care, we need to look towards affordability. Let me give a lighter one.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, maybe you can explain to the House what you are holding.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I want to repeat. These are professional fee guidelines for medical and dental practitioners. Let us have Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): In fact, she went from the price of circumcision to something I did not want to hear. The document Hon. Sabina Chege has first must be admissible and must be agreed by the Speaker. She cannot just read a foreign document. This is a very foreign document. The official documents are the ones that I table every afternoon.

She cannot come with her own document. If you see somebody being circumcised in hospital, that is a coward. We believe in guys who go to the river and face the knife, like Hon. Wamalwa and I. We do not want to hear that you talked to the practitioners again. If the prices go up tomorrow, Sabina Chege will be blamed. Kenyans do not know the price of circumcision. Some things are very private.

Hon. Temporary Deputy Speaker, I want you to, first, declare whether that document is admissible then she can continue.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, I want you to finish seconding and then you can table that document for Duale to look at. Hon. Sabina Chege is speaking as the Chair of the Committee. Some matters are very sensitive, especially when she talks about vasectomy and circumcision. Now she is talking about caesarean section.

Hon. Sabina Chege, can you wind up?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. This is an official document. It was tabled yesterday before the Committee by the Board. It is a legal document. I wish the Leader of the Majority Party could listen to me. He challenged us to do the work. I just wanted to prove to this House that we have already started. We want to warn the medical fraternity that it will not be business as usual.

With regard to the repair of minor wounds, the charges that have been recommended by the Board are between Kshs12,000 and Kshs30,000. I will table this document. There are some

people who really wanted to hear about C-Section. I just want to conclude with that so that men do not feel like I only conducted research on them.

With regard to C-Section, what has been recommended here came in as a result of a Petition by the Consumers Federation of Kenya (COFEK). They complained about a situation where a patient was admitted for less than 12 hours, lost her life and was charged Kshs900,000. When the Committee investigated the matter, this was the document that the hospital referred to because those are the guidelines they had been given. For C-Section, doctors are allowed to charge a minimum of Kshs96,000 and a maximum of Kshs180,000. We must regulate the cost of healthcare in the Republic of Kenya.

I rest my case.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, I know Duale has been on your case as you spoke about circumcision and vasectomy but now that they have heard about C-Section, they have relaxed. You need to go on record that you are seconding.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, I beg to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order Members!

*(Question proposed)*

Let me give this opportunity to the Member for Tongaren.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I had come to you to try and recommit something but you ignored it. It is fine.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Sorry, say it again.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): I had come to you to try and recommit something which is clashing but that is now water under the bridge.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me guide you. You cannot just ambush the Speaker. When you have an amendment or recommittal, just approach the Clerks' Table.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): I spoke about it but it is water under the bridge.

I would like to reiterate what I said earlier – that, health is a very important part of our life in this country or anywhere in the world. If we want to make laws that will guide healthcare in the country, we need to be very meticulous and careful. Bringing them in an omnibus amendment Bill like this one is a very unfortunate thing. In the process, as we were working on these amendments, I kept having the feeling that some of the amendments that were being proposed had some vested interests. We were going to remove the National Quality Control Laboratory and hand everything to the Pharmacy and Poisons Board so that it acts without any oversight. That is not the way to go. There was that kind of thing. It looked like there were some professional interests that came into play. I do not feel it is bad for members of a profession to lobby members of Parliament. Lobbying is part of politics. That one is accepted. It is part of the normal workings of politics. As parliamentarians, we must be ready to accept that we will be lobbied for many things. We have to use our judgement in the best interests of the country.

The last issue is about the high cost of medical care in this country. It is not good for this country. We are the ones who have created it. The public health sector has completely failed. It is non-functional. It is kaput. If you go to Kenyatta National Hospital and Moi Teaching and

Referral Hospital, you will find patients are sharing beds. It is even impossible to run those hospitals. The failure by the public health sector has given the private health sector a chance to increase their prices. It is very simple. Let us get the public health sector working properly. Once it starts working properly, the prices of healthcare that we are complaining about will self-regulate and come down. The private sector will not have as many patients as they do now. It is very important that we are careful when we propose laws to govern healthcare. Apart from the consumers of healthcare, we must consult the practitioners because they probably know more about it than the rest of us.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you, Member for Tongaren. The Member for Tongaren is a Member of the Committee. I am sure you will consult with your Chair. Let us have the Member for Ndhiwa.

Hon. Members, again, this is the Third Reading. Just give brief comments. I gave more time to the Member for Tongaren because I know he had an issue that he had to pass. During the Third Reading, you just make brief comments.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you so much, Hon. Temporary Deputy Speaker. I am so grateful to the Leader of the Majority Party and our Chair. The House should know that the Chair has men behind her. Do not be jittery when she mentions vasectomy and all those things. That was on a light touch.

Human resource is still a big issue. The ratio of doctor to patient and that of nurse to patient is a tall order. As we establish universal healthcare, we will have to revisit that. The county governments cannot hire beyond what is allowed by their recurrent expenditure. The national Government has no budget to hire for counties. We have a problem there.

Setting standards and enforcing them is also a big issue. There are drug inspectors whom we have to empower and whose numbers we need to increase. Right now, if you go to any chemist and say you want to buy antibiotics, they are sold to you without a prescription. That is what is causing disease resistance to treatment in this country.

We also have to deal with emergency care. What we have done today is good. I salute our colleagues and our Chair as well.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Nandi, Tum Chebet. Just give a brief comment. This is Third Reading.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Bill on regulation of healthcare in this nation. Most of the people in our counties are dying because of expensive drugs and medical care. I know of many people who have sold their land.

There is the issue of giving right titles to the pharmacists. We need to know the qualified pharmacists in this country. We also need to know the enrolled technologists, so that people cannot use fake titles which do not belong to them, and people will practise as per their profession.

There is the issue of continuous education of pharmacists. We know there are new developments of drugs. We need the pharmacists to acquire new knowledge, so that they can be of good use to the people of Kenya.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. The last one is the Member for Ndaragwa.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker. As I make my contribution, we were given some position by the Leader of the Majority Party on the

issue of circumcision. It is important to make a difference between the mutilation that could be going on at the river and circumcision that will be going on at the hospitals.

*(Laughter)*

I want to talk about two things. One, we want to commend the Committee for the work that they have done and the amendments that were moved by the Leader of the Majority Party. We want to commend them for that. Two, we need to think through this process and see whether we need to get back the national Government in some of the levels of the health sector in this country. We may want to just leave the county governments with the dispensaries because the management of the health facilities in the country is very bad.

Thirdly, we now need to move as a Parliament and do away with these minimum charges of professional fees. It is killing our country. We are scheming at skinning the *Wanjikus*. We need to do away with all those professional fees.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us hear a comment from the Member for Seme because I can see that he has something to say.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. This has been the most difficult work we have done in the Committee of the whole House. I will reiterate what the Member for Tongaren said. It is not only the Health Bill. When these omnibus Bills, even Statute Law (Miscellaneous Amendments) Bills, are many, they become extremely complex. I must tell Hon. Kioni that I have looked at what he said and he was right. This is because of many issues that are coming up. Sibling rivalry is there because of the many cadres which we have. I call upon the Ministry of Health to quickly implement the Health Act because that will solve many of the problems.

With regard to the cost of healthcare, it is multifaceted. We need to get a benefit package. What is the minimum care that you need and the cost should be same, whether you are in Nairobi Hospital or a hospital in Nyeri? If it is a caesarean section, it should be the same cost. The rest is hospitality. We can also have a national formulary where we can pick the drugs, even generics that are cheap. I remember I bought a drug for Kshs5 and it is working. I have used it. In the market, the brand is Kshs100. I have bought the same brand of drug for Kshs11,000 and it was Ksh40,000 in another hospital. So, we must look at the health sector, a benefit package, a national formulary and implementation of the Health Act.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. *Daktari* Pukose from the other side.

*(Loud consultations)*

Order Members. Hon. Pukose must and shall be heard. Whip, I know that you are doing your work but please consult in low tones. Carry on, Hon. Pukose and give a brief comment.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I want to support these very important amendments by the Leader of the Majority Party. It is very unfortunate that individual professionals were lobbying for their own personal interests. The interest of the nation and for the public good is very paramount to any law that we make.



Hon. Sabina Chege has read the guidelines for charging. They were initially signed by Hon. Dr. Nyikal and then other Directors of Medical Services. For example, it is very unfortunate when a caesarean section operation is charged between Kshs90,000 and Kshs180,000. This is a very critical service to our Kenyan women. It is a service that will reduce mother mortality in this country. I want to give an example. In most cases when you are doing a caesarean section operation, it is not a must for it to be done under the general anaesthesia. You can give epidural or spinal anaesthesia which is very cheap. Those drugs that you are going to use will not be more than Kshs5,000. Why would you charge Kshs90,000 to Kshs200,000? It is high time for our medical practitioners in this country to have a serious debate on the issue of affordable healthcare for our public. We owe this to Kenyans.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for the brief comments.

*(Loud consultations)*

Order Hon. Members. I confirm that the House is properly constituted for purposes of making a decision on this. I, therefore, move to put the Question on the Third Reading.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

## **BILL**

### *Second Reading*

#### THE SACCO SOCIETIES (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the SACCO Societies (Amendment) Bill, 2018, be now read a Second Time.

The SACCO Societies (Amendment) Bill, 2018, was initially submitted by the Cabinet Secretary (CS) for the National Treasury in line with the proposal announced in the Budget of the Financial Year 2016/2017 to address some of the proposed reforms in that financial year. This Bill was first introduced in the House on 19<sup>th</sup> July 2016 when it was read the First Time. The Bill was then considered by the 11<sup>th</sup> Parliament and passed on 30<sup>th</sup> May 2017 by the National Assembly. Subsequently, it was forwarded to the Senate for concurrence. This Bill however lapsed in the Senate following the end of the term of the 11<sup>th</sup> Parliament just like many other Bills which we have sent to the Senate. It is very unfortunate.

Therefore, the Bill is being re-introduced in the House to facilitate the necessary reforms in that sector. The principal objective and purpose of this Bill is to amend the SACCO Societies Act No. 14 of 2008, in order to provide for the registration and licensing of SACCO societies as deposit-taking savings and credit cooperatives which will turn them into micro finance institutions.

Prior to the enactment of the SACCO Societies Act of 2008, SACCOS were regulated under the Cooperatives Societies Act, Cap.490. However, the rapid growth of SACCO societies in our country has created the need for their specific legislation. They can no longer hibernate or be under the Cooperatives Societies Act. That is the reason a specific legislation was enacted which was called the SACCO Societies Act of 2008, in order to create a regulatory framework and supervisory mechanism, in terms of dealing with the operations of SACCOS.

So the enactment of the SACCO Societies Act, 2008 made provisions for licensing SACCOS, regulation and supervisory mechanisms. There was also provision for SACCO Societies and the establishment of SACCO Societies Regulatory Authority (SASRA).

Under this Act, SASRA was given the sole mandate to provide guidelines for the protection of members' deposits. Members' deposits should be protected from mismanagement and embezzlement. So, the Regulatory Authority's main mandate was to provide regulation for SACCO Societies and protection of members' deposits by, creating Deposit Guarantee Fund. The Society Act of 2008 created Deposit Guarantee Fund. The Act was further intended to create room for transparency, accountability and good governance in the management of SACCOS in our country.

Although the SACCO Societies Act of 2008 provided for regulation of SACCOS, their licensing, their operations and how to protect members' resources, it lacked certain provisions in order to address the ability of the people managing SACCOS and the mechanism of registering SACCOS to undertake deposit line of business.

The proposed amendments in this Bill seek to address particular issues. The National Treasury looked at the SACCO Societies Act of 2008 and found there were regulatory and legislative gaps. So the amendments address the determination of the suitability of persons to serve as directors and officers of SACCO Societies. Who is to be a director and who is to be in management is well established in this proposed legislation. There is the establishment of a credit information sharing mechanism to include exchange of information by SACCO Societies and other licensed financial institutions. SACCOS as deposit-taking businesses must be connected to other financial institutions because they cannot live in isolation.

Finally, the amendments deal with registration and licensing of SACCO Societies who will be taking function of deposit-taking as a business.

These are the highlights of the proposed amendments as contained in the Bill. The amendment contained in Clause 2 seeks to insert New Sections 27A and 27B. The new proposed Clause 27A prescribes words that shall be used as part of the business name of a SACCO like the deposit-taking SACCO. It further provides that a person shall not use the words "deposit-taking SACCO" or any of its derivatives unless the person is licensed under this Act.

Clause 2 proposes that all cooperative societies registered or incorporated as deposit-taking or as credit cooperative societies will within one year of registration obtain a license from the SACCO Societies.

Clause 3 proposes insertion of New Section 48A that gives SACCO Societies Regulatory Authority powers to make a determination on the suitability of every person proposed to act as a director. So, that section will look at and vet the person who will be a director in any SACCO.

Clause 4 proposes an amendment in Section 50 to give the Authority the power to prescribe the minimum standards on significant members of a SACCO society. They must have a continuous professional development, training and certification necessary for one to serve as a director of a SACCO. Even the qualifications are set out in Clause 4 which amends Section 50 of the parent Act.

This is a small Bill. As I conclude, I wish to assure Hon. Members that the proposals in this Bill comply with the provisions of the Constitution and the Standing Orders. So, there is no conflict. The amendments proposed will again immensely improve the operation and regulation of SACCO in our country. That is what is required as part of the reforms taking place in the financial sector.

With those many remarks, the Chair of the Departmental Committee on Trade, Industry and Cooperatives Hon. Kanini Kega has consulted far and wide with the stakeholders and I am sure he is in a position to enrich the Bill based on the views of the stakeholders that will set the ball rolling on the kind of amendments that we will introduce.

I beg to move and ask the Chair to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you, Leader of the Majority Party for moving the Bill. I call upon the Member for Kieni, Hon. Kanini Kega to second.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker I beg to second this very important Bill.

At the outset, I support the Leader of the Majority Party who has clearly said that this Bill was with us in the 11<sup>th</sup> Parliament and went through the process in the National Assembly but “died” in the other House, as we are told. We hope this time round it is not going to die there again. We are going to do our part and make sure we forward it as soon as possible.

We have had a number of amendments coming through the SACCOs. There was a time we said that we should consolidate all of them and have one comprehensive amendment Bill coming to the Floor, owing to the fact that we have a new Constitution which we need to align our Acts to.

This Bill has four lines it intends to cure. The first one is deposit-taking. When the word “SACCO” is mentioned what comes to mind of many Kenyans especially now with the emergency of *matatu* SACCOs is a business that is not regulated and or a sector that does not follow the law. It is unfortunate that the word “SACCO” was not made a patent. If it were a patent from the word go, we would not be talking about deposit-taking. But since the name “SACCO” has been taken by other institutions such as *matatu* SACCO or family get together, to differentiate deposit-taking SACCOs I have to make it very clear that not all SACCOs are targeted. The targeted ones are the deposit-taking SACCOs, the ones with Front Office Service Activities (FOSA).

They are not being transformed into banks or even microfinance organisations. Since they offer quasi-banking facilities or functions, there has to be quite a number of parameters that they have to follow.

Since the introduction of the prudential regulatory framework for the deposit-taking SACCOs (DTs) in 2010, concerns have been raised relating to the usage of the name “SACCO” or “SACCO society” within the larger cooperative sector. In particular, a lot of concerns have emerged relating to the extent to which DTs which are licensed and prudentially regulated can be distinctively and uniquely distinguished from other cooperative societies including other Non-deposit-taking SACCOs (NDTs). The NDTs are not part of this. These concerns are born out of the fact that many cooperative societies have been invariably using the name “SACCO societies” to the extent that in common parlance, it has become difficult to know the difference between a cooperative society, a SACCO society, a deposit-taking society and a non-deposit-taking SACCO society. The emergence and exponential growth of the *matatu* or PSV SACCOs have further fuelled the concerns with critical questions being asked as to the extent of the SACCO

Societies Regulatory Authority's (SASRA) jurisdiction, mandate and whether it extends to such entities like *matatu* or PSV SACCOs. It will be clear that whenever those SACCOs which are not deposit-taking have issues, it is not the Authority that is supposed to deal with them but other entities.

Indeed, it is this competitive business edge that NDTs and other forms of cooperative societies clamour for and ride on when they use the name "SACCO" or "SACCO society" which is born by general public perception that the entire SACCO society segment is prudentially regulated. With this amendment, we will not have the issues of an institution coming up with a small SACCO then open a Front Office Savings Activity (FOSA), take deposits for about two months then when you go for your deposits after a month, it is not there. Members here can attest that literally in all our villages or in most of the shopping centres in our rural areas, there is a form of a FOSA. They do not operate in perpetuity, they operate for some time, close, open another SACCO and they move that way. So, this one is supposed to cure that.

Secondly, it is the issue of information sharing about the good people and also the bad people. You cannot be borrowing money from the SACCO today, disappear, go to another SACCO, borrow money and disappear. It is not going to happen because there will be information sharing not just within the SACCOs but also within the financial institutions. So, if you borrow money in the SACCO, if you do not pay for that money, do not think that you are off the hook. You can still be got through that web of information sharing. That is also very critical.

Thirdly, it is on the qualification of the directors. Some of these big SACCOs have huge asset base. From the records that we have, the SACCOs that we have in the country have in excess of assets worth Kshs1 trillion with deposits of over Kshs500 billion. That is a lot of money. For those people who are going to manage those SACCOs, they must have at least some minimum managerial qualification. The proposal is to have at least some minimum qualification and some vetting. This is for the big SACCOs which are doing quasi-banking functions.

With those few remarks, I second this Bill.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The first one on the request list is the Member for Suba North, Adhiambo Akoth.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the proposed amendment. It is not controversial. I had put in my request for the earlier one but because this is non-controversial, I have no issues with it.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Members, if you had put your request for a different Order, remove your cards. Member for Kiminini?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. Indeed, this is a very important Bill that is long overdue. I listened carefully when it was being moved and seconded. Indeed, it is true that *matatu* SACCOs have nothing to do with this Bill. Those ones are being regulated by the Ministry of Industry, Trade and Cooperatives. This Bill is focusing on the SACCOs doing the front office activities, whereby they are focusing on the quasi-banking aspect. I am happy to note that the issue of the Banking Act has been brought in. When you look at the Micro-Finance Act where we have microfinance institutions which are also doing quasi-banking, you find that they are also being regulated through the Banking Act. In this case, the main player here is the Central Bank of Kenya (CBK).

Cooperatives play a very critical role in the economic development of this country. As the Chair of the Departmental Committee on Trade, Industry and Cooperatives has clearly put it, the SACCO industry right now has an asset base of more than Kshs1 trillion. The SACCOs are way bigger than some banks. Surprisingly, directorship of those SACCOs is based on how much you have saved. In terms of academic qualification, some directors do not even understand or interpret a basic financial statement.

I am happy to note that one of the amendments is going to put some qualification of the directors. If you are a director, you are at the apex of the institution. In terms of decision-making, you are there to oversee management, to provide supervision and critical decisions when it comes to approval. I am happy to note that from today henceforth, the directors will have some minimum academic qualifications and not only minimum academic qualifications, they are also supposed to have continuous professional development just like other professions because the world is changing.

They must also embrace the aspect of Information, Communication and Technology (ICT). Most of these SACCOs are so huge but they are using some outdated systems when it comes to issues of data. So, embracing use of ICT is going to bring efficiency, effectiveness and it is going to ensure that this issue of credit sharing works. If you are not credit worthy, you can jump from one SACCO to another. You fleece this and you take off. Those days are gone.

I thank the Committee for the good work they have tried to put across. We know that SASRA is a regulatory institution but I have gone to counties but I have not seen it. It must be cascaded down. It is high time this institution got well-funded from the Exchequer. I am saying this so that when the Chair will be replying, he responds because this is a budget-making House. We should increase the funding for SASRA so as to devolve its services because it is there for regulatory and supervision purposes.

We have giant SACCOs in this country. Talk of Harambee SACCO, the teachers' SACCO, talk of Magereza SACCO and Stima SACCO. These control billions of shillings. Unfortunately, you will find that some of the directors who are unscrupulous end up siphoning that money. They take off with the money because the issue of integrity was not there. You cannot be a director only on academic qualification. You must have integrity. Chapter 6 of the Constitution is very clear. For those SACCOs that have been having directors because of the lion share they have, those days are gone. If SACCOs are well regulated they can give competition to the banks. When you go to the banks to get a loan, it takes forever at times. We have things like emergency loans in SACCOs. When you want to get an emergency loan in the SACCO, some of them take as little as one or two hours and you get your money. We have PACOSO in this Parliament. I have been saving with it. I have been saving money for my campaigns in that SACCO. It is very efficient.

For you Hon. Members who want to come for the second time, please save your money with Parliament SACCO. You will have your money any time you need it, within an hour or 30 minutes. This is what the SACCOs are doing. There are a lot of hidden charges that you do not know when you go to the banking industry to get your money. It takes forever for you to access your money. This regulation is going to add a lot of value as far as the success of the SACCOs is concerned.

When you go to Canada you will find that the SACCO movement is at the top. It has contributed very well to the success of the economy. It is important we embrace these issues of SACCOs for us to enhance the issues of success even when it comes to businesses. You can easily get your money for business ventures through the SACCOs. It is important this regulatory

framework is implemented. It is long overdue. I know it overstayed in the other House, the lower House. We are requesting the Senators to speed up when this Bill finds its way there. I do not know whether it will go back. We do not want to go into mediation. We are humbly requesting them to look at this Bill objectively. We are not debating for purposes of competing on which House is higher than the other. We are debating and legislating for public good of this country.

Having said that, I also want to briefly mention something crucial the Leader of the Majority Party had mentioned - interest rates. I know we passed a law for capping of interest rates by banks, whereby there can only be a margin of 14 per cent on the base rate. When it comes to SACCOs, they have been charging 12 per cent interest on reducing balance. This is something that we must embrace so that we can provide alternatives in this country so that we move forward. I bought my first house in Nairobi through a SACCO. I am humbly requesting the Hon. Members wherever they are to support this. I bought land in Kitengela through the university SACCO called Chuna SACCO. They bought land and then sold it at affordable price without putting a big profit margin. This is an industry that has to be regulated. When you look at Government policy of housing, if we embrace the issues of SACCOs, this country is going to go very far.

There is the issue of maize where I come from. It is high time we move in. It is very disappointing to learn that the Government is giving Kshs2,300 per bag of maize. The poor farmers from Trans Nzoia, Uasin Gishu and Bungoma are really suffering. The production cost of maize is way beyond Kshs2,300. It is the responsibility of Government to take care of the interests of its citizens – the great farmers of this country in this case. It is very shameful what is happening. I saw the chairman of the Strategic Grain Reserve (SGR) who is a former minister, a good farmer and someone I respect so much coming to say that Kshs2,300 is okay. It is very disappointing. We are disappointed. As a Member from that region, we are doing a petition to the Government to review the prices and go to at least Kshs3,500. That is so that the poor farmer is able to recoup the money he used. It is the process of this money that we take to these SACCOs.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There is an intervention by the Chair the Departmental Committee on Trade, Industry and Cooperatives.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Speaker. My good friend, Hon. Chris, was doing extremely very well until he started digressing to the issues of maize which I know are very pertinent. Since I know there are quite a number who want to make contribution, I would suggest that he gives the opportunity to other Members to also make contribution. He has made very good contribution.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kanini Kega, what is your problem? What is out of order?

**Hon. Kanini Kega** (Kieni, JP): It is on the issue of relevance. When he started digressing from the core issues, about maize, I thought it is not relevant though they are very pertinent to him.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you. I appreciate the issue of relevance but, one must also build debate. Again, you cannot control time for Hon. Chris Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): With all due respect Hon. Chairman, you know I lead as I follow on matters legislation. He knows that. When you look at the history of SACCOs in this country, they started from the agricultural sector. That is how they started. So, I am properly in order when I try to link SACCOs to maize. There is so much relevance.

It is a good Bill. We should support it. We must strengthen the regulations. I was just getting disappointed because we also take the proceeds of maize that we get to the SACCOs, for deposit-taking. That is why I am saying the Government's price of Kshs2,300 is a pity. They are not concerned about the welfare of the common *mwananchi*. They should increase the price to Kshs3,500. That is because the proceeds go to the deposit-taking SACCOs. I am trying to bring the linkage so that you see the relevance.

Thank you, Hon. Temporary Deputy Speaker. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Gichugu, Gichimu Githinji.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support. One of the issues coming out very clearly in this Bill shows there will be a clear distinction between the SACCOs that are under the ambit and jurisdiction of SASRA and other SACCOs that will just be governed by the Ministry of Industry, Trade and Cooperatives under the Department of Cooperatives. In this case, SASRA will be able to regulate SACCOs that have been depriving members of their hard earned savings. We have seen in the media SACCOs that I may not have to mention their names here. That might be prejudicial. So many SACCOs have been in the media as having not been able to account to their members of their savings. It will be the responsibility of SASRA to make sure that SACCOs that meet the threshold of a certain savings are categorised as FOSA will now be classified as DT SACCOs. That will remove the confusion that has been there that a SACCO is a SACCO. We have seen *matatu* SACCOs and others in the rural areas where people come together and form close to a self-help group and make them SACCOs or even *boda boda* SACCOs. It is just to bring them together for purposes of security and other issues. I would in this case propose that, going forward, SASRA should be able to do an audit of all the SACCOs within the country which deal with money. That is so that the ones that meet the threshold of becoming DT SACCOs can automatically be enlisted.

It should not be an option for a SACCO to decide whether they will be classified as a DT SACCO or a normal SACCO, it should be based on the financial muscle of a certain SACCO. Should we leave to some SACCOs to just apply, then there will be a lot of conspiracies or even concealing of information. Once audits are done including the bank accounts of SACCOs, then that would come out clearly and SASRA will be in control. I think towards the next level of the Committee of the whole House, it will be good to bring an amendment that DT SACCO will be operational after attaining a certain financial threshold but it will not be an optional thing.

The other thing that this Bill seeks to cure is lack of enough knowledge when it comes to management of SACCOs. We have seen SACCOs collapsing because members and the directors and not endowed with the knowledge that is required to run these SACCOs. This Bill seeks to cure that so that we can have proper management. That lacuna that has been existing in law will be cured through this Bill.

The other issue is on standards. There are significant standards that have to be met. This may also be included in the regulations, but when standards have been met or put in place for some members to go for some training courses or certification and even be able to participate in SACCO affairs, then that protects the SACCO from invasion of other people who are not able to run those SACCOs.

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

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

This Bill also seeks to enhance the issue of accountability. Now SASRA will be able to come in and put sanctions to SACCOs that fall under DT SACCOs and be able to guide them in the matter of ICT. It will also make sure that information will be shared online through SASRA so that someone who may have taken money from a certain SACCO and has not paid will not be able to run to another SACCO and get money. That action will protect the SACCOs from losing money.

With those few remarks, I beg to support this Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Hon. Milemba Omboko.

**Hon. Milemba Omboko** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. At the outset I would like to thank the Chair and the Committee on Trade, Industry and Cooperatives for having brought this Bill having explained that it was in the previous Parliament and “died” in the Senate. This is a Bill which is meant to be watched keenly. I have consulted with the Chair because I was looking through my background of having come from the teaching sector and trade union sector where we have established so many SACCOs in Kenya and we enjoy the benefit of having established and controlled the biggest SACCO not only in Kenya but in Africa, which is the Mwalimu SACCO.

After going through and consulting the Chair, I noticed that this Bill is for the holistic good of the sector. It mainly concerns itself with the issues of registration, licensing these SACCOs especially the deposit-taking SACCOs and also the issue of information sharing between the SACCOs, which I noticed that it will go a long way not only to benefit the SACCOs but also to protect the members who are in these SACCOs so that their money is safeguarded. Therefore, we shall not have the previous histories where we had small SACCOs which tended to multiply from the main one and later on disappeared with our money. We have a few examples which I would not want to mention because we are being covered live.

In the sector of teaching, many of the teachers lost money courtesy of proliferation of small SACCOs which were carrying out the deposit-taking business and which could not sustain themselves, later on those Members lost dearly.

Clause 27 (a) and (b) deals with the issue of deposit-taking. The DT SACCOs classify themselves separately so that they can be known and they are distinct from the other SACCOs. I also enjoy the benefit of having been a teacher of History and Government and so I know the history of SACCOs. The cooperative movement begun around 1908. Hon. Chris has just talked about the agriculture sector, the first one being the Kenya Dairy Cooperative. Later on we moved on to develop the DT SACCOs. Now they have wider scope than the agricultural and consumer SACCOs that came first. They need to be protected. Therefore, Clause 27(a) and (b), is very good because now depositors can know where to deposit their money.

I wish the Chair of the Committee would not go out because this is where he has to listen to me and get the facts. I hope we shall not confine the registration of these SACCOs and limit them to just the institutions that are there because the SACCO movement has revolutionised itself from 1908 when we had the first one coming up. Currently, we are dealing with DT SACCOs. In the present Kenya where there are other new forms of SACCOs like the *boda boda*, they are soon going to become big. They may be allowed to also move forward to start carrying out DT services because they are managing a lot of money. I hope this Bill will not



completely block out the venturing out of the new prototype of SACCOs that are coming up like the *boda boda* and other small-scale businesses which can have more money than the old ones. So that would be very important.

Clause 48 is giving powers to the Authority to determine the suitable people to manage the SACCOs. I support this one fully because for the monies of the workers, investors and the people who are dealing with these SACCOs to be protected well, we need to have a regulation that determines the level of education the leaders are going to have. I support that bit.

The proposed Bill in Clause 50 gives powers to the Authority to impose a certain minimum standard on significant members. I also totally support this and ask Members to support it fully because it is good for this sector. Section 54 allows the SACCOs to exchange information on both performing and non-performing loans. This is good because it protects the SACCOs and the members because some members tend to have a high appetite for borrowing and if they are not checked they can borrow too much and end up being auctioned. Coming from the sector of trade unions and having dealt with workers, this is also dangerous. So, it is not very good when a member over borrows and ends up being auctioned. So sharing of information is very good for the members and the SACCOs.

Basically, the Bill tries to align the original Act of 2008 which dealt with these SACCOs to the new Constitution. It takes into account the fact that devolved governments have a role to play in the development of SACCOs in this country and should therefore be supported fully. As I finish, this is a good Bill which should move fast. Like a Member indicated earlier on, it is a Bill that is generally good for the SACCO system in this country. So, even when it goes to the Senate it should move fast.

What I feared most but later on I was explained to by the Chair was another element in the SACCO movement which wants to introduce a new sector of members who are not necessarily members of that particular SACCO to control these SACCOs, but the Chair assured me and I have read through. I can see that would come in the Statute Law (Miscellaneous Amendments) Bill and thus my waiting for too long was because I feared that item would be here but I can report confidently that it is not here.

Thank you. With those many remarks I beg to support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): A very good contribution, Hon. Omboko. I heard you pleading with the Chair to take note of your contribution and I think that is how it should be because you would have enriched him with the experience that you have had from the union movement in this country from your contributions. However, I am sure the Chair of the Departmental Committee on Trade, Industry and Cooperatives is a man of many talents and he can multitask. As he consults with other Members, he can also listen to Hon. Omboko and take note as he is doing now.

We shall now have contribution from Hon. ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I support this Bill because it is extremely progressive. I congratulate Hon. Kanini Kega with his Committee. This is a progressive Bill that will control our SACCOs.

I notice we have very intelligent Members in this House who are not here by default but by right from what they contribute to the society. When we think of an institution that controls over Kshs1trillion and our budget is still below Kshs 3 trillion, then this institution ought to be well controlled so that it can be more beneficial to our citizens. It will add to our economy if we control well and legislate so that there are no loopholes for other people to siphon funds from such institutions.

I am particularly impressed by Section 54 on sharing of information within the SACCOs. What has made SACCOs collapse at times is the borrowing of members who are not interested with the development of the SACCO but are self-centred. Those are the individuals who normally have this attitude of “I, me and myself.” They do not care about the SACCOs and so they borrow from one SACCO to another, migrate to other places and at the end of the day they fail some of the SACCOs. If there is this sharing of information according to Section 54, if a member is over borrowing from different SACCOs they will be noticed quickly and put under Credit Reference Bureau (CRB) so that the borrowing is controlled just like what is happening in the banks.

We also need to make our citizens understand what a SACCO is, just the way we understand what a bank is; where we deposit and withdraw money. At the moment, Kenyans do not know what the meaning of a SACCO is. Some of them think that it is an association of people during burial meetings, some *boda boda* riders meet around a corner and have a SACCO. So, there is need to differentiate between those SACCOs that are not economically viable and those that are cooperative and should be controlled by the cooperative societies.

We also need to control the qualifications of these people. This is because if we are talking of Kshs1 trillion being managed by unqualified people and directors who became so courtesy of depositing a lot of money, we may not even know the source of this money. Some of them were drug peddlers. Some of them have been chased from Somalia for having been involved in terrorist activities. They come with a lot of money, deposit it and become directors with no financial backgrounds. I can assure you that that SACCO will not only fail but may get into a lot of credit that they may not sort themselves out.

Thank God that Hon. Kanini Kega is still here to listen to this. We need the Government to come in. We have a lot of funds in our Government that are directed to economically empowering a section of a society that it thought to be weaker members of our society. Money in National Council for Persons with Disabilities (NCPWD), Women Fund, Uwezo Fund and Youth Empowerment Fund, can be borrowed and if they can channel their funds through these SACCOs then we will have an economic powerhouse in SACCOs.

Hon. Milemba had talked of the Mwalimu SACCO. Through it, small towns and centres have developed. They get to a place and buy several acres in lump sum, subdivide them among the members and construct houses. If I can give an example, where I come from, there was a place that was full of elephants and they bought it. It is now a very big estate called Mwamba with economic value to the people of Narok. This has happened in several towns and cities because of the Mwalimu SACCO and so they are economically viable. They employ a large section of our citizens.

I support this Bill in totality so that we can control and enhance the activities of these SACCOs.

Thank you very much, Hon. Temporary Deputy Speaker. I do support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Next is the Member for Nambale, Hon. Bunyasi.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. People may not realise but I think over the years many Bills pass through this House but it is this spectrum of society that tends to be most active and it is this lowest level of financial intermediation that is most critical in combating poverty. If you increase the level of financial activity, you first monetise our economies that are largely barter economies, but also at the same time you give people financial comfort at a level in which their capacity to spend is

very high. There is very high propensity to spend and if there are savings it will be good, of course, to invest. It will take care of the basic needs like schools fees and, perhaps, medicals but it will provide a financial within the overall banking system.

In many of our towns like Nambale which is our capital city, it has only one financial services provider. That is our bank. That is where our people go to save their money or they travel much farther out to go to Busia, Bungoma or Mumias if they have to catch a bank. In developed countries, the SACCOs and credit unions have been major vehicles for mopping up savings in distant areas. They get aggregated because they also do bank with others and that way, the affinity of people to their financial intuitions has grown.

In fact, I remember just as recently as 35 years ago, in the USA, there were very few cross-state institutions and many of them had grown from farmers' cooperatives kind of SACCOs. They use different names in different parts of the country but those became the banks. When they grew, they were bought over by conglomerates and you cannot identify them. However, even in rural USA now and in small cities, you still find SACCOs playing a major role. In my career at the World Bank, I always banked and I still bank with the credit union. I do not bank with commercial banks. Again, these are savings of members of staff of a particular institution and their families and so on. These are extremely important.

I am very happy with the changes that are proposed. I am happy that SASRA is beginning to take shape and perhaps have teeth. I hope that SASRA, through the use of ICT, will be able to capture the activities of all SACCOs within which there will be a specific category of deposit-taking SACCOs. Deposit-taking SACCOs have the same philosophical risk arguments as those which do not take deposits. Why? This is because government allows an institution to be set up. People have trust in it because it is registered and they surrender their money to it. Then government has the responsibility to safeguard that trust. In addition to buying shares where you are supposed to take the risk directly individually, you now put in your deposit and you are even now expecting a higher level of trust. So, it is fair and right that we have regulatory environment that tightens and safeguards this trust in these financial institutions.

We have programmes for housing. We think that housing will come from manna or it will be taxed forcefully from salaries of people. That is an approach that is being adopted. The other way that housing has developed is by encouraging SACCOs and saving associations that then provide those small loans that people have used to improve their homes and houses in many parts of the world. So, we are in the right track on this one. However, we are in an environment that has probably greater challenges than many other countries. We have an environment of great impunity where people can get away. We read in the newspapers somebody made off with I do not know how many billions or this or that. They might think that even if I do not pay my loan... If I pretend I want a loan I just take out money. If I am a director and I take off with people's money in these institutions they will not catch up with me. That is what we must fight. We must fight that with all our strength because it is through respect for institutions like these that we shall be able to build the capital base and increase the savings of this nation that provide the funds that will then ultimately go into investment.

Hon. Temporary Deputy Speaker, in the last Parliament, there were strong arguments in this House that said we should remove all youth from the Credit Reference Bureau transactions. Youth in our country is defined as 35 years and below. If you are a 30-year-old man who is cheating, you are not a youth really. If you are a 19-year-old crook, you are an adult. If you are going to develop institutions of this kind in which participants in these institutions are going to belong to all ages, then can we say that you are old enough to transact in borrowing but not old

enough to be reported when your performance is not good? We have to go back and link the strengthening of these institutions with the requirement for accountability in respect of financial transactions. If we do that, we shall instil a sense of responsibility from a very young age.

I have young people in my constituency who are venturing into business and the typical ones do not set up a kiosk. Someone buys a *boda boda*. I have known somebody who has moved from one to three motorcycles. That is phenomenal growth. He is supporting his own family and educating his children. One way he has been financing that is through borrowing from merry-go-round groups. This is an arrangement of getting together and drawing on the resources of other people under an arrangement of trust and using it to invest and paying it back with interest. That is the way societies grow. We are on the right track.

The Departmental Committee on Trade, Industry and Cooperatives was looking at this not from the financial perspective but because it is a cooperative of sorts. We must quickly begin to realise that at this level of intermediation, we are deepening financial intermediation and that, therefore, is linked to the financial sector. There must be active collaboration between this aspect of cooperatives and what the financial sector is doing. We must not be fascinated by big names and big banks. Only a tiny proportion of our citizens operate there. The majority of our citizens operate in this lower level – the unspoken level which I think is really critical. If we strengthen these institutions and create confidence around them, every village in this Republic will have a financial institution and if they do, maybe what will happen when drought hits our northern areas, they will quickly sell their animals and then they can put their money in an institution that is close by and they know who is running it. In the USA, that is what drove where you put your money. You knew who was behind it and not some unknown thing in New York and so on. It was usually in the neighbouring village. You know so and so who is a trusted person is running that association and if he is not, of course you get to run out of the institution. We must continue to build that trust in our people and institutions that our people want so much to embrace.

As we build along these lines, we also have to require other institutions that are not included in SASRA but are critical to strengthen themselves. Try to find records at the Registrar of Companies and Societies. They do not exist. So, you cannot even verify who it is that you are dealing with. Those kinds of collateral institutions also need to be strengthened.

I want to end on the note that this is the kind of thing that we must do. We must speak to it and encourage it. It is the way to go. It is the way that will save our people.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Bunyasi, I always enjoy your contributions. I always learn new things when you say that our youth must engender trust in the things that they do and even if you are youthful then as you enjoy the fruit of youth you must also take the bitter also which is that you must be accountable for your actions. You must not beg to be treated differently just because you are youthful and, therefore, should not be subjected to the full force of the law when you do crooked things. I enjoyed that.

Let us have contributions from Hon. Tum Chebet, Member for Nandi.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Temporary Deputy Speaker, I support this Bill on SACCO societies regulations more so deposit-taking SACCOs in our nation. We need to safeguard members' deposits. When we do so, many people will deposit their money and unemployment will not be an issue in this nation. This is because we will have more people engaged when the SACCOs have a lot of money with them. We need to regulate those societies. We need to have directors who have minimum qualifications and are able to safeguard members' deposits. We will not hear of misappropriation of funds when we have qualified people.

The managers should have relevant qualifications. They should know more on cooperatives and SACCO movements. They should be men and women who are widely read, men and women of integrity and who are accountable. If we do this, we will have a lot of money in our SACCOs and the issue of low gross domestic product (GDP) in Kenya will not exist because they will be paying interest and taxes. We need to protect the SACCOs in our land.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Moi Kipruto, Member for Rongai. Try the next microphone to your left.

**Hon. Kipruto Moi** (Rongai, KANU): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I am a Member of the Departmental Committee on Trade, Industry and Cooperatives. The SACCO movement is a very important one because the SACCO sector in Kenya has experienced tremendous growth over the years. The sector has over 6,000 active SACCOs with over 14 million members. It is very big and vast sector of the economy. Besides helping to enhance financial inclusion, the cooperative movement has a lot of savings of its members to the tune of Kshs500 billion. That is a lot of money.

Because of the importance attached to the movement, in 2010, SASRA was formed. It is a regulatory body that supervises and regulates the SACCO sector. The SASRA created in 2010 has pushed SACCOs to strengthen their corporate governance and also increase capital adequacy which had been a problem and resulted in failed SACCOs. Those are two important duties that SASRA carries out.

Some of the challenges that have been facing SACCOs and in fact, which prompted the introduction of this 2018 Bill include, liquidity, credit information sharing, brand confusion and the need to legally protect the name "SACCO", especially now that we have a DT-SACCO. There is also the issue of suitability tests for those who will run those SACCOS, namely, the directors and members of the board. There is also need to protect the deposits of members in those SACCOS. Before, people would just place their monies in the SACCO and pray to God to protect those monies. Now we need to legally protect those funds. That is why this Bill is before us. It is in light of those challenges that this amendment Bill was brought to Parliament.

Clause 2 amends Section 27. That amendment states that any DT-SACCO must have that word "DT" as part of its name at all times which distinguishes it from other SACCOs that are non-deposit-taking. Once that has been done, no person shall be allowed to even use the word "SACCO". None at all. Every DT-SACCO, therefore, existing before the commencement of this Bill shall be given 12 months to regularise so that it is in tandem with the law. It can have DT-SACCO as part of its name. Part of that clause states that DT-SACCOs shall notify the authorities - the authority here being SASRA - before amending its registered bylaws. Before, they would just convene an annual general meeting (AGM) and decide which bylaws to amend. Now they will have to notify SASRA that they intend to amend their registered bylaws.

Clause 3 allows the Authority to determine the suitability of every person seeking office in SACCOs, whether they are CEOs, directors or board members. There must be a benchmark. A bar must be set so that SASRA can allow you because you do not have a bad reference. They may also bar a person seeking those offices because of their records. That is important because many times people have been running those SACCOs yet they have dubious records and come from dubious backgrounds. You end up having SACCOs that are formed yesterday and they close tomorrow. We do not want that. Corporate governance - which is the word I was looking for - has become a major issue following the recent collapse of banks and SACCOs. SASRA must look into those who are suitable to occupy those positions.

Clause 4 gives powers to this Authority to impose minimum standards on significant members and officers of a SACCO. Persons serving on the board should undertake at least minimum professional courses so that we inculcate a culture of professionalism in the management of SACCOs.

Clause 5 mandates SACCO societies to exchange information. I have heard several other Members talk about credit information sharing between SACCOs, between SACCOs and banks and between SACCOs and microfinance institutions so that we weed out bad borrowers.

With those few remarks, thank you for giving me this opportunity. I am a Member of that Committee. I support the Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Good contribution, Hon. Moi. Let us now have Hon. Ngugi Nduati, Member for Gatanga.

**Hon. Joseph Nduati** (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute.

From the outset, I am a Member of that Committee. Many remarks have been made. I also support the Bill. It will protect our people. As most Kenyans have realised, there are many SACCOs which have been started all over Kenya in our rural areas and markets in very nicely erected buildings. Kenyans have rushed there to take their money. With this Bill, Kenyans will be protected. It is also a nice Bill because we will now be able to distinguish between ordinary SACCOs, *matatu* SACCOs, PSV SACCOs and many mushrooming land-buying companies which have fleeced Kenyans all over by forming companies in the morning and closing them in the evening.

It is also good that this Bill has made a provision to regulate the way this business will be licensed. A criterion has been set for the appointment of directors so that when those directors mess up one company, they do not run to another one.

Another good thing about this Bill is that we will separate the ordinary SACCO from deposit-taking ones. In case we have a SACCO which is running a parallel business, we have recommended that it should be separated, so that in case there is a problem with the deposit-taking SACCO, the other members of the SACCO can continue saving their money.

The Bill has also come up with a criterion of information sharing among the SACCOs. Maybe this one will escalate to the banks so that in case a borrower defaults, this information is shared by the bank and SACCOs. The criterion of appointing directors, and we know most SACCOs are run by people who are incompetent and not well educated, has been set out in this Bill. It is high time we looked at SACCOs, so that as we come up with rules to manage these deposit-taking SACCOs, we also create rules which will also enable the ordinary SACCOs to fine tune their rules.

With those few remarks, Hon. Temporary Deputy Speaker, thank you very much for giving me an opportunity to make my remarks.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. (Dr.) Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me also record that I am a Member of the Committee. We had an opportunity to interact with the stakeholders in respect of this Bill. I stand here to support it. I wish to make a few comments in respect of this Bill.

One, these amendments are meant to strengthen the role of oversight and supervision of SASRA. When you look at the parent Act, it defines what SACCO business is, what deposit-taking is and what non-deposit-taking SACCO relates to. Specifically, this particular Bill requires that any SACCO that purports to be deposit-taking and offers FOSA that we know, as a

matter of branding and registration must include the word “Deposit-Taking” (DT) to differentiate this SACCO from other SACCOS that not necessarily offer FOSA services. When you look at Section 24 of the principal Act, it lists the procedure for purposes of registration as a SACCO. Those procedures suppose that a SACCO can choose not to register as a DT and not to register and be under the supervision of SASRA. Therefore, we expect this particular Bill and amendments that we will move at the Committee of the whole House to make it mandatory that any SACCO that receives deposits from members and any SACCO that at times receives deposits from members who do not belong to the same professional working association should by law operate as a DT SACCO, so that it falls within the purview and supervision of SASRA. It is a matter of choice. We know there are some SACCOS in this society that are operating multibillion businesses but since they have not applied to join FOSA, they are not subject to the supervision of SASRA. As a Committee, we will definitely re-look at that matter.

Secondly, the other issue is basically the issue of credit sharing. I want to deal with that before I come to the other matters. Many of us have developed own assets because of the SACCOS we have belonged to in the many years we have worked. Some of us have paid school fees and our post-graduate studies using loans from SACCOS. So, it is in our best interest that we ensure that SACCOS remain relevant, productive and serve the people of Kenya with very minimal level of fraud that normally happens all over this country.

It will remain relevant and productive to serve the people of Kenya with very minimal levels of fraud that normally happens all over this country. I have an example. In early 2010, we had a very vibrant FOSA business in Funyula Constituency but because of mismanagement, poor governance issues and uncooperative nature of investigative agencies, that particular FOSA is literally on its deathbed.

Therefore, we need to strengthen it. We have some SACCOS in this country that have a bigger capital base than some banks yet banks are heavily regulated by the Banking Act and other relevant Acts. Since all these deal with money and members’ deposits or people’s investments, they surely must be subjected to almost the same stringent regulations by accepting and recognising that the cooperative movement is about relaxing rules to ensure people access their funds at any time to enable them attend to emergencies that might arise.

On the question of credit referencing, we need to encourage SASRA and cooperative societies to stem out fraud, unethical behaviour, criminal behaviour where people borrow from one place then default, go to another place and borrow and default again. We need to rein in serial defaulters. But, of course, we have had issues with credit reference bureaus in this country where you are listed for no apparent reason and when you apply to be delisted, it takes a lot more time. We hope the framework SACCOS will put in place or SASRA will develop will be such that they rely on first hand or updated information so that they do not discourage people or blacklist people and make it difficult for them to access facilities.

An organisation can only deliver depending on the people who run it. If it is run by rotten or bad people, however strong it is, it will collapse. Corporate governance, ethics in management of public and private resources must be central in the management of our economy. I support the proposal to subject the directors, significant members and senior officers to management tests. We should go a little deeper. Probably, we need to subject them to further tests and continuous training in the tenets of corporate governance. Managers must know that they are in positions of trust and hold members’ money as a trustee. As a trustee, they are obliged to protect the funds but not misuse or loot them. Therefore, we will make efforts to tighten up that particular section to make sure that the members who are charged with making critical decisions are subjected to

some form of registration and training so that if they contribute to collapse of a particular SACCO, they should not be allowed to become directors or senior members of staff or any staff at all of any other body. For example, in the banking sector now, if you steal money, it will be impossible for you to get a job in another organisation. But, of course, we need to define “significant members” so that SACCOs are not forced to ask even cashiers and the rest to be subjected to the stringent rules.

We know SACCOs and the cooperative movement are critical mobilisers of resources in this country. With banks having been reluctant to finance businesses and other development activities, probably in protest or to sabotage the interest rate caps, ordinary members of this society have fallen back to SACCOs.

That is where they have been raising funds to undertake development projects to incubate and expand businesses. Therefore, we need to focus a little more attention on the cooperative and the SACCO movement so that it plays its role because the banks might not have the capacity to serve all Kenyans who want seed capital to develop their businesses.

As I conclude, as a Government, we need to make sure that *matatus* that purport to be SACCOs and are not SACCOs, they are cooperative societies, are made to use the correct term. They are not SACCOs because they do not mobilise deposits to support other members. They simply come together for the purpose of regulation. We must force the Commissioner of Cooperatives to write to these so-called *matatu* SACCOs to use the correct term – *matatu* cooperatives.

With those few remarks, I stand to support the Bill.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Oundo, that was a very good contribution. For my own education, later on maybe you could educate me on the difference between corporate governance and good governance. I think there is a difference between those two.

Hon. Aduol Adhiambo.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for opportunity to speak to this Bill which in itself is a very important Bill. As I support this Bill, I would like to focus on the way in which it addresses what has been a very major challenge for SACCO in Kenya. That is, weak leadership and governance. When we consider the manner in which SACCOs have evolved and have become a very key aspect of almost all groups that are organised be they youth groups, women groups, the marginalised groups, persons with disabilities, parents trying to pay school fees and very many other groups that would like to have start-up funds, then we see SACCO as a movement. SACCO societies have become a very key aspect that provides start-up funding for those who would like to engage in entrepreneurial activities.

As I support this Bill, I feel that it has done a very good job by pointing out ways in which we would contribute to strong leadership by providing information and protecting those who would be seeking to put their monies in the SACCOs and who might not be alert to the sort of dangers that they might be getting into. In particular, there would not be room for any of those in the leadership in the SACCOs to amend its registered bylaws without referring to Authority.

There are a number of cases where women groups that tended to work more around the merry-go-rounds had no idea of how they could organise and get loans. Some of them would fall prey to directors or leadership of suspicious character. In this Bill, we can see that there is effort to determine the suitability of those who would be seeking to serve either as directors or officers.



I support it will go a long way to ensure that Kenyans who are committed in making a difference do not lose their money in SACCOs. I support. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mukami, Member for Nyeri.

**Hon. (Ms.) Rahab Mukami** (Nyeri (CWR), JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendment. As a Member of the Departmental Committee on Trade, Industry and Cooperatives, I want to thank the Members who have really supported this amendment.

Most Kenyans do not differentiate between a SACCO society and deposit-taking SACCOs. Now, the DTS have been taking advantage of poor Kenyans. Most members are young and small entrepreneurs. They are small businesspeople who normally join SACCO so that they can get money to do businesses. Those people have been taking advantage of them because they did not have any rules and regulations. That is why we decided to do those amendments to make sure that Kenyans are getting value for their money.

Another thing is about professionalism to run the deposit-taking SACCOs. The people who were taking their money to the SACCOs did not know exactly whether they were taking the money to be deposited or put in the cooperative SACCOs or, they would take loans after. We urge the management of SACCOs to do civic education to our Kenyans so that they can really understand exactly what happens in these SACCOs.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, Member for Nyeri. We shall have Hon. Obara, Member for Kabondo Kasipul.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to speak on this Bill. I stand to support the amendment.

Not to belabour facts that have been stated here, I remember with nostalgia those many years back when we had vibrant SACCOs with businesses thriving in this country. Soon after, we also remember when SACCOs collapsed with millions of shillings of struggling Kenyans trying to raise money or save it for their future. I am happy that the amendment has come at the right time, with very clear guidelines and regulations that will streamline management of SACCOs. This will give Kenyans confidence in saving with the SACCOs once again. I know great SACCOs like the one in my county. It was for teachers. It collapsed with a lot of money. With the kind of numbers we have with the teachers and these regulations coming up, I believe they will be happy that this is finally coming through.

On the leadership, I am happy that sanctions are coming out very clearly on what will happen if one fails. Even as you go for the leadership of a SACCO, you know there are certain sanctions and that you will be held to account if things go wrong.

I once again support the amendment.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Cecily, are you ready to reply? Proceed.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I rise to reply. I thank all the Hon. Members that have truly participated in this important Motion this afternoon – most importantly by giving the necessary support required to make sure we improve on the societies across the country. Surely, by passing this amendment, we are becoming clearer about the roles of these SACCOs. If it is a deposit-taking SACCO, it has to be named as such.

More importantly is issues of governance. We are looking at how to ensure that the leadership in SACCOs is vetted in a good way.

You find a director goes to a particular SACCO, brings it down, is elected in another SACCO, brings it down and there is all these trail of destruction. This is because he or she has a lot of money so they keep getting elected. I am happy that there is vetting of the leadership that we put in these SACCOs even in terms of educational qualification because that also becomes a big hindrance on how these SACCO's are run. There is lack of understanding on how to raise money or conduct sound investment programmes by the SACCOs and they take advantage of the membership especially the farmers back in the villagers who may not understand what is going on.

I am also impressed because they say no SACCO will be allowed to change any bylaws without authority from the SASRA. I think that is really important because in every AGM you will hear that bylaws were changed and they are always changed to suit the leadership of the day so that they can get away with a lot of things that they may be doing wrong. I really want to thank all the Members who have supported us this afternoon and I believe this particular amendment will go along in strengthening the SACCOs across the country and managing them better and also empowering the membership.

With those few remarks, Hon. Temporary Deputy Speaker, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, Hon. Cecily Mbarire. I believe you had something more to say to this.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I wish to rise under Standing Order No. 53(3) that you may defer the putting of the Question on this particular Motion until the next appropriate sitting so that we have enough membership to support it.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Your request has been acceded to. I therefore direct that we move to the next business.

*(Putting of the Question deferred)*

## BILLS

### *Second Reading*

#### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No.2) BILL

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I request that we defer this Order until the next available sitting.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. It is acceded to. Next Order.

### *Second Reading*

#### THE NATIONAL FLAGS, EMBLEMS AND NAMES (AMENDMENT) BILL

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): I further request that this particular Order be deferred until the next available sitting.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Your request is accepted. I direct that we move to the next Order.

*Second Reading*

THE PARLIAMENTARY SERVICE BILL

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Again, I respectfully request that this Order be deferred until the next available sitting.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. It is acceded to.

Hon. Members I want to thank all those who have made contributions this afternoon especially to the SACCO Societies (Amendment) Bill. I think you have made very good contribution. I wish you a good evening.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members the time being 6.54 p.m, this House stands adjourned until Thursday, 8<sup>th</sup> November 2018, at 2.30 p.m.

The House rose at 6.54 p.m.