

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 16<sup>th</sup> February, 2011

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

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

**Mr. Deputy Speaker:** Do you wish to lay a Paper on the Table?

**Mr. Namwamba:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Please, approach the Chair!

*(Mr. Namwamba approached the Chair)*

Order! Order! Hon. Members, apparently, you all understand the rules of the House. The rule of the House is that Papers cannot be laid on the Table without having been brought to the Speaker for his approval. Up until now, the Report had not been brought to the Speaker.

There was a landmark ruling that was made by the Speaker on a similar issue. So, under the circumstances, hon. Namwamba, it is not possible for the Speaker to approve the Papers when he is on the Chair. The Papers have to be brought to his office. You will have to table this at another time after the approval.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. On this matter of great national importance, the Speaker gave very clear instructions to the Committee. He said that the Report should be brought before him before 12.30 p.m. today. In view of what you have just said, the least the House could be done for is for the Chair of the Committee to tell us what has transpired because the country is being held in a state of tension. This is affecting all aspects of the country be it social, economic, or political.

**Mr. Deputy Speaker:** Order, Dr. Khalwale! Indeed, the Chair is conscious of the interest and importance of these Reports. However, the House works on its own rules. The Deputy Speaker was with the Speaker one minute before he came to the House. The rules of the House are clear and they cannot be bent. You should remember very well that there was the issue of the Grand Regency when the Chairman of the Departmental Committee on Finance, Planning and Trade wanted to table a Report without bringing it through the Office of the Speaker. The Deputy Speaker who was in the Chair then disallowed it.

On the basis of the same, the Speaker made a landmark ruling that the Speaker must be presented with the Reports, at least, two hours before they are laid on the Table. Under the circumstances, the Speaker or the Deputy Speaker did not have access to this Report up and until one minute ago when the Deputy Speaker came into the House. We

cannot bend the rules! The rules are the rules! Under the circumstances, the Chair will not allow these Papers to be laid on the Table.

You are lawmakers and you make the regulations and the Standing Orders of the House very clear. The rulings and precedents of the House are very clear too. The least you can do to this country is to respect your own rules and the rules of the House.

*(Applause)*

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

**Mr. Deputy Speaker:** Is it on the same matter? Is it a contestation of the Chair's ruling?

**Mr. Olago:** No, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Proceed!

**Mr. Olago:** Mr. Deputy Speaker, Sir, I respect your ruling on the matter. I wish to bring to your attention as a member of that Committee that the whole of this morning we have had to grapple with very serious issues. For that reason, it was our desire that the Report be laid on the Table because of the concerns that the Speaker raised yesterday and the interest the matter is eliciting in the nation and the House.

Mr. Deputy Speaker, Sir, I wish to plead with you. I do not want us to bend the rules, but I wish to ask for your discretion. Please, use your discretion and allow the Report to be laid on the Table.

**Mr. Deputy Speaker:** Hon. Members, the Chair in consultation with the Speaker decided that they are not going to bend the rules of the House. Up until two minutes before I left the Office of the Speaker to come here, we were waiting for you to bring the Report to the Speaker's Office for approval.

Hon. Members, grand standings and playing to the cameras aside, you are lawmakers and you expect Kenyans to obey the laws that you make here. The least that can be expected of you is to also respect the rules of the House and the Standing Orders which you create here as a House. Until such a time that you change the rules, the rules are the rules.

**Ms. A. Abdalla:** On a point of order, Mr. Deputy Speaker, Sir. I wish to seek your direction on a matter that could be related to what has happened to the Departmental Committee on Justice and Legal Affairs, but it is not limited to that. It is with regard to the way this House addresses minority opinion.

As an old hon. Member of this House, I have been basing my understanding of how the House relates to issues of dissenting opinion on my understanding of Standing Order No.179 (2) which states thus: -

“The minutes of a select committee shall be kept in the same form as the Votes and Proceedings of a Committee of the Whole House:

Provided that where a vote on a question is not unanimous, the names of the members voting for and against the question or declining to vote respectively shall be recorded in the minutes.”

Mr. Deputy Speaker, Sir, in the last nine years, I have confined my minority opinion to the minutes of a Report. There was a period of time in the Ninth Parliament when I and another Member had a dissenting view in a Committee and we raised the matter with the Speaker requesting that we have a separate Report from that of the

majority. At that point, I was advised that our Standing Orders do not provide for a threshold of having a dissenting Report.

I am not saying that this should apply to the current Report by the Departmental Committee on Justice and Legal Affairs, but we have a lot of dissents in Committees. I want to withdraw the aspect of anticipating debate. However, I still want to urge you that sometimes we relate to issues of a dissenting Report and include it in the Report of a Departmental Committee in such a substantive manner that the flow of the Committee is lost. I, therefore, seek your direction as to how we should proceed.

*(Applause)*

**Mr. Midiwo:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek your direction because it is my understanding, going by the rules of the House, that there is no Report from the Departmental Committee on Justice and Legal Affairs before this House. The point of order by hon. A. Abdalla, with all due respect, is anticipating debate and telling this House things that it is not seized of. I seek your direction.

**Ms. A. Abdalla:** On a point of order, Mr. Deputy Speaker, Sir. I consulted the Speaker and he told me that for the future of how Reports should be done, I should raise this matter so that we deal with it not as relating to this particular Committee's Report. We are going to have many Reports that have dissenting opinion.

*(Applause)*

**Mr. Deputy Speaker:** Order, hon. Members! The point of order that hon. A. Abdalla raised, within the understanding of the Chair, is not based on any specific Report. It is a general guideline for Reports that will come to the Floor and will not have unanimity. Under the circumstances, the Chair will give a direction on that, on notice.

**The Assistant Minister for Public Works (Mr. Kiunjuri):** On a point of order, Mr. Deputy Speaker, Sir. I also rise to seek guidance from the Chair. As you know, this issue is of grave importance to the nation. Already, this issue has taken a partisan dimension.

**Mr. Deputy Speaker:** What issue are you referring to, Mr. Kiunjuri?

**The Assistant Minister for Public Works (Mr. Kiunjuri):** Mr. Deputy Speaker, Sir, the issue on the discussion of the nominations---

**Mr. Deputy Speaker:** For the purpose of the transaction of business in this House, there is no matter that is before the House for discussion.

**The Assistant Minister for Public Works (Mr. Kiunjuri):** Mr. Deputy Speaker, Sir, that is what I am saying. Allow me one minute. When the Speaker ruled yesterday, he was very clear that this report be tabled in any form. The clarification I am seeking is what he really meant by those words "in any form". I would like to know whether this means that he can even receive the report in his own office or otherwise.

Mr. Deputy Speaker, Sir, we would like clarification on this issue because we do not know when this report was completed or whether there is intention to delay debate on it. Now that even tomorrow there is intention to move a Motion of Adjournment so that we go---

**Mr. Deputy Speaker:** Order, Mr. Kiunjuri. When it comes to the rules of the House, until such time that the House itself changes its own rules, whether it is the 221 or 210 Members of Parliament who will be in unanimity, the Chair will not be moved by that. The Chair is very categorical. The rule is there. The precedents are there. The hon. Members of the Committee did not conform to the requirements of the rule. Under the circumstances---

**Mr. Jirongo:** What are you doing about it?

**Mr. Deputy Speaker:** Hon. Cyrus Jirongo, you will spend the rest of the day outside this House.

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

**Mr. Deputy Speaker:** Order. How do you rise on a point of order when there is a stranger in the House? Order, Mr. Keter!

Mr. Jirongo, you are a stranger in the House.

*(Mr. Jirongo withdrew from the Chamber)*

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

**Mr. Deputy Speaker:** Is it on the ruling of the Chair?

**Mr. Keter:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** You are out of order, Mr. Keter.

**Mr. Keter:** Mr. Deputy Speaker, Sir, it is on the procedure on how we receive reports from Committees of this House.

**Mr. Deputy Speaker:** Who receives the reports?

**Mr. Keter:** Mr. Deputy Speaker, Sir, I thought reports are supposed to be tabled in the House, but not to be given to the Speaker.

**Mr. Deputy Speaker:** Order! You are thoroughly out of order! It is a pity for an hon. Member who is on his second or third term in the House, to fail to understand the principles of the House.

Mr. Keter, you have been in the Cabinet on the Government side for a very short period of time for you to fail to understand the basic rules of the House.

Next Order!

## QUESTION BY PRIVATE NOTICE

### MURDER OF MR. JOHN KURIA WAKABA AT LIKIA

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private notice.

(a) Under what circumstances did a group of over 100 armed persons attack and kill Mr. John Kuria Wakaba while he was harvesting maize on his farm at Likia in Mau-Narok Division of Njoro District on Tuesday, 1<sup>st</sup> February, 2011?

(b) What is the Minister doing with respect to Messrs John Macharia Mugo, Macharia Kururu and Musa Gatonye among others, who are hospitalized at the Nakuru Provincial General Hospital with severe injuries sustained from attacks by the same attackers?

(c) What steps has the Minister taken in order to arrest the heightened state of insecurity in Mau-Narok Division, which is now spilling over to the neighbouring Narok District?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg to reply.

(a) On 1<sup>st</sup> February, 2011 at 2.00 p.m.---

*(Loud consultations)*

Mr. Deputy Speaker, Sir, consultations are too high for me to continue. Please, protect me.

**Mr. Deputy Speaker:** Order, hon. Members!  
Proceed, Mr. Ojode.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg to reply.

(a) On 1<sup>st</sup> February, 2011, between 2.00 p.m. and 3.00 p.m., about 20 Maasai herdsmen were grazing their cattle in the Mau Forest extension. The herdsmen, without provocation, attacked Mr. John Kuria Wakaba aged 70 years as he was harvesting maize at Gwitimere area of Likia extension which is part of the Mau Forest and is used by farmers for cultivation.

He died on the spot. Another farmer, John Macharia aged 37 years, sustained serious injuries after being attacked while harvesting Irish potatoes in the same area.

(b) As concerns the hospitalized people, my Ministry will liaise with the Ministry of Health to ensure that they get good treatment. We will also liaise with the Ministry of Health if there is any other medical need that might be requested by the victims.

(c) Security has been beefed up in the area with deployment of GSU, ASTU and Administration Police (RPU) who are backing up regular police to ensure peace and security prevails within the area.

These officers have intensified mobile patrols in Likia, Mau Narok, Gwitimere, Tipis, Ololkuto and Kasuku Farm where tension was high following the attacks.

Mr. Deputy Speaker, Sir, we have equally deployed six vehicles for patrols in the affected areas and the registration numbers are the following: GKA 291, Landcruiser; GKA 181F, Landcruiser; GKA 631L, Landcruiser; GKA 385S, Landcruiser; GKA 402P, Land Rover; GKA 082F, Nissan Lorry.

Further, on 2<sup>nd</sup> February, 2011, police arrested five suspects within Gwitimere area who were found to be in possession of dangerous weapons and attempted murder of Musa Gatonye. The suspects who have been arrested are as follows: Wikoya Lemara, Simon Lemara, Sioya Lemara, Johnson Lemara and Seketa Lemara.

The suspects were arraigned in court vide Mau Narok police station criminal file No.761/16/2011. The case is pending before court.

Mr. Deputy Speaker, Sir, the Government organized and held a National Cohesion and Reconciliation and Healing meeting at Tipis Market on 9<sup>th</sup> February. The meeting was presided over by officials from the National Cohesion headquarters. The meeting was also attended by district security and intelligence committees from Narok North and Njoro districts. This was intended to make communities in the area reconcile and live in harmony.

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for answering this Question, I feel so much irritated. He says they have been able to arrest a few suspects. However, on that material day, this *mzee* was harvesting his maize when he was attacked. He was in the company of some women and they saw the attackers. Among the main attackers who killed this *mzee*, was ole Leketa Kipelengenyé who has not been arrested. I would like the Assistant Minister to state whether they have arrested this man or not.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I do not wish to say here who will be arrested and who will not be arrested. The police are looking for those people who caused mayhem and they will be arrested.

This is not the first time that this kind of problem has occurred. During harvesting period, we normally have people who go and attack the farmers.

Mr. Deputy Speaker, Sir, the police are looking for many more; not two or three. We will look for those fellows and arrest them.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, you will notice that the attack on John Kuria Wakaba was triggered by Maasai herdsmen who were grazing their cattle. Could he indicate to this House what precautionary measures he has taken to avoid that kind of situation in future and allow the two communities to live harmoniously?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, we have involved elders from both sides. We are reconciling the two communities and things are working very well. On 9<sup>th</sup> February, 2011, we convened a meeting and very many elders, from both sides, attended. They spoke at length and agreed to live in peace and harmony. Meanwhile, we have beefed up security to allow those who are doing their business to live peacefully without any interference from other quarters.

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House whether he is aware that there are over 200 Morans who are feasting at a place called Miangini, Olungutu Division, with the intention of invading Mau-Narok Division on Saturday and harvesting wheat and barley? They are saying that, that is their land and they will reclaim it.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, any intruder who walks into somebody's farm, to either harvest or take what is already in the farm by force--- The law is very clear on how to deal with them. I have beefed up security in that area. Should there be such a problem, the culprits will be dealt with. They will face the wrath of the security team. That should not be a problem to the hon. Member. We are taking care of it.

## ORAL ANSWERS TO QUESTIONS

*Question No.586*

### LIST OF PEOPLE EMPLOYED BY NHIF IN THREE YEARS

**Mr. Chachu** asked the Minister for Medical Services:-

(a) whether he could table a list of all persons employed by the National Hospital Insurance Fund (NHIF) in the past three years, indicating their respective constituencies and districts of origin;

- (b) the criteria used in employing staff at NHIF; and,
- (c) the measures he has put in place to ensure equity in employment at NHIF.

**The Assistant Minister for Medical Services (Mr. Kambi):** Mr. Deputy Speaker, Sir, I beg to reply.

- (a) The list of persons employed by NHIF in the past three years, indicating their respective constituencies and districts of origin is hereby tabled.

*(Mr. Kambi laid the document  
on the Table)*

- (b) For managerial positions, applications are invited through the print media, citing the qualifications required. Successful applicants are subjected to competitive interviews to rank them. Thereafter, the available posts are filled on the basis of a merit score of the applicants. For lower level posts, NHIF uses applications stored in its data base. Whenever posts arise, only five applicants from the data base are subjected to competitive interviews and then recruited in the order of merit.
- (c) At present, the NHIF emphasizes on merit when filling vacancies. However, the health sector is presently reviewing its employment policy to ensure, among other things, that it gives consideration to concerns of equity, gender, disability and marginal groups as enshrined in the Constitution. The NHIF is a key stakeholder in the ongoing discussions. It is anticipated that once the review is finalized, the recruitment exercise will be fully compliant with the new Constitution.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, this Question has a bearing on equity. I have looked at the list that has been laid on the Table. For the last three years, no single person has been hired from North Horr. I want to know why the NHIF has not employed any person from North Horr and yet, they have been applying in great numbers every year, for the last three years. Why has the NHIF not given employment opportunities to the people of North Horr?

**Mr. Kambi:** Mr. Deputy Speaker, Sir, as I said, we only recruit those who qualify. There might be many applicants from his constituency. However, if they are not qualified, it is difficult for us to employ them.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, the Assistant Minister is implying that people from North Horr who have been applying are not qualified for those positions. I know, as a matter of fact, that many of them are from the medical field and some are clinical officers. They have been applying but they have not been given that opportunity.

**Mr. Kambi:** Mr. Deputy Speaker, Sir, I am not aware of that. However, as an Assistant Minister, I will investigate. If there are such malpractices, I agree with him that we will punish those who are practicing them.

**Mr. Letimalo:** Thank you, Mr. Deputy Speaker, Sir. The NHIF is not only discriminative in employment, but also in other ways. We know of officers who have been due for promotion, but have stagnated for a long time due to discrimination in that organization. What is the Assistant Minister doing to ensure that officers who are due for promotion are not discriminated against just because they come from marginalized communities?

**Mr. Kambi:** Mr. Deputy Speaker, Sir, I do not know whether we have a problem of discrimination at the NHIF. However, as I said earlier, I will investigate and if what the hon. Member has said is true, we will take the necessary action against those officers.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, now that I have brought this problem to the attention of the Assistant Minister and the NHIF, could he, in the spirit of equity, consider applying affirmative action for the people of North Horr and other Kenyans in future recruitments?

**Mr. Kambi:** Mr. Deputy Speaker, Sir, as I said earlier, we have a policy that all these positions should be equally distributed, not only among the counties, but among the constituencies. So, that problem will become history.

*Question No.591*

NON-DEPLOYMENT OF DOS IN  
MAKUENI CONSTITUENCY

**Mr. Kiilu** asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Kitise, Mbitini, Nguu, Kanthuni, Mavindini and Kalamba divisions in Makueni Constituency have been operating without District Officers for the last two years; and,

(b) what is the reason for non-deployment of the District Officers and when the Officers will be posted.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, I wish to seek your indulgence and that of the House because I have the answer but some facts are missing. With your discretion, I can answer the Question tomorrow or Tuesday next week.

**Mr. Deputy Speaker:** Fair enough! The Chair directs that this Question appears on the Order Paper on Tuesday next week.

*Question No.604*

CAUSE OF FIRE IN MWEMBE  
TAYARI MARKET

**Mr. Yakub** asked the Deputy Prime Minister and Minister for Local Government:-

(a) what was the cause of fire in Mwembe Tayari Market in Mombasa in February 2003;

(b) how many traders had stalls in the Market as at that time; and,

(c) when the Ministry will compensate all the stall owners.

**The Assistant Minister, Office of Deputy Prime Minister and Ministry of Local Government** (Mr. Nguyai): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The fire was caused by an electrical fault.

(b) There were 356 stalls and 170 stalls were destroyed while the balance of 186 remained.



(c) The market is owned by the Municipal Council of Mombasa, which insures its assets while individual traders are expected to insure their wares.

**Mr. Yakub:** Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for the answer. It is common practice that between two parties there must be an agreement. I would like him to table the agreement between the Municipal Council of Mombasa and the traders proving that the traders are supposed to insure their own wares.

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I do not have the agreement that states that the traders should insure their wares, but it is the practice in all business premises that the property is insured by the owner and all the business wares are then insured by the traders.

**Mr. Deputy Speaker:** Hon. Yakub, the last supplementary question on the same!

**Mr. Yakub:** Mr. Deputy Speaker, Sir, with all due respect, some Members were really interested to interrogate this Question. But to prove to the Assistant Minister that for the first time he is not right, I will table evidence to show that the Municipal Council of Mombasa paid some of the traders. Why were they paid part of the payment if they were supposed to insure their wares?

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I will obviously want to scrutinize the documents to find out whether there is a payment voucher accompanying those cheques. If there is a payment voucher accompanying those cheques, then I would know the purpose of the payment and if there is none, then I would want to interrogate and find out whether those cheques were indeed paid as a result of the fire.

#### *Question No.744*

#### LACK OF WATER IN SAMBURU

**Ms. Leshomo** alimuuliza Waziri wa Maji na Unyunyizaji:-

(a) Je, ana habari ya kwamba wakazi wa eneo la Samburu wamekumbwa na shida kubwa ya uhaba wa maji; na,

(b) Serikali inapanga kuchukua hatua gani kabambe kuhakikisha ya kwamba wakazi wa wilaya hiyo wamepata maji.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Bw. Naibu Spika, ninaomba kujibu.

(a) Ninafahamu ya kwamba wakazi wa eneo la Samburu wamekumbwa na shida kubwa ya uhaba wa maji kutokana na hali ya ukame ambayo imekumba maeneo ya kaskazini, mashariki na sehemu nyingine za Jamhuri ya Kenya. Ukame huu umeathiri sehemu nyingi huku maji katika visima yakipungua na mabwawa ya maji yakikauka.

(b) Wizara yangu, kupitia kwa Northern Water Services Board, imeandaa njia kabambe za kusambaza maji katika eneo la Samburu kutumia malori huku usambazaji wa maji kutoka kwa visima na mabwawa ukiendelea. Eneo la samburu litanufaika na shilingi milioni kumi ambazo Wizara yangu imetenga ili kudumisha huduma ya maji wakati huu wa ukame. Wizara yangu imeteua kamati nne ambazo jukumu zao ni kushughulikia juhudi ya kurekebisha visima kwa dharura katika maeneo ambayo imeathiriwa.

**Ms. Leshomo:** Bw. Naibu Spika, inaonekana Waziri Msaidizi hajaelewa kabisa kuwa watu wako na shida ya maji. Sehemu hizi zote ziko na shida ya maji. Kwa sasa, watu hawana njia yo yote ya kupata maji. Lori ambazo Waziri Msaidizi amesema kuwa

zinatumiwa kupeleka maji, hazijaonekana. Kuna sehemu ambayo hata chakula ikipelekwa sasa hii, watu hawana njia yo yote ya kupata maji. Mifugo inakufa kwa sababu ya kukosa maji. Hakuna lori yo yote ambayo inasambaza maji na visima vimekauka vyote. Ningemuomba Waziri Msaidizi aelezee kwa njia ambayo inaeleweka.

**Mr. Waititu:** Bw. Naibu Spika, niko na thibitisho kwamba tumetuma pesa katika sehemu hizi. Niko na nakala ya Authority to Incur Expenditure (AIE) kuonyesha kwamba tarehe 21 mwezi uliopita, tulituma shilingi milioni tano katika Samburu East na shilingi milioni mbili na nusu katika Samburu North. Pia, tulituma milioni mbili na nusu katika Samburu Central tarehe 20 mwezi uliyopita. Niko na nakala hizi kuthibitisha kwamba hizi pesa zimetumwa kule ili waweze kuzitumia.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Kwa nidhamu, Bw. Naibu Spika. Ningetaka kumsihi Waziri Msaidizi mwenzangu atuelezee kwa Kiswahili sanifu maana ya AIE.

**Mr. Deputy Speaker:** Hiyo nidhamu yako si halali! Wewe ni Waziri Msaidizi mwenzake na ukitaka kumueleza ukae karibu na yeye umwambie.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Bw. Naibu Spika, ninaomba Waziri Msaidizi mwenzangu atuelezee maana ya AIE

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. You have promised this House that one of these afternoons, you will discipline a Minister for interrogating another Minister. This being a very good afternoon, I suggest that you take that opportunity and discipline only one Minister.

**Mr. Deputy Speaker:** Waziri Msaidizi, unataka kupewa nidhamu?

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Bw. Naibu wa Spika, ningetaka kumsaidia mwenzangu Waziri Msaidizi, hon. Waititu.

**Mr. Deputy Speaker:** Unataka kumpatia maelezo?

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Bw. Naibu Spika, ningetaka kuomba, kwa heshima, nimsaidie Waziri Msaidizi, hon. Waititu, kama ndugu yangu.

**Mr. Deputy Speaker:** Hon. Waititu, umekubali kusaidiwa na Waziri Msaidizi mwenzako?

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Bw. Naibu Spika, sioni kama kuna haja anisaidie kwa sababu AIE ni kibali cha kutumia pesa za Serikali.

**Mr. Letimalo:** Kwa Hoja ya Nidhamu, Bw. Naibu Spika. Hizo AIEs tumepata katika Samburu County. Ukweli ni kuwa visima vyote vimekauka na mabawa yamekauka. Tegemeo la watu kupata maji huko ni zile tanks ambazo zililetwa mwaka uliopita. Je, ni haki kwa Waziri Msaidizi kusema kuwa hili jambo limetatuliwa kwa sababu tumepata pesa? Hizi pesa zitatumika namna gani ikiwa hakuna lori za kusambaza maji?

**Mr. Waititu:** Bw. Naibu Spika, hizi pesa zitatumiawa kukomboa lori kutoka kwa watu binafsi. Tumewapatia tenki za kubebea maji kwa lori.

**Mr. Deputy Speaker:** Last question, hon. Leshomo!

**Mr. Bahari:** Jambo la nidhamu, Bw. Naibu wa Spika!

**Mr. Deputy Speaker:** Nidhamu, mhe. Bahari!

**Ms. Leshomo:** Bw. Naibu wa Spika, Waziri Msaidizi amesema kwamba amepeleka AIE, na tunajua kwamba AIE ni karatasi. Ninaomba atuthibitishie iwapo ametuma pesa ama kartasi.

Pili, alisema kwamba magari yatakombolewa. Je, angependa kusema kwamba wamepeleka huko “kartasi” hiyo kama idhini kwa maafisa wao kukomboa magari? Wasipopewa idhini, maafisa kwenye kaunti hawawezi kukomboa magari. Waziri Msaidizi angethibitisha kwamba wamekubali kukomboa magari, na kwamba pesa zimefika Maralal ili tuelewe. Kusema AIE imetumwa hakusaidii.

**Mr. Waititu:** Bw. Naibu wa Spika, Wizara yangu, kutoka makao makuu, hutoa idhini ya kutumia pesa kwa afisa mkuu wa maji wilayani. Akishapata AIE, anakuwa na ruhusa ya kutumia pesa kulingana na mahitaji yao. Tumeshatuma malori mawili ya kusafirishia maji, na tayari yako huko. Tumetuma lori moja kutoka kwa kikosi cha Askari Tawala (AP), ambalo ni Four Wheel Drive, ndiyo liweze kupita kwenye barabara mbovu. Pia tumetuma lori lingine kutoka kwa Idara ya Huduma kwa Vijana wa Taifa (NYS). Tumeshawatumia pesa ambazo watatumia kukomboa malori na kununua vipuri vya magari.

**Ms. Leshomo:** Hoja ya nidhamu, Bw. Naibu wa Spika. Waziri Msaidizi amesema kwamba malori yametumwa. Mwaka uliopita, lori la AP lilitumwa huko, na hivi sasa halina magurudumu. Lori hilo limegezwa juu ya mawe. Kwa hivyo, ni afadhali azungumzie kile kitu ambacho kiko.

**Mr. Waititu:** Bw. Naibu wa Spika, miongoni mwa matumizi ya pesa tulizotuma ni kununulia magurudumu magari kama hayo. Tumeshatuma lori lingine ambalo liko na magurudumu yote.

*(Several hon. Members stood up in their places)*

**Mr. Deputy Speaker:** Order! Order, hon. Members! We are now on Prime Minister’s Time.

## **PRIME MINISTER’S TIME**

*Question No.QPM 001*

LOSS OF REVENUE DUE TO “PRICE WARS”  
AMONG MOBILE TELEPHONE COMPANIES

**Mr. Kilonzo:** Mr. Deputy Speaker, Sir, I beg to ask the Prime Minister the following Question.

(a) Could the Prime Minister indicate the amount of taxes paid by the four major mobile companies/operators over the last five years and state how much money in taxes the Government is losing due to the current “price wars”?

(b) What action is the Government taking to protect the 750,000 local shareholders and erosion of the value of Government shareholding in Safaricom Limited from the imminent decline due to the “price wars”?

(c) What measures is the Government taking to ensure that Safaricom does not outsource services such as customer care, IT and network management, which will result in over 1,500 Kenyans being retrenched?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Consumers pay Valued Added Tax (VAT) and Excise Duty on airtime. Telephone companies pay Corporation Tax. The mobile telephone sector in Kenya has generated tax revenues of Kshs99.2 billion in the period between financial years 2005/2006 and 2009/2010. Safaricom accounts for 48 per cent; Bharti Airtel, 46.8 per cent; Telkom Kenya, 7.2 per cent, and YU, 0.1 per cent of the total revenues.

I table a report by the Kenya Revenue Authority (KRA) on Mobile Telephone Sector Analysis, which breaks down the tax contributions by each mobile telephone company between financial years 2005/2006 and 2009/2010.

*(Mr. Raila laid the document on the Table)*

Mr. Deputy Speaker, Sir, the amount of VAT and Excise Duty on airtime payable by each mobile telephone company is dependent on their subscriber bases and degree of usage. The amount of Corporation Tax payable is dependent on profitability. A combination of high debt financing with capitalization and high capital deductions have yielded losses and low Corporation Tax.

Subscribers as at December, 2010 were spread across networks as follows: Safaricom, 15.7 million; Bharti Airtel, 1.9 million; Essar YU, 1.36 million, and Telecom GSM, 832,000.

The tariff war amongst the providers is, therefore, intended at defending territory on the one hand for Safaricom and to expand territory on the other hand for its competitors.

Mr. Deputy Speaker, Sir, according to the KRA, VAT and Excise Tax on airtime collection declined by 37 per cent and 22 per cent, respectively in the fourth quarter of financial year 2009/2010 as compared with the third quarter of the same year. This trend could translate into reduction of up to Kshs5 billion in tax revenue by the end of financial year 2010/2011.

Recent trends indicate a growth of 2.8 per cent of Excise Duty on airtime. However, mobile telephone usage has increased by 243 per cent. There is more usage due to increased affordability.

The penetration of mobile telephony has also increased tremendously. The lower tariffs have reduced the cost of doing business. The World Bank estimates that a 10 per cent increase in penetration in mobile telephony corresponds to 0.6 per cent in the Gross Domestic Product (GDP). Reduced tariffs are encouraging network migration, which is a key factor in establishing a competitive mobile telephony market.

(b) The tariff wars are a function of a free and competitive market. The shareholder value in Safaricom is a function of the efficiency, innovation, visionary leadership and high quality customer service. The Government cannot, therefore, interfere in these areas.

(c) Business Process Outsourcing (BPO) is a commercial matter for Safaricom to decide. The Government, under Vision 2030, intends to make Kenya an attractive and

competitive destination for BPO. Business Process Outsourcing does not always result in job losses as it may include the transfer of both the service and workforce to third parties.

The Government has established an inter-Ministerial Committee, chaired by the Ministry of Finance, to deal with this matter. The Committee will analyse the impact of lower tariffs on the economy, the cost of doing business, attractiveness to BPO, increased penetration, affordability, *et cetera*.

Mr. Deputy Speaker, Sir, in order to safeguard revenue collection, the Government is considering adopting tax measures which are not dependent on mobile telephone tariffs as these are subject to unilateral changes by telephone operators.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, before I ask a supplementary question, I want to declare my interest in this matter, having been a shareholder of this company and having lost a lot of money, I believe, along with many other Kenyans, because nobody has ever benefitted from this deal.

Mr. Deputy Speaker, Sir, just to refresh your memory, when there was a censure Motion on the then Minister for Finance, hon. Khalwale had the following to say from the Floor of this House:-

“To address Kenyans who were conned into buying shares in the Initial Public Offer (IPO) of Safaricom, the then Minister must go.”

Mr. Deputy Speaker, Sir, those words have come to be true. Safaricom is over 50 per cent Kenyan. It is a Kenyan multi-national corporation with over 750,000 local shareholding and 35 per cent Government shareholding. The Permanent Secretary (PS) in the same Ministry had the following to say on the mobile phone tariff wars:-

“The Government and millions of Kenyans have heavily invested in the communication sector, and any losses in the investment could have a ripple effect on the economy. I am not opposed to reduction in prices but they have to make economic sense. The competition has to take care of re-investment in the sector as well as shareholding.”

So, my first clarification is to ask whether the Government is conning its own people by coming up with policies which are going to ensure that within one or two years the value of Safaricom share is going to go as low as Kshs2.

The other clarification is on the issue of employment. The Prime Minister has cleverly avoided answering part (c) of the Question. The competitors have their call centres in their home countries. It is a requirement in those countries that a particular percentage of the operator must be owned locally, yet that is no longer a requirement here. If we allow all these telephone operators to have call centres back at home, is the Government keeping its promise of creating employment for the youth?

**Mr. Deputy Speaker:** The Rt. Hon. Prime Minister, would you respond to one question at a time or do you want to take a few more questions?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I will take one question at a time. I agree with the hon. Member that there can sometimes be negative competition. In other words, companies can actually compete themselves out of business. It is also accepted worldwide that competition is healthy. When we had a monopoly, the cost of telephone services was too high. Remember that at one time, just to get a telephone set cost as much as Kshs120,000. When the market was liberalized, the cost came down and it is now just about Kshs2,000 or less. So, the cost of communication needs to be made affordable to as many people as possible. That is exactly what is

happening. We have one of the highest penetration rates in the world. Close to 20 million people have mobile telephone sets. What has been a problem is the cost. People make fewer calls because they cannot afford them. If the costs are lowered, the volumes will increase and the economy will benefit. That is the reason why we have said that we have no intention to interfere with this competition.

There are call centres which are outside the country, but there are others which are in the country. Whereas we have reduced those that employ directly, these services are outsourced and more jobs are generally created within the economy. That will help us to deal with the issue of unemployment.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, I thank the Prime Minister for that answer. While it is true that competition is healthy, a free market economy does not mean *laissez faire*. The issue of inter-connectivity fees is very important; in this case, this competition is going to lead to complete demise of the industry, and so those people who are not yet connected will never get connected. What is the Government doing, bearing in mind that Airtel Kenya did not have a GSM platform in India? In fact, the profits that they are making in Africa, and specifically in Kenya, is what they are using to set up a GSM platform in India, while our own Safaricom is collapsing. What is the Government doing to ensure that while we adhere to free market economics, we still ensure that our locally bred companies have full protection from the existence of adequate inter-connectivity fees?

**The Prime Minister (Mr. Raila):** Mr. Deputy Speaker, Sir, In fact, I am going to address this particular subject next week, that is, the issue of the cost of inter-connectivity. For now, I want to say that in the rest of the world, it is very easy to be able to connect or to transfer from one network to the other network, but because we have enjoyed monopoly for far too long, interconnectivity fees have remained very high. We have discussed this matter with the Minister for Information and Communications to ensure that the cost is made more affordable.

Airtel Kenya has invested heavily here in Kenya, and to that extent it is a Kenyan company. We are talking about attracting foreign investment in our country. So, we should not try to discriminate. If we are coming up with an economic rate, it is not only Safaricom Limited that is going to suffer; even Airtel itself will suffer. So, if Airtel can afford it why can Safaricom Limited not afford it? Time has come for Safaricom Limited to, also, face competition.

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I want to touch on the issue of employment, particularly the issue of out-sourcing. Airtel Kenya and Yu have outsourced a number of services, which has resulted directly in job losses in Kenya. Telkom Kenya CEO, Mr. Michael Gossen, and I want to quote him, said:-

“The price wars could result in restructuring of their work force”.

This is another way of saying that they are going to cut back on direct employment. On 8<sup>th</sup> February, 2011, Mr. Bob Collymore, the CEO of Safaricom, was quoted as saying that there are 3,000 people whom we need to keep the engine running in Safaricom. Right now, our strategy is not to reduce the work force and I have made it clear.”

That is for now, but it is going to affect them in future and they will be forced to cut jobs. The question we want to put to the Prime Minister, notwithstanding his arguments about the issue of out-sourcing is; how is the Government coming in to protect jobs for Kenyans? So, many of these people who are employed in this sector are young

Kenyans. They are in the ICT sector and have nowhere else to go. How is the Government coming in to prevent job losses?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, the Government is very concerned about job security for Kenyans, who are in employment and we will do everything possible to protect jobs. However, we must also look at the other side of the equation. That is the profit side. The companies that he is talking about are used to making billions and billions of shillings every year. Part of that money can be used to retain people in employment, instead of saying that we are going to interfere with competition because jobs are going to be lost. The company that he is referring to has been one of the biggest profit making companies in the country because they pay their staff peanuts. They should pay properly and employ more people.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, many rural Kenyans do not have access to mobile network coverage. The Prime Minister, in his statement, mentioned that 20 million Kenyans have access to mobile network coverage, which means that 19 million Kenyans have no access to this vital service. Most of these Kenyans live in rural areas. In neighbouring countries like Uganda and Tanzania, citizens in very tiny villages have access to mobile network coverage, because the Governments provide incentives to the mobile service providers. As a result, the providers are enabled to ensure that most of the citizens actually enjoy mobile services. What measures will our Government take to ensure that many rural Kenyans with limited purchasing power have access to this vital service?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I said “one of the highest” and not “the highest”. However, with 20 million in a population of 39 million, the hon. Member needs to appreciate that those who are remaining are children, some of whom are still being nursed. These are people who are not yet in the age of owning a mobile phone. That leaves a very small percentage of our population who do not have access to mobile telephones.

Mr. Deputy Speaker, Sir, we would like to spread the network as far as possible. That is why we are talking about co-operation amongst these competing companies. For example, they should have shared infrastructure like one tower hosting all the rest instead of duplication, where one operator puts a tower here and the other puts a tower there. This increases the cost. These are some of the issues we are talking about, so that we can have higher penetration of the country, and make it possible and cheaper for our people to communicate with each other.

**Mr. Deputy Speaker:** Let us have Mr. Mututho and then Dr. Khalwale. I think the Right hon. Prime Minister will be able to take the two questions together.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, looking at the figures given by the Right hon. Prime Minister, you realize that YU contributed only 0.1 per cent of the total revenues. If you look at the actual numbers they have 1.4 million subscribers; there is such a huge discrepancy between the revenue earning and the total number of customers. Could the Prime Minister enlighten us on how come that Safaricom Limited pays well 50 times more revenue than YU in relation to the number of subscribers?

Secondly, if you look at Airtel and their customer base, which is about 1.9 to 2 million people compared to Safaricom with about 15 million subscribers, which is about eight times that of Airtel--- Look at the revenue paid by Safaricom. You will find that it is about ten to 15 times more than what Airtel pays. Shall I be in order to ask the Right hon.

Prime Minister what goes on in revenue collection in those two companies to an extent that there is an apparent low taxation for YU and high taxation in the case of Safaricom?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, what we are experiencing today has no precedent in the world. This company went to Malawi, the Government of Malawi was forced to intervene. They went to Uganda and the same happened. They went to the Democratic Republic of Congo and the same happened. Finally they went to Sri Lanka.

**An hon. Member:** Which company?

**Dr. Khalwale:** Airtel!

Mr. Deputy Speaker, Sir, for the benefit of the House, in Sri Lanka when they discovered that this was a problem, they moved in by introducing a floor price. They said the wars can go on but they can only go this far down. They put the floor price.

Airtel in Sri Lanka went to the Court of Appeal and lost. They then went to the Supreme Court of Sri Lanka, which said it must protect jobs and investments by the locals. I am going this route because I want to ask the Prime Minister, who is purely a politician and the Minister who is purely a politician, why they have refused to listen to our technocrats. Our technocrat there is none other than the Permanent Secretary, Dr. Bitange Ndemo.

I have taken the trouble of downloading his Curriculum Vitae from the internet. This is an eminent Kenyan. He got his Doctor of Philosophy (PhD) Degree in industrial economics. His thesis was on "Growth Determinants of Micro and Small Manufacturing Enterprises in Kenya". He got it from the University of Sheffield in the year 2000.

Dr. Ndemo has advised this Government---

**Mr. Deputy Speaker:** Can you ask your question?

**Dr. Khalwale:** I am about to ask my question, Mr. Deputy Speaker, Sir. It is important that I build it.

On 24<sup>th</sup> January 2011, Dr. Ndemo had the following to say to the Government. The Permanent Secretary, the Ministry of Information and Communications strongly opposed the price wars saying they did not make business sense, and added that he had asked the Communications Commission of Kenya (CCK) to look into the issue. The Kenya Revenue Authority (KRA) also expressed fears that the price wars might lead to reduction in tax collection.

Mr. Deputy Speaker, Sir, what is this that politicians know to the extent that they ignore the advice from technocrats, outstanding sons of this Republic, who are patriotic just because they want to respond to expediency?

**Mr. Deputy Speaker:** Order, Dr. Khalwale! Is that a statement or a question?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, the question is, why can the Government not listen to the technocrats and put a floor price, so that these price wars are controlled?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, Mr. Mututho is concerned about the differentials in tax revenues, or contributions, by the different service providers. I would want to say that I do not have the formula, which the KRA uses in levying these taxes. I think that will account for the differentials that there are relative to the figures. That information is easily available at the KRA; the figures I have are from the KRA itself.

Mr. Deputy Speaker, Sir, I have listened very carefully to Dr. Khalwale. I am not aware of the information that Dr. Khalwale is trying to provide, that Dr. Ndemo has advised this Government. Dr. Ndemo himself is part of this Government. He is a



Permanent Secretary. We listen to expert advice, but there are several other advisors and there are also several different opinions on a number of issues. Therefore, the PhD which Dr. Ndemo did is of no consequence in as far as the Government policy is concerned.

*(Applause)*

**Dr. Khalwale:** On a point of information, Mr. Speaker, Sir.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I do not need information because I am answering the hon. Member's question.

**Mr. Deputy Speaker:** Order, Dr. Khalwale! The Right hon. Prime Minister does not need your information.

Proceed, Right hon. Prime Minister.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, it would be unfortunate if we were to be fighting the price wars of the operators in this House. Some operators would sponsor people to come and fight their wars in this House.

*(Applause)*

Mr. Deputy Speaker, Sir, commercial competition is healthy. No company is so mad that it can try to lower its prices to a level where it makes losses. I would really urge hon. Members; let us allow healthy capitalist competition. Let the House not become the agents of trying to fight the war for, and on behalf of, one against the other.

Thank you.

**Mr. Mungatana:** On a point of order, Mr. Deputy Speaker, Sir. This is a bit serious. The Prime Minister has asserted here that we must, as a House, allow healthy and capitalist competition, yet he is aware that uncontrolled capitalist competition is what almost brought the American economy to its knees.

This is why we are saying: Why can you not look at that case of Sri Lanka? We have raised the issue of job losses; we are raising the issue of loss of revenue. Why can the Prime Minister not look at that case and see whether there is something that we are missing? Could the Prime Minister at least on behalf of Kenyans undertake to look at this so that we save the situation? We should not have unhealthy capitalist competition.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I had said earlier on that I was going to address this issue more comprehensively next week. But I also want to inform hon. Members that I am going to convene a meeting - I have already scheduled it - of all the operators in this sector in order to discuss, with a view to levelling the playing field. The Government's responsibility is to be a regulator so that the field is level for all the regulators. This is our responsibility and we are going to do it properly so that the competition continues to remain healthy.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, initially I had declined to buy shares from *Safaricom* until I heard the Prime Minister encouraging Kenyans. I then went ahead and bought. So, when this matter comes here, it is not a matter of fighting price wars. There are Kenyans who were advised by the Government, including the Prime Minister, that this is a good investment. It is very serious. I am wondering whether the Government coned its own citizens, because they bought shares which were offloaded by

the same Government. So, this clearly amounts to the Government coning its own citizens by abandoning them at this time.

Is the Government prepared to compensate the shareholders, because what the Government promised has turned out not to be true?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I did not mislead any Kenyan. I also bought very heavily into *Safaricom* and I have not disposed of those shares. Buying shares in the capital market is like a gamble; you will make profits when the going is good and you will also make losses when the going is bad. I want to say that I am still holding onto those shares because I do believe strongly that *Safaricom* shares will go up one day, but this is the risk you must take as an investor. So, it is not that *Safaricom* is going to fall tomorrow. On the other hand, it must be understood that the serious competition that we are talking about did not come immediately after the floating of the IPOs of *Safaricom*. This just started in September last year.

So, what is being complained of has completely no relation to what is happening right now. It is now that they have been woken up from their slumber, because they have had it too good for too long and now there is serious competition.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, I would like to request the Prime Minister; when he will be addressing the issue of connectivity next week – since hon. Members are very much concerned about the issue of employment in this country – to address himself particularly on the clarity of *Safaricom* network. I think this is a very serious matter. The network is not very clear and most of the time it is blocked. It makes communication impossible.

Thank you.

**Mr. Deputy Speaker:** The Rt. Hon. Prime Minister can you go to the Statement.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, the issue that is being raised by Mr. Bahari is the responsibility of the Minister concerned. But since I am going to address this issue, I may as well answer it.

## PRIME MINISTERIAL STATEMENT

### IMPLEMENTATION OF THE NEW CONSTITUTION: REALIZING DEVOLUTION

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I would like to focus particularly on devolution. I would like to make a brief statement on an area that I strongly feel that our country needs to start giving some serious thought to as we prepare to implement priority areas of our new Constitution.

One of the highlights of our new Constitution is the provision for the devolved system of Government. The creation of the devolved Government is one of the far reaching reforms in our governance structure which if efficiently implemented, has the potential to enhance Kenya's stability and development.

Devolution means the decentralization and democratization of power, services and resources. It entails great accountability and transparency in the exercise of power.

Chapter 10 of the new Constitution outlines our national aspirations with respect to devolution. They include, fostering diversity, enhanced people participation, governance, equity and greater recognition of the role of women in public affairs.

Mr. Deputy Speaker, Sir, the reforms envisaged under devolution will have to be implemented in a manner that is consistent and coordinated across the national Government. The transition needs to be properly planned to avoid any disruption in the provision of essential Government services. There are issues we need to start exercising our minds about if we are to make devolution a success. One of the requirements of the devolved Government is that one third of the seats in the County Assembly and one third of the positions in the County Government will have to be occupied by women. That is the law.

As I travel across the country, I get the feeling that this message has not sunk down enough and very little sensitization is going on. Women have for long been relegated to the role of observers in a political game dominated by men. Kenya's politics has over the time become very masculine and quite physical. It has also become a very expensive affair. Because of these two features, our women have largely been locked out of politics. Women supported this Constitution so wholeheartedly because it marked the beginning of their long sought liberation. It guarantees that one third of all elected or appointed posts in Government go to women. It binds political parties to pay special attention to gender parity, an obvious departure from what has been the norm.

Mr. Deputy Speaker, Sir, I want to make an appeal for due attention to be paid to the provisions on women. I want to appeal to national and international organizations and to institutions like the *Maendeleo ya Wanawake* to begin the process of preparing and empowering women for the political positions where they are guaranteed certain numbers by law. I feel the time has come for our institutions and our international supporters to embark on a deliberate campaign of preparing women for the roles they have to take up, particularly in politics in the coming elections. It is my belief that women's entry into politics, with the desired numbers, will see them make a mark in other areas of our economy and public life.

Mr. Deputy Speaker, Sir, we all agree on the need to cultivate the culture of financial restraint in our counties. We need to ensure that county governments will have the capacity to manage their financial affairs. We must avoid the risk of resources being provided to counties without having the capacity and accountability mechanism to spend them responsibly and efficiently. We need a well designed and implemented public finance management system for devolved governments which preserves a substantial degree of autonomy in making physical decisions. If controls are inadequate or information quality is poor, county governments' performance and accountability will be undermined.

Mr. Deputy Speaker, Sir, it is not an exaggeration to say that time is not on our side, particularly in regard to implementing the provisions of the county governments. In recent years, we have seen squabbles stall even mundane initiatives like deciding the location of a district headquarters. As leaders from various designated counties, we need to start brainstorming on these issues. Do we need to build new headquarters for the counties or do we turn the existing facilities like the offices of the Provincial Commissioners and District Commissioners into offices of the county governments? We need to avoid the risk that resources will be provided to local governments without the capacity and accountability to spend them responsibly and efficiently. We need to ensure that county governments will have the capacity to manage their financial affairs. We need a well designed and implemented public finance management system for devolved

governments, which preserves a substantial degree of autonomy in making fiscal decisions. If controls are inadequate or information quality is poor, county governments' performance and accountability will be undermined. Work, therefore, needs to start on capacity building for future human resource managers, auditors, budget controllers and revenue officers ahead of the arrival of the county governments.

Mr. Deputy Speaker, Sir, finally, I would like to inform the House and country at large that the Deputy Prime Minister and Minister for Local Government has constituted a taskforce on devolved Government. The taskforce is to recommend policy and legislative proposals for the implementation of the devolved Government. The taskforce will commence county hearings from 21<sup>st</sup> February, 2011. A fulltime timetable for county hearings will appear in the media by 18<sup>th</sup> February, 2011. The taskforce is expected to complete its work by 30<sup>th</sup> June, 2011. I appeal to the hon. Members and the public to actively engage the taskforce either at the county hearings or by way of memorandum. The offices of the taskforce are at Bima House, 12<sup>th</sup> Floor, Harambee Avenue, Nairobi.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, I want to thank the Prime Minister for his Statement. But while I agree that the issues raised by the Prime Minister are important, I wanted to know from him, as the supervisor and co-coordinator of Government Ministries, what he has done to ensure that the Government departments are fully prepared for whatever he has said.

**Mr. Mureithi:** Mr. Deputy Speaker, Sir, I want to thank the Prime Minister for really bringing to light the devolution process. But I have one point that I would like him to clarify with respect to the legal status of the districts. I have heard him in some areas declining to award districts while he has granted other areas districts recently. We would like to know, since it is not contained in the Constitution, what will be the legal status of districts in future.

**Mrs. Shebesh:** Mr. Deputy Speaker, Sir, the Prime Minister has clearly stated that the provision for one-third representation of either gender is now a Constitutional issue and that in the process of implementation of the New Constitution; realizing devolution, this is an area that the Government is taking very seriously.

Mr. Deputy Speaker, Sir, I am holding a petition that was given to the Speaker by 19 women organizations over the recent appointments. How will Kenyan women take the Government seriously when it is just giving lip service to the one-third affirmative action policy but not doing it in practice? We are tired of lip service. Could the Prime Minister tell us concretely, in line with the current appointments and continuous appointments that happen, where women must always make noise--- This is now a Constitutional matter. How can the women of Kenya take this Government seriously on this issue?

**Mr. Musyimi:** Mr. Deputy Speaker, Sir, I would like to thank the Prime Minister for that speech. He has talked about politics in Kenya being masculine and physical. Politics in Kenya has also become some kind of national addiction, courtesy of politicians and the media. What is the Government doing to make sure that our politics is more peaceful and ideological?

**Mr. Langat:** Mr. Deputy Speaker, Sir, most of the structures that will be required at the county level need to be built now. The Prime Minister has not told us how much funds have been put in place to build those structures like offices and also for recruitment of staff, because I believe they must be recruited before the general elections.

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I will pick up from where hon. Langat was agitating. According to Section 203 of the Constitution, we are going to have in the next Budget 15 per centum being sent to county governments. Also, Section 204 of the Constitution says that there is the Equalization Fund which is 0.5 per cent of the national revenues that have been collected being sent to the county governments. When politicians are elected they will expect the county governors to be up and running. What is it that will be in place for the county governors to move forward? Has the Government considered the proposal that we have developed amongst Members of Parliament in the Caucus, to appoint acting county governors, who will carry out the actual preparatory work? The issue of the taskforce is just talking theories. We want actual civil servants who will take those positions and prepare them for the politicians. Could the Prime Minister tell us whether they will consider appointing those county governors to prepare these places?

**Mr. Deputy Speaker:** Rt. hon. Prime Minister, you may respond to the clarifications that have been sought.

**The Prime Minister (Mr. Raila):** Mr. Deputy Speaker, Sir, hon. Bahari wanted to know what has been done to prepare the Government Ministries in line with the new Constitution.

Mr. Deputy Speaker, Sir, what I am doing here is basically giving a caution that, not only Government, but all of us need to begin to focus our attention to what is coming. As I have already mentioned, we have already set up a task force, which will go around the country to collect views. Within the Government several seminars and workshops have already been held in order to sensitize the Civil Service on the provisions of the new Constitution, and also with regard to the devolved structure.

Mr. Deputy Speaker, Sir, you know, for example, the new Constitution talks of reforming the Provincial Administration, within the next five years. We are not quite clear what that really entails. How do you reform it? Do you reform it by retaining it or how do we bring it to work in line with new structures as we go to the elections? We are already exercising our minds on those issues.

Mr. Deputy Speaker, Sir, districts are administrative units as they are and usually they are formed under an Act of Parliament. They are basically meant to make administration easier for the Government. That is the position that is still going to remain.

Hon. Shebesh, yes, there is a provision for one-third of gender at every level. I want her to appreciate that we are in transition from the old Constitution to the new Constitution.

Mr. Deputy Speaker, Sir, secondly, we need to also have a cultural change. It is not just a matter of prescribing laws or writing constitutions. There is need for us to carry out education, so that our people are made to believe and understand gender equity or equality.

Mr. Deputy Speaker, Sir, there is still a group of our people who are still living in the past. They have not quite accepted that change has come for the better of our country, and that women are equal human beings who need to be given acceptance.

*(Applause)*

We know where we are actually coming from. In the old days, the man was everything. I remember when I was growing, there was a Congolese musician here who actually sang a song and it was actually recorded and sold in music stores. It says:- “*Akili ya bibi haiwezi kushinda ya bwana. Akili ya bibi ni sawa na ya mtoto mdogo.*” So, that is where we are coming from. We must appreciate that we are now here and things must change.

So, the point I am trying to make here is that unless we actually promote women to be elected at county assemblies and not be dominated, we are going to end up with very bloated Assemblies. This is because there is a requirement that they must be one-third. The more they are elected, the better. But if we do not have even a single woman elected as a councillor, then all of them have to be nominated. So, the cost of running those assemblies will be very high. That is the reason why as members of political parties, we must factor this in our programme. We must ensure that we will nominate women and vote for them to be elected Members of Parliament and also Members of county assemblies. It is not that we are paying lip service. The hon. Member will know one of the reasons why we have said that we need to revisit this issue of the appointments is because there is no face of gender in it.

I agree with hon. Musyimi, politics need to be peaceful. You cannot have democracy without democrats. That is reason I am talking about cultural change in our attitudes. We must accept that in a democratic society, political parties are the instruments which are used to change Government and leadership. Political parties compete on the basis of ideologies and idea, not on the basis of age. You can be old, but you have got very young ideas. You can be very young, but you have very old ideas. You wake up and you only think of smoking *bhang*, drinking yourself senseless or you just look for things to go and steal. So, thieves should not be allowed to lead.

*(Applause)*

Mr. Deputy Speaker, Sir, finally, we need to accept in a competition, there will be winners and losers. If you are defeated, then you bow out gracefully and allow the winner to continue.

*(Applause)*

Mr. Deputy Speaker, Sir, hon. Langat said structures need to be there. I was posing the question, do we need to duplicate? If we are going to have a county government and a Governor, do we have to build a new structure, when we have got the DC’s Office or PC’s office there? My view is that it would be a waste of resources. We should use the existing structures for the purposes of administration.

Mr. Deputy Speaker, Sir, secondly, there have been cases where people have been saying, “we will only accept this county, if the headquarters will be in this centre and the county assembly will be in another centre”. That will be duplication of resources. It will be very expensive. That is why we have to agree that we will make good use of the limited resources that we have at our disposal.

I think I have addressed what was raised by hon. Mungatana; what will be in place when we go for elections. If we are only preoccupied at this moment with electioneering, we will forget the most important aspect of our duties; to set up structures

for incoming Government. Immediately, after the next elections, things will change completely. We will have a Governor coming into an empty office. There is not even a clerk. There is not even a sweeper. We will start from the scratch. Our view is that we should begin to develop this capacity now so that when the incoming system comes there will be something to start with. There can be a skeleton staff employed on contract, which can then be confirmed by the incoming Government.

So, I agree with what hon. Mungatana is saying. That is why I brought this subject today to be discussed. I wanted hon. Members to be alive to the challenges that are coming in front so that we begin to work towards setting up structures and putting them in place.

Thank you.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, the county legislative assembly as spelt out in the Constitution in terms of architecture takes the form of what we have in the Kenya National Assembly (KNA). I wanted to find out from the Prime Minister the reason behind placing the structuring of that important organ of governance in the hands of the Ministry of Local Government which, therefore, gives an impression that it may take the form of the chaotic system of the local government. Why could it not be placed under KNA so that it can get the architecture and form of KNA because that is what ideally is supposed to reflect when it takes off?

**Mr. Chachu:** Mr. Deputy Speaker, Sir, under the new constitutional dispensation in our new Constitution, we will have a Senate as well as 47 County Assemblies. The Prime Minister has mentioned that a committee has been formed by the Ministry of Local Government to basically prepare the necessary strategies and structures for those functions. But my understanding is that those county assemblies are county legislatures and they will be more or less micro-parliaments in our counties as well as the Senate. So, who should have the mandate? Is it the Ministry of Local Government or our Parliament which is supposed to restructure those devolved government structures at the county level? I just want to know who should have the mandate to undertake those efforts. Should it be KNA or Ministry of Local Government? By going for devolved governments, we are trying to run away from county councils and local authorities and have a new reality in this country.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to pose a question to the Prime Minister. I appreciate his broad statement this afternoon. Could he indicate to the House the status of the Constituencies Development Fund (CDF) after the establishment of the county governments?

**Mr. Baiya:** Mr. Deputy Speaker, Sir, I also wish to thank the Prime Minister for addressing the House and the nation on the implementation of the new Constitution. But I would like him to indicate whether the process of implementing the new Constitution and the key steps that are required to assure Kenyans that the process of implementing the new Constitution is really on track are being undertaken. Does he think that implementing devolution is the most critical step? What are the most critical steps that are supposed to be put in place and keenly focused on so that we are assured? We are talking about electoral, judicial and other reforms. I believe those ought to be prioritized and addressed.

**Mr. Ogingo:** Mr. Deputy Speaker, Sir, I want to thank the Prime Minister for addressing himself to this issue. This is one of the most important chapters in the

Constitution. Aware that we are going for elections next year and also aware that there is a taskforce in the Office of the Deputy Prime Minister and Minister for Local Government; and also aware that there is something going on in the Office of the Deputy Prime Minister and Minister for Finance; and also aware that there are some people who are opposed to devolution, could the Prime Minister clarify what the time lines are for the legislative action on the structure of devolution and on the financial aspect of devolution? What are the time lines on those pieces of legislation?

*(Applause)*

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, the questions by Mr. Mbadi and Mr. Chachu were identical and they relate to the mandate of the taskforce *vis-a-vis* Parliament. The way that we have operated in the past is that most legislation originates from the Executive and then comes to Parliament. What the Minister for Local Government has done is to set up a taskforce consisting of experts on devolution. Those experts are going to go round the country collecting views from people and professionals and prepare a memorandum which will be translated into a Sessional Paper. That paper will finally come to this House for debate by hon. Members. Therefore, Parliament is going to have an opportunity to input into that policy document before it finally becomes a Government document.

Mr. Njuguna wanted to know the status of CDF. There are several other devolved funds. There is also LATF and bursary fund but since the new Constitution clearly wants to ensure that the Executive has its role as well as the Legislature; that Parliament makes laws and the Executive implements the laws, the devolved funds will all go to the county governments. The county government is going to be the one that is going to use those funds for purposes of development in the counties.

Mr. Baiya wondered why I decided to talk about devolution. That does not mean that we are neglecting any other aspect of the Constitution that needs to be implemented.

*(Applause)*

We are doing many other things as you can see. We are dealing with issues of judicial reforms. We have just set up the Commission on the Implementation of the Constitution (CIC) and it is going to initiate the process--- It will be in charge of the implementation process of the Constitution. However, the aspect of devolution that I brought before the House is something that has to do with the responsibilities of hon. Members as leaders in the country. That is why I brought this aspect here for discussion. It is not that I was trying to transform Parliament into an implementing agency. Parliament has a role to play in the implementation. It is supposed to pass laws in the House.

Mr. Ogindo talked about time lines and that is going to come out of the report of the taskforce. But let me say now - as I conclude - that we have a strong and good Constitution. This Constitution is going to transform the lives of the people of this country. That will only happen if we are able to anchor this Constitution properly. We had a good Constitution from Lancaster House. That Constitution was bastardized by Parliament. It is important that this Parliament does not become like the First Parliament; that this Parliament protects the provisions of this Constitution to the letter.



*(Applause)*

In that Parliament, so many amendments were introduced in the Lancaster House Constitution. Sometimes, they were able to change it within a matter of hours and say: "Parliament is sovereign; we have the power to change it and we are changing it today!" I am quoting one hon. Member. If you go to the HANSARD of 1982, you will see who that Member of Parliament was. They changed it. They introduced Section 2A. The rest is now history.

Mr. Deputy Speaker, Sir, they introduced detention without trial upon the first appointment. They did away with devolution around that time. That is why it is important that as we start to implement this Constitution we start on the right footing. Parliament should not allow itself to be intimidated or blackmailed by anyone, irrespective of who it is; whether it is the Prime Minister or the President of the Republic of Kenya.

**Mr. Chachu:** On a point of order, Mr. Deputy Speaker, Sir. I do not think the Right hon. Prime Minister has responded to my question. The thrust of my question was the wisdom behind the Ministry of Local Government setting up devolved structures, particularly county assemblies instead of using the National Assembly in terms of setting up these structures. I do not understand the wisdom behind that task force.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, the hon. Member would wish to know that in the Government we have given Ministries responsibilities to generate policies which are relevant to them. Within the Government, a devolved Central Government falls under the Ministry of Local Government. That is the reason the Ministry of Local Government has been given the responsibility to do this.

The structure of devolution itself is in the Constitution. In other words, the Ministry of Local Government is not dealing with the structure, but how to operationalise that structure. That is the responsibility of the task force.

**Mr. Deputy Speaker:** Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairlady  
(Dr. Laboso) took the Chair]*

## THE VETTING OF JUDGES AND MAGISTRATES BILL

*Clause 2*

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 2 be amended-

- (a) in the definition of the expression “judge or magistrate”, by inserting the words “judges or” immediately after the words “capacity as”.
- (b) by deleting the definition of the expression “joint secretary”.
- (c) by inserting the following new definition in its proper alphabetical sequence-  
“secretary” means the secretary of the Board appointed under Section 15”

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I welcome this amendment and I agree with it.

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

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

*(Clause 2 as amended agreed to)*

*(Clauses 3, 4, 5 and 6 agreed to)*

*Clause 7*

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 7 be amended-

- (a) In paragraph (a), by deleting the word “six” and substituting therefor the word “all”.
- (b) by deleting paragraph (b)

For purposes of bringing hon. Members on board, this is the particular clause that we were urging that all members of the Board will be Kenyans. We did not need to bring non-citizens because we are all qualified.

So, I propose that we say that all the members shall be Kenyans.

*(Question of the amendment proposed)*

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I wish to oppose that amendment. The reason I would wish to oppose it is because we must be alive to our realities. We will vet our judges and we know that as much as we are patriotic Kenyans, other factors come into play. We want somebody who will be able to look, for instance, at a judgment that a judge has delivered in the past more objectively

and from a more outside perspective as opposed to sometimes our “coloured” views from within Kenya.

So, I therefore, oppose.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I would like to oppose this amendment for the reason that this country has gone through a very difficult period of suspicion of the Judiciary. Many Kenyans have views that touch on this Judiciary. By including three foreigners, particularly senior judges either serving or retired, we want to introduce an element of objectivity, so that in the three boards one of the three will be a non-Kenyan. This is intended to bring balance.

We have done this before. You will recall that the Committee of Experts had three foreigners who did a wonderful job. Even in the Truth, Justice and Reconciliation Commission we have foreigners and so on. Even in the outgoing court on the dispute resolution for the constitutional review, we had three judges from overseas.

I want to plead with the hon. Member who is moving this amendment to forbear this amendment in order to allow the country to have an objective point of view. It is essential that we know that in nearly every complaint, there is a Kenyan. If we create an impression that there is witch-hunting, we will hurt the Judiciary even much more than we did in 2003.

I oppose.

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I stand to oppose this amendment. The reason for that is because the events that have been going on in the country are issues that tend to assume ethnic dimensions and take political parties’ poise and shape. Going by the experience we had with the Committee of Experts, during the constitutional review process, the presence of foreign judges was very stabilizing. I do not see any reason why we cannot benefit from that experience and invite foreign judges to be part of our Vetting Board.

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, because of that first proposal, Clause 7(b), is therefore, superfluous. We will move to the next amendment.

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, the procedure would be, and I stand to be corrected, that it has to be withdrawn or has been moved and defeated. It can never be superfluous. So, I wish to withdraw in view of the fact that the first one did not go through.

**The Temporary Deputy Chairlady** (Dr. Laboso): Thank you Mr. Mungatana.

*(Proposed amendment to Clause 7(b) withdrawn)*

*(Clauses 7 and 8 agreed to)*

*Clause 9*

**The Temporary Deputy Chairlady** (Dr. Laboso): Where is hon. Ms. Karua?

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, Clause 9 was also mine.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Mungatana, if hon. Ms. Karua is not here and she did not give a written request to someone else to move the amendment; it cannot be moved on her behalf.

Could you move your amendment, hon. Mungatana?

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 9 be amended by:-

- (a) Inserting the following new proviso at the end of Sub-clause (5)-
- (b) "Provided that not more than two-thirds of the candidate shall be from one gender",
- (c) Deleting sub-clause(13)

*(Question of the amendment proposed)*

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, with your indulgence, could the hon. Member clarify the amendment?

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Mungatana, you have been asked to clarify the amendment you are proposing.

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, it would have been good if hon. Members were present during the Second Reading because we debated this in detail. Nevertheless, if you look at Clause 9(5), you will see that provisions with regard to gender are not there. Therefore, for us to ensure that the gender bit of it is taken care of, I propose that we include the line that provided that not more than two-thirds of candidates shall be from one gender. That is the reason for my amendment.

**Mrs. Odhiambo-Mabona:** On a point of order, Madam Temporary Deputy Chairlady. That sounds very clear. However, I did not understand what he meant by deleting Sub-clause 13 because it does not relate to Sub-clause 5 that he spoke about.

**The Temporary Deputy Chairlady** (Dr. Laboso): We are not yet there. We are on Sub-clause 5.

**Mrs. Odhiambo-Mabona:** Yes, Madam Temporary Deputy Chairlady. However, the hon. Member, in moving the amendment, called for the deletion of Sub-clause 13.

**The Temporary Deputy Chairlady** (Dr. Laboso): Could we first deal with Sub-clause 5 and then move to Sub-clause 13?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, arising from the explanation of my very good learned friend, and as long as this is limited to the words; "provided that not more than two-thirds of the candidates shall be from one gender", I welcome that amendment and accept it.

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Mungatana, could you move the second part about Sub-clause 13.

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I think that was a mistake and I withdraw the amendment.

**Mr. Baiya:** Madam Temporary Deputy Chairlady, I think there is a mistake because there was a proposal from the Departmental Committee on Justice and Legal Affairs for deletion of Clause 9(13).

**The Temporary Deputy Chairlady (Dr. Laboso):** Mr. Baiya, we are not yet there. Could you first let him withdraw his amendment then you can move yours? Hon. Mungatana, have you withdrawn your amendment on Sub-clause 13?

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, to make it clearer, if you look at Sub-clause 13, you will see that this is the point where the President and the Prime Minister are to appoint three foreign judges. Now that the other one was not carried, this one must be withdrawn. Therefore, I withdraw.

*(Proposed amendment to Clause 9(13) withdrawn)*

**The Temporary Deputy Chairlady (Dr. Laboso):** Thank you hon. Mungatana. Mr. Minister, could you also bring your proposal which is also similar to the one of the Departmental Committee on Justice and Legal Affairs?

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 9 be amended by deleting Sub-clause 14.

I gave an undertaking to this House during the debate because they were all unanimous that Clause 14 was not acceptable. Therefore, I beg to move.

*(Question of the amendment proposed)*

**Mr. Mbadi:** Madam Temporary Deputy Chairlady, I just want to thank the Minister for listening to the wishes of this House that, that provision was contrary to the objectives of this Bill.

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

*(Clause 9 as amended agreed to)*

*(Clauses 10 and 11 agreed to)*

*Clause 12*

**Mr. Baiya:** Madam Temporary Deputy Chairperson, I beg to move:-

THAT, Clause 12 be amended by-

- (a) Deleting sub-clause 5 and substituting therefor the following new sub-clause-  
“(5) Where a vacancy occurs in the membership of the Board, the President shall, in consultation with the Prime Minister, nominate a candidate from the list of candidates forwarded by the Public Service Commission under Section 9(6), for approval by the National Assembly.”
- (b) Deleting sub-clause (6).

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I welcome this amendment and accept the same.

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

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

*(Clause 12 as amended agreed to)*

*(Clauses 13 and 14 agreed to)*

*Clause 15*

**Mr. Baiya:** Madam Temporary Deputy Chairperson, I beg to move:-

THAT, Clause 15 be amended by-

- (a) Deleting sub-clause (1) and substituting therefor the following new sub-clause-  
“(1) There shall be a secretariat of the Board which shall be headed by a secretary who shall be competitively recruited and appointed by the Board in accordance with this section.
- (b) by deleting sub-clause (2).
- (c) deleting the expression “joint secretary” or “joint secretaries”, as the case may be, wherever it appears and substituting therefor the word “secretary”.

The import of this amendment is to ensure that there is a single Secretariat. The proposal is to have two secretariats, but from the managerial point of view, it does not make sense. The Committee feels that there should be only one Secretariat.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I thank the Committee and accept this amendment as it appears on the Order Paper.

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

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

*(Clause 15 as amended agreed to)*

*(Clauses 16 and 17 agreed to)*

*Clause 18*

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 18 be amended by deleting paragraph (e) of sub-clause (2).

When vetting to determine the suitability of a judge or a magistrate, there are many good things that the Board should determine, but there is one that we have an issue with which talks about the temperament of the judge. This shall include demonstrable possession of compassion, humility, history of courtesy and civility in dealing with others, ability to maintain composure and all these other things. The argument that we have presented is that, first of all, there is no professional doctor in the Board. Secondly, this can be used in a manner to disqualify good judges who can also be able to deal with criminals who do not require courtesy because they have murdered and done things like those. So, very briefly, we had said that this should be dropped. I propose that amendment

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Madam Temporary Deputy Chairlady, I beg to oppose this amendment for the simple reason that as a country and as I said during the Second Reading, we are grappling with a situation in which we must show that we are introducing best practices including best international practices. I already drew the attention of this House to the very big and famous 2007 Edition of the Bangalore Principles of Judicial Conduct. I wish to persuade my learned friend that if he were to listen only to Paragraph 215 at page 141, he would be persuaded, as I have been, that temperance must be left behind. It says that:-

“In court and in chambers, a judge should always act courteously and respect the dignity of all who are doing business there. A judge should also require similar courtesy from those who appear before him or her and from court’s staff and other subject to the judge’s direction or control. A judge should be above personal animosities and must not have favouritists among advocates appearing before the court. Unjustified reprimands of counsels, offensive remarks about litigants or witnesses, cruel jokes and sarcasm and intemperate behavior by a judge undermine both order and decorum in the court. When a judge intervenes, he or she should ensure that impartiality and the perception of impartiality are not adversely affected by the manner of intervention”.

Madam Temporary Deputy Chairlady, this country suffered throughout last year boycotts by advocates of certain courts. We had a situation in which a serving judge, and although he was acquitted, stopped in traffic, pulled out a knife and was allegedly being the subject of road rage. Allow me to read Paragraph 214 of the same recommendations which is international. It says that:-

“A judge must channel anger appropriately. No matter what the provocation, a judicial response must be a judicious one. Even if provoked by a lawyer’s rude conduct, a judge must make appropriate steps to control the courtroom without reiterating. If a reprimand is warranted, it will sometimes be appropriate that it takes place separately

from the disposition of the hearing of the matter of the court. It is never appropriate for a judge to interrupt a lawyer repeatedly without justification or be abused or ridiculing of the lawyer's conduct or argument. On the other hand, no judge is required to listen without interruption to the abuse of the court's process or arguments manifestly without legal merit or abuse directed at the judge or other advocates, parties or witnesses.

Madam Temporary Deputy Chairlady, this is very important for this country. It says as follows:-

“A judge's demeanour is crucial to maintaining his or her impartiality because it is what others see. Improper demeanour can undermine the judicial process by conveying an ingression of bias or indifference. Disrespectful behaviour towards a litigant infringes on the litigant's right to be heard and compromises the dignity and decorum of the courtroom. Lack of courtesy also affects a litigant's satisfaction with the handling of the case. It creates negative impression of courts in general.”

Madam Temporary Deputy Chairlady, I want to persuade this hon. House, particularly hon. Mungatana, who is a distinguished lawyer in his own right; that the words of temperament that we have used in this Bill are addressing Paragraphs 213, 214 and 215 of the Bangalore Principles of Judicial Conduct. These principles have, in fact, incorporated Kenya's own Code of Conduct for judges. They have incorporated the codes of conducts of judicial officers in the entire world. Therefore, if we leave them out, we will be leaving a window. I think our judges should be subjected to this process as necessary.

Thank you.

**Mr. Baiya:** Madam Temporary Deputy Chairlady, I want to also oppose the amendment and endorse the views advanced by the Minister. I am also saying this on behalf of the Departmental Committee on Justice and Legal Affairs. We have had occasion to discuss these principles. I only wish to state that those of us who are aware of what goes on in our courtrooms know too well how critical and very important it is to have in one of our legislations a requirement as to the personal conduct of our magistrates and judges in the course of discharging their professional responsibilities. These are standards which are essential to professional discharge of their responsibilities.

Therefore, I wish to oppose the amendment.

**Dr. Otichilo:** Madam Temporary Deputy Chairlady, I also rise to oppose this amendment and agree with the Minister. Even in the corporate world, these qualities are considered. It is not only in the Judiciary. Therefore, it would be very serious for us to omit these principles in this Bill. Therefore, I want to oppose the amendment.

**The Assistant Minister for Labour (Mr. Ojaamong):** Madam Temporary Deputy Chairlady, I also wish to vehemently oppose this amendment by hon. Mungatana.

As a lawyer, hon. Mungatana has been through our courts and knows exactly what happens there. I have been a victim in our courts, where my lawyer was told to make his final submissions in less than two minutes and even before he uttered a word, he was told: “You have concluded.”

Madam Temporary Deputy Chairlady, in fact, if there is anything to be left out from the procedure for vetting judges it is not the clause on temperament. That is the only way we are going to measure how good a judge is. A judge is supposed to be very sober and listen to people.

I beg to oppose the amendment.



**Mrs. Odhiambo-Mabona:** Madam Temporary Chairlady, I want to explain myself as a Member of the Departmental Committee on Justice and Legal Affairs. When this issue came before the committee, I actually proposed a similar amendment. The reason as to why I was persuaded is because I did have the reasoning of the Minister but after listening to the Minister, I am actually persuaded to support hon. Mungatana.

The reason as to why I am supporting hon. Mungatana is that if you look at what we are trying to do with the principles, you will appreciate that these principles may not have the actual desired effect on the vetting process. We might end up using these standards to get people into the Judiciary. One is not going to use it as a test while one is there. I know us as Kenyans. I have sat in meetings where we have looked at somebody and said: "This woman looks arrogant."

Madam Temporary Deputy Chairlady, we will be using subjective standards, which sometimes may be ethnic-based, to deny people opportunities to be judges. That is how we operate as Kenyans. When one uses fluid words like "demonstrated possession of compassion and humility", we should ask ourselves who made that person lord of our people to tell us how humble another person is. Are you humble yourself?

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Members, in the interest of time, allow me to put the Question.

**Mr. Mungatana:** On a point of order, Madam Temporary Deputy Chairlady. I believe I am entitled to say something in response, particularly to what the Minister has said. Looking at the arguments that the Minister has advanced, it is not true that all the Bangalore Principles must be codified. In fact, it is not true that the entire Judicial Code of Conduct is codified in law. This is a dangerous provision we are putting in this law. The example he used is also a wrong one. What happens on things which happen outside the courtroom, for instance, when a *matatu* blocks a judge's car and the judge loses his temper? It does not mean that he is not a good judge.

Madam Temporary Deputy Chairlady, it must also be known that with respect to the issues raised by hon. Ojaamong, there are other standards contained in this Bill, which say that if any person has pending complaints before the Law Society of Kenya, for instance, when a lawyer had complained that he had been mistreated; if one has a case pending before the Kenya Anti-Corruption Commission or before the Advocates Complaints Commission, one would be disqualified.

These are standards where you can see that somebody wants to be a judge, but there is a complaint against him. Such a person does not deserve to be a judge. However, when we consider subjective issues like how one looks in terms of whether one is humble or not, we will be including a dangerous provision, and it should go.

With those remarks, I beg to stand by the amendment.

**Dr. Khalwale:** On a point of order, Madam Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady (Dr. Laboso):** What is it, Dr. Khalwale?

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I have risen on a point of order because I have realised that if I am not allowed to speak, I will have failed to point out a constitutional issue addressed by this amendment. I beg that you allow me just one minute.

**The Temporary Deputy Chairlady (Dr. Laboso):** What is your point?

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, my point is that the Minister, who is a lawyer, knows very well that one of the reasons as to why Kenyans

supported the new Constitution overwhelmingly was the Bill of Rights. So, if we provide in this Bill an opportunity for the right to serve as a judge to be taken away arbitrarily without even recognising the fact that on that Board we do not have a professional psychiatrist who is able to assess that judge, we will be taking away a human right of the particular judge. That judge's human rights are protected in Article 10 of the Constitution. They are also protected in Article 20, Sub- articles (1) and (2).

*(Mr. M. Kilonzo shook his head)*

Madam Temporary Deputy Chairlady, because the Minister is shaking his head, apparently in disapproval of what I am saying, allow me to quote to him the Constitution. Article 20 says as follows:-

“20. (1)The Bill of Rights applies to all laws and binds all state organs and all persons.

(2) Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.”

Madam Temporary Deputy Chairlady, we cannot allow in this Bill, a subjective principle that is not objective to go ahead and give an opportunity to contravening Articles 10 and 20 as they apply to the human rights of our judges.

I beg to support the amendment.

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Could we have a further amendment by the Committee?

**Mr. Baiya:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 18 be amended in paragraph (e) of subclause (1)

by-

(a) inserting the words “or other relevant information received” immediately after the words “pending complaints”

(b) inserting the word “Advocate” immediately before the words “Disciplinary Committee” appearing in sub-paragraph (iii).

(c) deleting the word “Security” appearing in sub-paragraph (viii).

Madam Temporary Deputy Chairlady, the whole idea is that it is basically addressing the wording of that section. It is addressing factors that can be considered pending complaints from any persons or body. What we want to see is not only pending complaints but also other relevant information from the various bodies listed.

**The Temporary Deputy Chairlady** (Dr. Laboso): Why can you not move all the three?

**Mr. Baiya:** The other amendments are to fine tune the document. For part (b), the amendment to subclause (3) is to ensure that the disciplinary committee is clear what it means. So, we want to say “Advocates Disciplinary Committee”. When we come to part (c), the amendment is on subclause(8) “National Security Intelligence Service”. It is not National Security Intelligence Service but “National Intelligence Service”.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I welcome this amendment and accept the same. I welcome all of them.

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

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

*(Clause 18 as amended agreed to)*

*Clause 19*

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 19 be amended by deleting sub-clause (7) that says a Judge or a Magistrates who submits to vetting shall be entitled, at their own cost, to legal representation.

Madam Temporary Deputy Chairlady, I proposed the amendment to delete this section for the simple reason that if lawyers are to appear with judges for vetting, this process will not be completed today or tomorrow. It will take another ten years. Since this is just for knowing the character of the person who is being vetted to be a judge, and is not a court case or anything, I propose that they just come themselves. Any person who goes to an interview should not be accompanied by lawyers. You do not take lawyers with you when you want to be employed as a bank manager or a Member of Parliament. So, I think that if we go by legal representation, we will be hiding many things. Those are the two reasons which I argued at length during the Second Reading. The judges can just come themselves and be vetted.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I welcome this amendment and accept the same.

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I beg to oppose. Every person has a right to counsel, even if you are going on a date and you want to carry your counsel, it is a constitutional right. You cannot determine for somebody when they should have a counsel. It is a constitutional right; so, you cannot take it away.

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, the amendment by the committee does not stand now that the first one has gone through.

*(Clause 19 as amended agreed to)*

*(Clause 20 agreed to)*

*Clause 21*

**Mr. Baiya:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 21 be deleted.

The reason is that it confers on the Board the right to do what they call preliminary findings; that is, without any reasons, it cause the concerned judge or magistrate to proceed on leave. That is a bit draconian. These are Kenyans whose only bad luck is that they happen to be in office when Kenyans want to reform the Judiciary. So, they should be given their rights, yet this could compromise their rights. They should be accorded a hearing and know the reasons for whatever decisions that are made, so that they can make decisions whether to retire or seek a review.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I want to thank the Committee and welcome this amendment. I accept it.

**The Temporary Deputy Chairlady** (Dr. Laboso): Mrs. Odhiambo-Mabona, do you have something to add?

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I want to support this amendment because the vetting process will take one year. So, this requirement will only delay the process.

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

*(Clause 21 deleted)*

*Clause 22*

**Mr. Baiya:** Mr. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 22 be amended by deleting subclause (1) and substituting therefor the following new subclause-

“(1) The Board shall, within thirty days, inform the concerned judge or magistrate, in writing, of the final determination or their unsuitability, including the reasons for the determination.”

Madam Temporary Deputy Chairlady, the purpose of this is that we are providing that once the Board has conducted its inquiry or investigation into the conduct of any of

the judicial officers, they should have a limited period of 30 days within which to inform the concerned judge or magistrate in writing of their determination and the reason for that determination. To leave it otherwise, is to actually give the Board a blank cheque. They can even stay for six months. So, we want to make this provision as certain as possible for all the parties who will be involved.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I want to salute and thank the Committee. This amendment adds value to the Bill and I welcome it.

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

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

*(Clause 22 as amended agreed to)*

*(Clauses 23 and 24 agreed to)*

*Clause 25*

**Mr. Baiya:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 25 be amended by deleting subclause (2) and substituting therefor the following new subclause-

“(2) A judge or magistrate who-

- (a) elects to leave the judicial service voluntarily shall be entitled to a golden handshake and terminal benefits for early retirement; or
- (b) is found unsuitable after vetting shall be entitled to terminal benefits for early retirement.”

The proposed amendment seeks to provide that the judges or magistrates who may choose not to go through vetting be given a golden handshake besides their terminal benefits for early retirement.

The second part is to confirm that whoever is found unsuitable after the vetting shall be entitled to terminal benefits for early retirement.

The main idea here is to make a distinction between any one of the officers who may elect to retire before vetting. If one elects to go through the vetting, but at the end of the day be found unsuitable, then he or she will not have the benefit of the golden handshake.

Madam Temporary Deputy Chairlady, the whole idea is to encourage anybody who knows his or her track record is not good not to go through the test. It also it recognizes that the country owes compensation to officers who may elect to go home, because they feel it is not dignified to subject themselves to this vetting, which will be

instituted pursuant to the desire to reform the Judiciary. We should give them something that shows them that they have been of good service and can go home. This will be in form of a golden handshake. I think it will be well deserved benefit and necessary cost to the country due to the reforms we intend to effect.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I opposed the amendment for the simple reason that to the extent that the words, “golden handshake” are not defined; we do not know what they actually mean. They offend Chapter 12 of our Constitution on Public Finance, use of public finance prudently. It also opens a window for uncertainty, not to mention that the vetting we are going to be doing is not intended to either punish or reward. It is merely intended to determine whether a judge or magistrate is suitable and *Katiba*-compliant for purposes of the country’s Constitution.

I oppose the use of the words “golden handshake” because they are vague and suggest that they are offending Chapter 12 of the Constitution.

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I beg to support. This is because not everybody who is going to be vetted is a rotten egg. There are categories of persons in the Judiciary who have served with distinction, and may find it demeaning to be taken through a vetting process. The cost of renewal is very high. You cannot compare it to the amount of money that goes down the drain in this country through corruption. If we are committed to renewal we must be willing to pay the price. Therefore, those who opt out, because they do not think it is dignified and because they have served us well, we must give them that benefit. It does not offend the Constitution. There is nothing that alludes to lack of prudence. If I were the Minister, I would have provided a further definition of “golden handshake”. He can do this in subsequent amendments to the Act.

I beg to support.

**The Assistant Minister for Labour** (Mr. Ojamoong): Madam Temporary Deputy Chairlady, I think this is payback period. If we are vetting these people, we are trying to determine how good they have been to this country. The very reason why we are vetting these people is to weed out the bad characters because they have wrecked our Judiciary. The people who have been promoting corruption have already been rewarded.

**Dr. Khalwale:** How?

**The Temporary Deputy Chairlady** (Dr. Laboso): Allow the hon. Member to make his contributions.

**The Assistant Minister for Labour** (Mr. Ojaamong): Dr. Khalwale, do not pretend that this does not exist in Kenya.

*(Laughter)*

Madam Temporary Deputy Chairlady, these are people who have been protecting people who have been handling Goldenberg cases. They have been benefiting and all that.

I want to support the Minister by giving an example of a teacher, because you and I have been teachers. If a school has been performing badly for ten years, then the Ministry says it is going to assess teachers. When eventually we find that one of the teachers has been failing the pupils for ten consecutive years, is this teacher going to be rewarded with a golden handshake? It is common sense!

I vehemently oppose this amendment. If we dealt with these people very ruthlessly, then we shall be fighting corruption in the Judiciary and the people who will join it will say, "If we commit the same crimes, bad things will be there for us in future".

**The Temporary Deputy Chairlady** (Dr. Laboso): Let me give Mr. Njuguna a chance to say one or two words.

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, I wish to join the Vice-Chairperson of the Committee in supporting the proposed amendment. The new Constitution requires very high standards of integrity and dignity. Some of the people serving right now will not be able to meet these criteria. Therefore, it would be very important for these people to prepare to leave, and we should recognize their long service in our courts of law.

I very strongly support the amendment.

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

*(Several hon. Members stood up in their places)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, you do not have the numbers!

*(Clause 25 agreed to)*

*Clause 26*

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 26 be amended by deleting the expression "in consultation with the committee of the National Assembly designated for that purpose".

Madam Temporary Deputy Chairlady, the Board is supposed to be paid certain allowances, but the experience we have had before is that when this is not set by the relevant Minister, it becomes a point of debate and it delays the work.

I also want to quote the Judicial Service Bill, in which it is clearly stated that the Minister will set the allowances. I want to remove the words, "in consultation with the Committee of the National Assembly", so that we do not have delays and people asking for Kshs1 million or Kshs2 million to so as serve. We want payment to be set the way it has been set for other commissions.

*(Question of the amendment proposed)*

**The Minister for Justice National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I want to thank hon. Mungatana. I accept and welcome this amendment.

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

*(Clause 26 as amended agreed to)*

*(Clause 27 agreed to)*

*Clause 28*

**Mr. Mungatana:** Madam Temporary Deputy Chairlady, I beg to propose:-

THAT, Clause 28 be amended in subclause(1) by deleting the expression “without further appropriation that this Act” and substituting therefor the expression “and the appropriation for the expenses shall be included in the Appropriation Bill introduced in the National Assembly to authorize the withdrawal from the Consolidated Fund.”

I propose that these funds should not be charged directly to the Consolidated Fund. They should go through the necessary Appropriations Bill in the same way that all the other funds go through, because that privilege has been left only to the Judiciary Fund and Parliament itself. We do not want every other committee to just charge the Consolidated Fund directly. It will bring confusion to planning and the Budget.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Madam Temporary Deputy Chairlady, I want to thank Mr. Mungatana. I welcome and accept this amendment.

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

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

*(Clause 28 as amended agreed to)*

*(Clauses 29 and 30 agreed to)*

*Clause 31*

**The Temporary Deputy Chairlady** (Dr. Laboso): Where is hon. Baiya or any Member of the Committee?



**Dr. Khalwale:** On a point of order, Madam Temporary Deputy Chairlady. The Members of the Committee have just stepped out briefly, but I noticed that the amendment on the Order Paper is simply trying to harmonize where we had made one Secretariat.

So, on their behalf I beg to move:-

THAT, Clause 31 be amended by deleting the expression “joint secretaries” and substituting therefor the word “secretary”.

*(Question of the amendment proposed)*

**The Minister for Justice National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Madam Temporary Deputy Chairlady, I agree with this amendment.

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

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

*(Clause 31 as amended agreed to)*

*(Clauses 32, 33 and 34 agreed to)*

*Schedule*

**The Temporary Deputy Chairlady (Dr. Laboso):** There is an amendment by the Committee. Minister!

**The Minister for Justice National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Schedule be amended by deleting the word “Joint” appearing immediately before the word “Secretary” wherever it occurs.

*(Question of the amendment proposed)*

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

*(Schedule as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Justice National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Madam Temporary Deputy Chairlady, I beg to move that the Committee do

report to the House its consideration of the Vetting of Judges and Magistrates Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

### **THE VETTING OF JUDGES AND MAGISTRATES BILL**

**Dr. Laboso:** Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Vetting of Judges and Magistrates Bill and approved the same with amendments.

**The Minister for Justice National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Assistant Minister for Labour** (Mr. Ojamoong) seconded.

*(Question proposed)*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for moving fast on the vetting. The only thing I regret is that we are condemning judges and magistrates that would want to leave. This is a very sad day.

**The Assistant Minister for Labour** (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I think I am a very happy man today since we have passed this Bill. I would appeal to the President to assent to this Bill as soon as possible.

The cause of so many deaths that we witnessed after the last General Elections was because all our leaders had no trust in the Judiciary.

At one time, when there was a public day for the public to go and talk to members of the Judiciary at the High Court, people shed tears in broad daylight. So, I believe that this Parliament has done a very good thing to pass this Bill. It would have been very unfortunate if we had rewarded these people who have been serving us so unfairly. The public confidence in the Judiciary had gone very low.

Mr. Temporary Deputy Speaker, Sir, I want to thank the hon. Members who are here today for the good job they have done. I am going to sleep very well today.

*(Question put and agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Vetting of Judges and Magistrates Bill be now read a Third Time.

**The Assistant Minister for Labour** (Mr. Ojaamong) seconded.

*(Question proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, this is a watershed moment for the country. Although it is true that we have not allowed the word “golden handshake”, I have worked with the judges and magistrates of this country for nearly 40 decades and know that they are wonderful and amazing people who have devoted their careers and lives to serving their country. I would like to request them to subject themselves to this law without fear because, ultimately, the small price that they pay by subjecting themselves to vetting will be the greatest gift they give to Kenya; by this country being able to speak with one voice, that we truly have a new Judiciary.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by quoting a phrase from Mr. August Heckscher at a college, on 4<sup>th</sup> April, 1957, when he said:-

“In one sense, freedom is always in a crisis, just as beauty is, and honor and truth; all those things which man has made for himself as a garment against the ever-present blasts of the barbarian spirit. Internal vigilance is the condition not alone of liberty, but of everything which as civilized men, we hold dear.”

Mr. Temporary Deputy Speaker, Sir, I want to salute you for presiding over this Third Reading of the Bill and thank the entire House and country for facilitating this.

*(Question put and agreed to)*

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

*Second Reading*

THE VETERINARY SURGEONS AND  
PARA-PROFESSIONALS BILL

**The Minister for Livestock** (Dr. Kuti): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Veterinary Surgeons and Para-Professionals Bill be now read a Second Time.

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

*[The Temporary Deputy Speaker  
(Dr. Laboso) took the Chair]*

Madam Temporary Deputy Speaker, the livestock sector contributes greatly to the economy of this country. Barely, no household is without one form or another of livestock, be it chicken, cows, goats or camels. This subsector contributes about 12 per cent to the Gross Domestic Product (GDP). It is about 50 per cent of the contribution of the agricultural GDP. In the Arid and Semi-Arid Lands (ASALs) population, over 90 per cent of the people are employed in this subsector. Therefore, it creates very high employment especially in ASALs and other nomadic communities. The potential also for this sector is so great that if fully utilized, it can turn around the economy of this country greatly. But something happened in the 1980s in the form of a Government policy as a result of maybe hard economic times. The Government adopted what is called the Structural Adjustment Programmes (SAPs), where very important roles and subsidies that were provided to the farmers were all turned back. Also, recruitment, surveillance of disease, dipping and regular vaccination were halted. This made us lose so much and the consequences were so bad that the country was stamped as “diseased” in terms of livestock diseases and we could not access international markets.

Madam Temporary Deputy Speaker, now, we are trying to put the pieces together and ensure that this subsector goes back to its old glory days and is able to contribute its full potential. Therefore, The Veterinary Surgeons and Para-Professionals Bill that is before the House, is one of those efforts to put back this subsector on track. This Bill will reorganize and also bring back professionalism. Just as human beings, the health of livestock must be taken care of because eventually, unhealthy animals will, definitely, lead to unhealthy human beings, especially from contact or consumption. Therefore, we need to have a team of professionals that will take care of the health of our livestock, for us to be able to consume quality and healthy livestock and livestock products. In the absence of this Bill in the past, only veterinary surgeons were registered and, therefore, they were the only legally recognized practitioners. But because, as I had said earlier, the Government had stopped hiring veterinary doctors, they only ended up being in high income urban centres, where they treated only pets, including dogs, cats and such like animals, where rich people were able to pay them good money. But in the rural areas, this was left to Animal Health Assistants who hold certificates and even some NGOs have recruited people who they have trained for only two weeks. They are called bare foot vets. They would go around treating our livestock, but they have no registration certificates. There are also other traditional and quacks who easily access medicine and practice veterinary service in those areas. The result is that we ended up with animals, which are either untreated and, therefore, some of them die. Some diseases are not cured or become resistant because of exposure to those medications.

The other result is that our livestock ended up with a lot of residual products in their system. These are unwanted products because of excess drugs that they are exposed to in terms of amount or frequency. This was because many quacks have, therefore, taken advantage of the void that was there in terms of provision of quality veterinary care by qualified personnel.

Madam Temporary Deputy Speaker, also the fact that only veterinary surgeons are legally recognised and registered, then it means that the animal health assistants feel very much unfairly treated. They are certificate and diploma holders, but they cannot practice. However, the fact is that they are actually the people who are mainly in the rural areas. They are the people who really take care of these animals. There is a lot of

dissatisfaction even among the animal health assistants and other certificate and diploma holders in the field of veterinary medicine.

This was so much so that hon. Lekuton decided to bring a Bill to this House that would create a legal existence for the para-professionals. The resultant of that would have been two parallel bodies serving the same sector. It would have become chaos to control those professionals. We were able to convince him. We are now able to table this Bill, which put both veterinary, diploma and certificate holders, which we call para-professionals, together under one law. This Bill creates a Board, which will then register veterinary doctors and also other para-professionals. Through this Bill, we will weed the sector of the bare foot vets, traditional practitioners and quacks who have no training whatsoever, but have managed to put on white coats and move around and inject our animals. They dip our animals. Sometimes, those dips have very poor quality medicine or even the quantities that are put in those dips are so low that it is ineffective and the ticks become even more resistant to that treatment.

Madam Temporary Deputy Speaker, this Bill seeks, therefore, to develop a Kenya Veterinary Board, which will register all practitioners. It will keep the register of those practitioners. It will also supervise the practice of those professionals. It will also ensure continuous education, so that professionals do not lose touch with their practice. They must go back and check out the current practices in the veterinary medicine practice. Therefore, there must be continuous education. They will also inspect the facilities for those Boards, veterinary doctors and para-professionals and ensure that high standards are maintained, so that our livestock are catered for by people who are well trained and who follow the practice to the letter.

Madam Temporary Deputy Speaker, they will also investigate cases of malpractice. The new Constitution gives the Kenyan citizen a lot of rights and opportunity to access quality service for themselves and their livestock. Therefore, there will be bound to be complaints, unlike in the past, where people just inject your animal and the animal dies, and then say, *ni bahati mbaya*. So, I am sure now there will be litigations and such cases will be investigated by the Board. If a practitioner did not do what his training requires him to do, then various punitive measures can be taken by the same Board, including deregistration.

Madam Temporary Deputy Speaker, this Bill seeks to bring to order the practice of veterinary medicine, which is now in chaos. You are fully aware that very expensive and effective antibiotics, which are supposed to be kept in specific manner, are these days kept in what is called agro vets. It is kept by shopkeepers, who on one side, will be selling sugar, farm products and seeds. On the other end, they keep very significant antibiotics that have consequences in terms of residue, resistant to diseases and even dosages. This is so much so that livestock medicine is just like over the counter medicine, such as panadol. In my constituency, people now buy antibiotics, put in a 10cc syringe, draw it, inject 5cc into the animal and the balance of 5cc, they inject into a person who has other infections such as pneumonia or malaria. So, there is a lot of abuse of veterinary medicine.

I will be tabling another Bill, which is now at the Attorney-General's Office; namely, the Veterinary Medicine and Poisons Bill, which also seeks to make sure that veterinary medicine is handled by veterinary doctors. They should not be handled by quacks all over the country. Being a medical doctor, I know very well that pharmacists do

not pay a lot of attention to veterinary medicine as much as they pay attention to human medicine. Human antibiotics are actually kept in a smaller cube, where the pharmacist sees, while the general medicine is kept on the shelves. You will find in pharmacies that there are those restricted antibiotics and medicines, which are kept right inside in a small cube, while bigger pharmacy has cosmetics, panadol, creams and various things. You will be surprised to see veterinary medicine being part of those. In fact, veterinary medicine is kept by even shopkeepers.

So, in trying to bring order to the practice of veterinary medicine, these two Bills, will control professional practice and weed out the quacks. The second one being Veterinary Medicines and Poisons Bill will take care of the medicine, so that the medicine is dispensed by people who have fully being trained. This would bring order in the practice of veterinary medicine. I would like the support of this House to pass this Bill, so that we can put in place a Board which will control the veterinary practice in this country. That will contribute to Vision 2030 because we want to access international markets by creating disease free zones. If we create disease free zones, we will like our animals. That is one of the conditions of disease free zones. The World Animal Health Organization (WAHO) supervises areas with very sensitive diseases. That organization is very keen to see in those disease free zones, how many veterinary doctors are there and whether there are other unqualified people practicing. The presence of those unqualified people and even our animal health assistants are not covered by any law. Therefore, if this law then covers that, then their checklist will be such that we will qualify for those disease free zone and access international market in terms of exporting our meat and other livestock products.

So, Madam Temporary Deputy Speaker, I beg to move.

**The Temporary Deputy Speaker** (Dr. Laboso): Dr. Kuti, who is seconding your Bill?

**The Minister for Livestock Development** (Dr. Kuti): Madam Temporary Deputy Speaker, Dr. Wekesa, who is a veterinary doctor, will second.

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Madam Temporary Deputy Speaker, I would like to thank Dr. Kuti for moving this Bill. I want to commend him for bringing this Bill before the House. I cannot remember when we repealed the Veterinary Surgeons Act that guided the conduct and operations of the veterinary profession. I think since the colonial days, we have not had a review of the Bill to guide the way professionals within that sector should operate. I also commend him for bringing together the people who have always been working together; that is the veterinary surgeons and the animal health assistants or diploma holder who work in the veterinary field.

I know for many years that there have been complaints by para-professionals – that is people who render very good service to the farming community - that they have not been recognized. However, this Bill is now going to correct that problem that is facing that group of people. It was a very well intentioned move not to separate the Bill that governs the technicians and this Bill that now covers the professional veterinarians. By doing so, we have killed two birds with one stone. One, we have brought order in the sector. We have brought veterinary medicine to the level of other professions such as human medicine.

I also want to say that food security is very important in Kenya. When we talk about security, many people always think of guns, spears and people fighting. Little do we give a thought to the fact that a hungry person is a source of insecurity. For a long time, this country has suffered from insecurity of different kinds. Lack of food is a very serious matter. I know that this Bill is going to play a major role in the provision of food. The Minister has referred to the fact that, many years ago, this country was a major exporter of meat and other meat products. It was a major exporter of hides and skins. In fact, I remember that many years ago - in the 1960s - export of hides and skins was third in terms of foreign exchange earning capacity for the Government. So, when we are introducing reforms in that sector, we are doing so with the knowledge that we are going to improve food security. If we look at the number of people who depend on milk, meat or even blood as a food source, it is a good proportion. There are many Kenyans who depend on food products from the animal sector. Therefore, this Bill is very timely and we hope that when this House passes it, we will open up the markets for Kenya to export their livestock and meat products to those who need them.

Madam Temporary Deputy Speaker, this Bill is also going to bring order in the way we do business. The veterinary surgeons have always had a Bill that was not wide enough. The former Bill did not take into consideration the research that is going on today. It did not take into consideration the increasing number of practitioners who come out of our veterinary schools. It did not take into account the very hard working professionals in the field. But what this Bill has done is to establish a board; a board that will be in charge of registering both those groups. It will be registering veterinary surgeons. The registration will be manned by a fully fledged officer. They will pay a minimum amount of money to be licensed. The same will apply to the technicians who will also be registered. That will ensure that the functioning of this sector is brought in line with the practices that we see in the developed countries.

Madam Temporary Deputy Speaker, there is also the problem of the veterinary curriculum. The Board will have on its membership, the dean of the faculty who will be a member. We have to look also at the teaching at our veterinary schools. We have to look at the number of students who ought to be admitted *vis-a-viz* the available jobs.

It is not good to train a person for five years as a veterinary surgeon and when he has completed his degree, he has no job. Similarly, it is not good for the country to train too many technicians without guaranteeing them a job. So, this Board will oversee the university curriculum and intake of students within our institutions of higher learning. It will ensure that universities and the technical schools are taking in people who will be trained and will be assured of getting employment.

Madam Temporary Deputy Speaker, veterinary medicine is a changing profession. It has to keep up with the technology of today. The teaching of veterinary medicine has changed over many years. I qualified 40 years ago and the present veterinarian now has to be able to embrace technology, so that he can perform his job properly.

I am thinking of the way we treat our animals. Very few people know that animals do feel pain. We should treat our animals humanely, be they wildlife, domestic animals or our pets. This is something that I was not taught at school, but now the universities are teaching students how to handle animals. They are teaching human beings to know that as much as you feel pain, the animal also feels pain. That cat, dog or even donkey of

yours that you overload with bags of beans and potatoes feel pain and it should be treated humanely. It should be taken for treatment when it is sick. It should be given enough food and you should not cause injury to the animal by overloading it.

These issues are now being taught in universities. Those of us who went to university in the 1960s were not taught this subject. Therefore, the veterinary surgeon will work hand in hand with the technician and the para-professional. They have always worked together, but we have not had any framework in which we can make them feel that they are giving a very important service to this nation.

With those few remarks, I beg to second this very important Bill.

*(Question proposed)*

**Mr. Shakeel:** Thank you Madam Temporary Deputy Speaker. I am pleased that, finally, this Bill has been proposed and it is now on the Floor of this House. As I had said, it is long overdue. The fact of the matter is that, as the Minister for Livestock Development has said, there is a shortage of people who serve animals. Whether one is a veterinary officer or an animal health specialist, he or she is offering a service to the livestock sector. I beg to differ with the Minister. There are quacks in every profession. However, some of the quacks come in because there is no one to give the service. We call them quacks because they are not qualified. They do not understand anything and they lack the qualifications. However, over 80 per cent of them know what they are doing. Over 80 per cent of them, perhaps, know more in practice than the veterinary surgeons who have just graduated from the universities. I have worked with the Maasai Community and I have seen quacks being called veterinary officers. We have been a little harsh with them. They have not been trained for only two weeks. Many of them have been trained for a much longer period than that. They form part and parcel of the community and they offer a service that is not available in the rural areas.

Our veterinary officers and doctors are in a class of their own. They are specialized and walk around in suits. They love to be in a place where they can get money after taking care of a dog or a cat. That is not what they were trained to do, Dr. Wekesa. I know that you were once on the ground. I think that is what used to happen during post-colonial times. Earlier on, after Independence, veterinary services were very strong. Those officers would go everywhere. They would carry out cattle dipping and many other veterinary exercises. However, our mood has changed. We have dropped the importance of animals as part and parcel of the Kenyan lifestyle except, of course, the nomadic communities.

There was a time during in my youth when animals were a very major part and parcel of the society, whether it was in the town or in the rural areas. Nowadays, you will find that in a town like Kisumu, which is so expansive--- Way past Kisumu, veterinary officers go to farmers and tell them that they are not supposed to be in Kisumu and yet they are in the rural areas. You will even see a Minister here joking about cattle in Kisumu. We have to get past that. Cities are just borders lines. Many animals are not found in the cities. There are also animals in Nairobi City. However, the city is expansive.

I would like to say that my interaction with nomadic communities has mostly been with the Maasai and the Samburus. The services are provided to them by



professionals and veterinary officers who have diplomas and basic education in animal health management.

After the Second World War in Britain and Europe--- I know about Britain because I studied there – my principal was a Chartered Accountant but he never sat for any examinations because during the Second World War, he was in the army. He worked for long and when he came back, the Board gave him an honorary membership. That is one of the things that are not covered here. There are non-professional qualified veterinary doctors who have a great amount of experience. Some of these are now getting into their 50s and 60s. You do not want to ask them to start taking a basic two year degree because they are way past that. This Bill must allow those people who have adequate knowledge and expertise in veterinary medicine and animal management to be given some sort of variation to join the field, subject to verification and proving of their skills.

Coming to the Board, and this is what I find a little bit difficult because the Kenya Veterinarian Board will be the umbrella body for both the veterinarians and the para-professionals, as much as we know that the intentions are good, this will become a closed society Board. They will use this to cut out the para-professionals who they know are going to take part of the business. I was proposing, and I will do this in the prescribed manner, that we should not have four registered surgeons under item (f) and only one para-professional. We should have, maybe, two veterinarian surgeons, two para-professionals and three people who are not veterinarian surgeons in the final part of (j). As much as we understand that there has to be certain standards, we do not want the veterinary surgeons to hold 70 per cent of the Board. When they get together, they can knock out any para-professional. Para-professionals need to be given that variance.

There is another point which I would like to talk about in Paragraph 17 on page 553. This is on the qualifications. Veterinarians and para-professionals should have successfully completed post-secondary school education in animal signs health lasting two years or more at an institution approved by the Board and obtained a certificate and thereafter, an internship of not less than 12 months under the supervision of a veterinary surgeon. I take issue with the necessary supervision of a veterinary surgeon. I suggest that it would be under the supervision of either a recognized para-professional, surgeon or if the Board can approve somebody else as well. It should not just be a veterinary surgeon. Then they will have the monopoly of deciding who is a better professional, who is not and who has the qualifications despite the fact that these people have gone through a two year degree course. The Board has on board the Dean of the Faculty of Medicine and a veterinary surgeon will be the principal of a para-professional training institution. Everything will come to the veterinary surgeon. Those are the things that we need to work on.

**Dr. Monda:** On a point of order, Madam Temporary Deputy Speaker. As I listened to the hon. Member, he has been citing veterinary surgeons against para-professionals, which we can also call para-veterinarians, as if there is competition between the two cadres. Is it in order for him to continue creating a wall yet this Bill is intended to put para-veterinarians together with veterinary surgeons? The Bill does not say anything about para-professionals or para-veterinarians. He has said that para-professionals should not be under the direct supervision of their seniors, namely, the veterinary surgeons, while on internship. How do you train a para-professional and put

him under the supervision of another when counter-checking whether he or she understood the training?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Shakeel, can you clarify your argument?

**Mr. Shakeel:** Madam Temporary Deputy Speaker, the hon. Member has just made out the case. The situation is that earlier on, there was no provision for any para-veterinary professional in the existing law but, as the Minister has pointed out, most of them were in the rural areas doing the work. I think my honourable friend has misunderstood what I am saying. I am not saying that they should not be under supervision. I am saying that they should not necessarily be under supervision of only veterinary surgeons. They could also be under supervision of para-veterinary professionals who are recognised by the same body that recognises veterinary surgeons.

Madam Temporary Deputy Speaker, the reason as to why I am making this suggestion is that if you look at the functions of para-veterinary professional in Clause 2 under the Second Schedule; you will see that they do not have anything to do with veterinary medicine. Most of this is para-veterinary professional work. Those functions include implementation of parasite control programmes in animals, carrying out of certain procedures, execution of certain services, *et cetera*. The Bill does not authorise para-veterinary personnel to go ahead and practice veterinary medicine or do what a veterinary surgeon would do.

There was a time when the USSR needed a lot of doctors. So, they specialised doctors in certain fields. The doctors went through training, but they did not go through all the fields of medicine. They were not what we call “general practitioners”. They were specialists in one area or another. Many of them even came to Kenya, and they were not under supervision of doctors *per se*. They had been trained in medicine but they specialised in particular disciplines. So, I am trying to explain myself, in my “very mixed up way”. You know, I am standing opposite a very senior veterinarian and a doctor, who knows what they are saying.

Madam Temporary Deputy Speaker, what I am saying is that we need to give para-professionals a little bit more. I know that they did not have it earlier, but why can we not---

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Shakeel, that point has been made.

**Mr. Shakeel:** Madam Temporary Deputy Speaker, I wanted to explain it very clearly. Otherwise, I am very happy that we are debating this Bill.

With those remarks, I beg to support.

**Mr. C. Onyancha:** On a point of order, Madam Temporary Deputy Speaker. Is it in order for the hon. Member to imply that a veterinary surgeon like Dr. Monda does not know as much as, or more than he does?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, the point has been made. Let us not belabour the point. Can we have the next contributor to this debate? Hon. Shakeel has already finished his contribution.

Yes, Dr. Monda, the professional!

**Dr. Monda:** Madam Temporary Deputy Speaker, I want to thank you for noticing me, so that I can contribute to this important Bill, which is intended to revolutionize veterinary services in this country. Allow me to congratulate the Minister for coming up

with this Bill, which is long overdue considering that Kenya is a livestock keeping country. As you have heard in the contribution by the Minister, the livestock sub-sector contributes 50 per cent of the agricultural contribution to the Gross Domestic Product (GDP)

This Bill is intended to repeal the Veterinary Surgeons Act, Cap.366 of 1953. It is a long standing law that has not been changed or revised. This is important because the actors involved here are the veterinary surgeons, who are currently covered under the law to be repealed. They will now be covered in the new law once the Bill goes through. It will also cover para-professionals. We want to consider officers in the lower level as para-veterinarians; namely, diploma and certificate holders. All of them will be covered under the para-professionals provisions in this Bill. All of them, as providers of health services for the livestock sector, are covered under the same law and will be governed as spelt out in this proposed law.

Madam Temporary Deputy Speaker, the Kenya Veterinary Board will now have its mandate expanded under this Bill when it becomes law. Currently the Board is only able to manage the affairs of Veterinary Surgeons and does not cover the para-veterinarians. This has caused havoc in the provision of livestock health services. The diploma and certificate holders are operating in the livestock sector without being governed by the law. This Bill is intended to address that. The Board will cover all those who will be involved in the veterinary service provision.

The Bill also intends to address itself to the requirements of the World Animal Health Organization (WAHO), and Kenya is a signatory to the obligations in the world market for livestock. The WAHO requires that if Kenya has to export animals and animal products, then we must be able to meet the world health standards or the International Health Standards for Animals. This Bill is going to provide for that and will open the market out there for this country. Currently, we are unable to access this market because the law does not regulate the practitioners in veterinary practice. Therefore, the world market does not accept our products or our animals.

As I wind up, I want to indicate that it is through this law that our products and our animals will be absorbed into the world market and our farmers will be able to enjoy that big market. Be it milk or meat, we shall be able to access the market and sell our animals and animal products without any problems like being kept out because of low standards.

Madam Temporary Deputy Speaker, the proposed law will also open up our arid lands. We are asking the Government to remove this caveat that was put in employment of veterinarians under the SAPs, so that we are able to solve the problem of lack of veterinarians and para-professionals in arid areas, where the main activity of the inhabitants is livestock farming. We want to have more and more veterinarians in those areas.

With those few remarks, I support.

## **ADJOURNMENT**

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, it is now time for the interruption of business. Therefore, the House stands adjourned until tomorrow, Thursday, 17<sup>th</sup> February, 2011 at 2.30 p.m.

The House rose at 6.30 p.m.