

## NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 29th April, 2015

The House met at 9.30 a.m.

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

## PRAYERS

## QUORUM

**Hon. Speaker:** Can you ring that bell again; the same one?*(The Division Bell was rung)*

Order Members! We now quorate and we can begin.

## PAPER LAID

We have Papers to be laid. The Chair of the Budget and Appropriations Committee, proceed.

**Hon. Musyimi:** Hon. Speaker, I have a letter here from the National Treasury with respect to a matter that is a property of the House, and that has to do with the retirement benefits of the former Prime Minister and the former Vice-President, as he was called at the time. We received communication from the Treasury in terms of advice as required by Article 114(2) of the Constitution. I wish to table that communication.

**Hon. Speaker:** Hon Mutava Musyimi, maybe you could summarise it for the benefit of the Members. This is an important matter. It is not just procedural. There is a lot of substance in it.

**Hon. Musyimi:** My understanding of the Communication, in summary, is that the amendments that were proposed by hon. John Mbadi and the Leader of the Majority Party, Hon. A.B. Duale, have been considered by the National Treasury, upon recommendation. Basically, what the National Treasury is saying is that they have no problem with funds being made available to the former Prime Minister and former Vice-President, so long as those benefits are considered via a transitional provision in the law for the simple reason that those positions currently do not exist in the Constitution. We do not have the positions of Prime Minister or Vice-President in the current Constitution. With respect to other additions that have come, the National

Treasury has problems. They are saying that they do not have the capacity to pay the other officers in respect of whom payments have been proposed.

Hon. Speaker, in a nutshell, that is the Communication of the National Treasury, in my understanding.

**Hon. A.B. Duale:** Hon. Speaker, the Chair of Budget and Appropriations Committee has tabled a letter from the National Treasury and his Communication to you in as far as Article 114 is concerned. On its implications on the amendments that hon. Mbadi and I have brought. I have no objection. Maybe, I will have time to look at it today and then come back to you. I have no objection. It is as far as Article 114 is concerned. So, I will read the document that has been tabled.

**Hon. Speaker:** Yes, Hon. Mbadi!

**Hon. Ng'ongo:** Hon. Speaker, I have the privilege of being a Member of the Budget and Appropriations Committee. So, at least, I got to know about this Communication earlier.

I am largely agreeable to the recommendations of the National Treasury. Looking at the body of the Bill, the two offices of Prime Minister and Vice-President are actually captured as offices that are in transition. We are not likely to have offices of Prime Minister and Vice-President in the foreseeable future. So, I generally agree with the transition.

I just want to point out that this Bill is slotted for consideration by a Committee of the whole House this morning. We should conclude it. It has been unfairly treated. It is the most unfairly treated Bill in the history of this Parliament. The Bill was initiated in 2013 and we are now in 2015. I do not know whether there is any other Bill that has ever pended for that long. So, my only request is that we conclude it this morning, in line with the recommendation from the National Treasury. I can see the Leader of the Majority Party looking at me. It is only the two of us and the Chair of the Budget and Appropriations Committee who have had an interest in this Bill.

It is my plea that we conclude it this morning.

Thank you.

**Hon. Speaker:** There is a small issue which needs to be clarified. The Chair of the Budget and Appropriations Committee has tabled a letter from the National Treasury. I am sure that the Committee has had some interactions with that letter and, perhaps, even with the relevant officials at the National Treasury.

Perhaps, hon. Mutava Musyimi, your Committee, having looked at the letter, might have considered it and made some comments or recommendations. If that is so, might you have some summary of any recommendations by your Committee to the House? That is because, having seen the letter yourselves, most likely, you have recommended something to the House, which, as a Committee, you ought to do.

**Hon. Musyimi:** Thank you, hon. Speaker. I stand guided. Allow me to just read from the document that I tabled – which was actually addressed to you, but which you now want communicated to the House.

The Budget and Appropriations Committee, during its sitting of 28<sup>th</sup> April, 2015, considered the following legislative proposals referred to it, pursuant to Article 114 (2) of the Constitution: The amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2013, as proposed by hon. A.B. Duale

and hon. John Mbadi. The Committee deliberated on the amendments in a number of their sittings and held discussions with Hon. Mbadi and heard submissions from Hon. A.B. Duale. All these amendments sought to vary Clause 3 of the Bill.

The Committee also received comments on the proposed amendments from the Cabinet Secretary responsible for the National Treasury, and noted that the National Treasury does not concur with any of the amendments by both proposers. In a memorandum, the National Treasury indicated that Clause 3, as proposed in the Bill, was meant to control our expenditure.

The National Treasury also indicated that the use of the definition of “Designated State Officers” may open room for other officers to claim benefit under this law. Further, the National Treasury indicated that the offices of the Prime Minister and the Vice-President do not exist in the current Constitution.

After long deliberations, the Committee recommended that the amendments be rejected. The Committee proposed further amendments to the Bill, in line with the National Treasury’s advice, as follows:-

- (i) That the Bill be amended by deleting the definition of “Designated State Officers” and all related provisions, including the Offices of the Speakers of the Senate and National Assembly in the Bill.
- (ii) That, the Bill be further amended by deleting the offices of the Prime Minister and Vice-President in Section 3 of the Bill and inserting a transitional clause to provide for the benefits of the Prime Minister and Vice-President.”

Hon. Speaker, while still on my feet, in all fairness, it is right for me to say that this matter has taken time. I take responsibility for that. However, it is also fair to observe that it has been a fairly sensitive subject. I do not think it is the kind of matter that one can just rush into and deliberate over one or two months. It is a highly delicate matter.

Hon. Speaker, I also want to observe that, at the end of the day, the Committee has done all the consultations it could do. If we did not do more consultations, then we will do them. I am personally very happy with the recommendation that the Committee has brought to the House, through the memorandum that I have read out.

Thank you, hon. Speaker.

**Hon. Speaker:** Hon. Members, having listened to the statement read out by the Chair of the Budget and Appropriations Committee, it is fair to restate the provisions of Article 114 (2) of the Constitution, for avoidance of doubt. It reads as follows:

“If, in the opinion of the Speaker of the National Assembly, a Bill makes provision for a matter listed in the definition of “a money Bill”, the National Assembly may proceed only in accordance with the recommendations of the relevant Committee of the Assembly, after taking into account the views of the Cabinet Secretary responsible for finance.”

Hon. Members, the Committee referred to here is the Budget and Appropriations Committee. We can only proceed with the recommendation of that Committee, which is what hon. Mutava Musyimi has just read out.

Hon. Members, it, therefore, follows that the hands of the Speaker, and even those of the House, are tied to the recommendations of the Budget and Appropriations Committee, in respect of this Bill.

In view of this, therefore, I will give the following directions, as we proceed to the next Order:-

(i) The proposed amendments by hon. Aden Duale and hon. John Mbadi, in respect to Clause 3, will not be considered in the Committee of the whole House.

(ii) I will defer the consideration of this Bill to allow for the communication of the Budget and Appropriations Committee to be drafted into amendments to be considered by the Committee of the whole House tomorrow, when the House sits.

Thank you, hon. Members.

*(Applause)*

Next Order!

### MOTION

#### THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

**Hon. Speaker:** The Hon. Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives.

*(Hon. Nooru consulted with the Clerks-at-the-Table)*

The Vice-Chairman, Sorry, hon. Members.

**Hon. Mbiuki:** Thank you, Hon. Speaker.

**Hon. Speaker:** When I see the Chairman consulting with the Clerks, I am wondering whether he is trying to abdicate responsibility. However, the business is in the able hands of the Vice-Chairman.

**Hon. Mbiuki:** Thank you, Hon. Speaker. I beg to move the following Motion:-

THAT, the Senate Amendments to the Fertilizers and Animal Foodstuff (Amendment) Bill (National Assembly Bill No. 36 of 2013) be now considered with some amendments.

Thank you, Hon. Speaker.

**Hon. Speaker:** You need to be seconded. Do you not? Hon. Benjamin Jomo Washiali.

**Hon. Washiali:** Thank you, Hon. Speaker. I second.

**Hon. Speaker:** Hon. Members---

*(Hon. Tong'i walked in while the Speaker was on his feet)*

Hon. Tong'i, this is Parliament. You do not just walk in. You must first of all look ahead!

*(Question proposed)*

Hon. Wamalwa.

**Hon. Wakhungu:** Thank you, hon. Speaker. I want to thank members of the Departmental Committee on Agriculture, Livestock and Co-operatives. Before that, just like Hon. Mbadi had said, I want to say that this Bill has taken so much time. What we are only supposed to do is to look at these amendments which came from the Senate. However, some of the proposed amendments that I am getting from the Committee do not touch on the amendments that were done by the Senate. The Senate did not touch on their purported amendments. I want your direction on this. Is it in order that we debate on something that was not amended by the Senate? That is because at this juncture, we are aware that even a full-stop or a comma amended from the Senate will have to go through the Mediation Committee.

What the Committee is purporting to amend is not in the amended version of the Senate. In the first place, are they in order in as far as procedure is concerned? That is because theirs is not part of the amendments that the Senate did. Thank you.

*(Hon. A.B. Duale spoke off the record)*

**Hon. Speaker:** But, Hon. Chris Wamalwa, the first proposed amendment by the Departmental Committee on Agriculture, Livestock and Cooperatives which is (a) says:-

“By deleting the proposed paragraph (fa) and substituting thereof the following new paragraph:-

(fa) the Attorney General or his representative.”

That is an amendment to the Senate’s amendment.

*(Applause)*

I know this is a technical area. It requires a lot of consideration. This is because the Senate was suggesting something different. They were talking about a Director of Veterinary Services. So, the Committee is suggesting an amendment to now provide for the Attorney-General or his representative. That is a substantive amendment. I also need to point out that Paragraph (b) of the proposed amendments by the Committee is not really a matter for the House to express itself on. This is a matter that can be done by the staff. That is because numbering and renumbering are very mundane matters. They can be dealt with when you are cleaning up the Bill before presentation for assent. That is not very crucial.

However, (a) is a crucial one.

Hon. Members, it is important that we are also alive to Standing Order No. 149 about the import of amending Senate’s proposals. If you successfully amend the Senate’s amendment, the net effect is to refer the matter to mediation. I hope the Committee and the House is alive to that fact. What we can do for the time being is to allow Hon. Wamalwa, because I cut him short, to finish his contribution relating to the amendment and then we can address the other issues. Hon. Wamalwa, proceed.

**Hon. Wakhungu:** Thank you, hon. Speaker. I looked at the Senate amendments and why the issue of Director of Veterinary Services came in. When you look at the

parent Bill, we initially focused on fertilizer only. In the wisdom of the Senate, they decided we should include the animal foodstuffs. That is what they added. In the spirit of the animal foodstuffs, it falls under livestock and the technical person on issues of livestock is the Director of Veterinary Services. So, that is the essence of how they brought in the issue of the Director of Veterinary Services. Initially, that was the thinking. I am not objecting to the issue of the Attorney General. When you look at the cost-benefit analysis, any amendments, a comma or whatever, has to go to the Mediation Committee. So, when you look at the import, actually the Director of Veterinary Services is very critical because the issue of animal foodstuffs has come in and that is why the Senate did that amendment. It was to enrich this law. From there, I had no issues with the Senate amendments.

For the Committee to now come and say that we remove the Director of Veterinary Services, it will be unfair to the element of animal foodstuffs. To remove that technical person is where I was having some issues. As earlier said, it is upon this House to decide how to go because we make laws for posterity and not for individuals. Members can decide whatever way and so be it. However, it is important for Hon. Members to know that any amendment has to go to mediation, no matter how slight it is.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Duale.

**Hon. A.B. Duale:** Hon. Speaker, I beg to support the position of the Committee. I want to just pick from the ruling you have read where my amendments and Hon. Mbadi's amendments became victims of Article 114 of the Constitution. Whether we take the route of the Mediation Committee or not, we must agree with the position of the Committee. If you look at the Senate's amendments on Clause 2, the Committee agreed with the amendments of the Senate. There was an amendment of the Senate on Clause 3(i) where they proposed a new Sub-section 2(a) and they deleted the Fertilizer Board of Kenya (FBK) and substituted thereof with the words, "Fertilizer and Animal Foodstuffs Board of Kenya (FAFBK)." The Committee agreed with this because of the consistency. So, the Committee has not disagreed with the Senate. The second amendment they have agreed with is on Clause 3.

If you go to Clause 2 (b), the Committee has agreed. The bone of contention is in Clause 10 where it reads "and the Senate proposed". I think they were deleting "one month" appearing immediately after the words "not exceeding" and substituting thereof with the words "one year". The Bill had one month but the Senate has increased it to one year. The justification for the Senate proposal was to enhance the sentence to Kshs500, 000. However, the Committee found that it is not in synergy with the sentence hence an amendment to a non-custodial sentence.

Hon. Speaker, I think we should not run away from mediation because it is provided for in the Constitution. That is the route between the two Houses. We are already in mediation on the Division of Revenue Bill and the constitutional Bill on Environment. I want to ask hon. Wamalwa that let us not be scared of mediation. It is provided for and, therefore, it is not an illegality. We should respect our committees. Committees are also the link between the Executive and Parliament in terms of law-making. I will be very happy if Hon. Wamalwa would agree with the Committee, just as

I have with Hon. Mbadi on the position of Article 114 in as far as that Bill on Retirement Benefits is concerned. If hon. Wamalwa and other Hon. Members read the reasons why the Departmental Committee on Agriculture, Livestock and Co-operatives has given in replacing the A-G with somebody from the Council of Governors, it makes sense. Those two positions are not at par. The A-G sits in certain boards to give legal advice on behalf of the whole country. In most boards, the A-G or his representative have substantive positions.

I also see the sense that you cannot just remove the A-G and replace with an entity or a person from the Council of Governors. Of course, this matter is also devolved. A position for the county government is already there, but the expertise of the A-G in any substantive representation cannot be replaced by anybody like that. I read and I agree. Let us not be scared but rather, let us support the amendment of the Committee and form a mediation team. I will be very happy from the Jubilee side to nominate Hon. Wamalwa to be number one in the mediation team since he is the owner of the Bill and he can argue his case.

I beg to support the Committee and oppose the Senate amendments particularly on Clause 10.

**Hon. Speaker:** Hon. Members, I hope we appreciate that this is like the Second Reading of a Bill because we are debating the proposal from the Committee. It is just a question of understanding because it is not very complicated.

Hon. Makali Mulu.

**Hon. Mulu:** Thank you, hon. Speaker. Some of us are having a challenge in understanding because the Committee has not taken time to explain to us the import of this amendment, where they are bringing in the Attorney-General. The other important thing is this and I am wondering: Why are we having a national board for functions that are devolved to the counties? I would want to be informed because to me, it really does not make a lot of sense to have a national board for functions that should be purely county functions.

Thank you, Hon. Speaker.

**Hon. Speaker:** Maybe, we should hear from the Chair of the Committee, Aden Nooru.

**Hon. Nooru:** Thank you, hon. Speaker. On the last part of Hon. Makali's question, the issue of having the national board is because the function of the policy has not been devolved. The counties need to be coordinated and, as a nation, we must make a policy at the national level and, therefore, the counties remain implementing bodies where necessary. The function of the policy is not devolved to the counties, but it still remains with the national Government and thus the need to have a national board to coordinate the 47 counties of the nation, so that we are not living in isolation but rather, live with other parts of the world. There is no way that each county is able to deal with this situation. We have to deal with other countries of the world and other regions. So, there is need for a national coordination body at the national level to deal with policy matters.

Hon. Speaker, on the other issue which Hon. Wamalwa has raised on the removal of the Director of Veterinary Services, there is a Principal Secretary (PS) for Livestock who is a member of the board. He has discretion to put an alternative if he wishes to, so that we

can have a technical person to appear in that board if there is any relevancy on that particular date. If the PS is there and the Director of Veterinary Services is there, it makes no sense. That will be at the expense of the AG who is the legal advisor of the board. That is two persons from the same ministry - the Director of Veterinary Services and the Principal Secretary. They are supposed to sit in the same board. Therefore, we found that there was no relevancy about it and that is why he has been replaced.

Thank you, Hon. Speaker.

**Hon. Wakhungu:** On a point of order!

**Hon. Speaker:** Hon. Wakhungu, do I see that you have a point of order?

**Hon. Wakhungu:** Hon. Speaker, it was initially on a point of order to give some information to the Leader of the Majority Party because he was saying that we are replacing the Council of Governors. But the issue was not the Council of Governors but rather, the Director of Veterinary Services. Following on what the Chair of the Committee has said, it makes a lot of sense because we have the PS here. It is the discretion of the PS to nominate a technical person and in this case, it is the Director of Veterinary Services. It is purely in order and I do agree. As we go to mediation, it is my humble request that our Senators can also see the sense. That is because once the PS is there, he can exercise discretion and nominate the technical person who is the Director of Veterinary Services for purposes of foodstuffs.

Thank you. I support.

**Hon. Speaker:** Hon. Mbadi, now the Mover is agreeable.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. I just had two things I wanted to say. I was about to agree that the reasons we have the two Houses and the mediation is to improve our legislation. We can refer Bills from one House to the other as many times as possible, just to have a perfect or near-perfect legislation. To that extent, I have no problem. However, I just wanted to caution us, as a legislative Assembly for progress in this country, that we read - and in line with what hon. Makali said - the functions that are county functions, I think there is no need to have so many boards in this country. It is wasting resources. We are keeping parastatals that are not for the benefit of this country. We are duplicating responsibilities. If it is a matter of policy decisions, the policy issues should be made by ministries because that is what is provided in law. The reason why we have these ministries - for example the Ministry of Agriculture - is for pure policy decisions. If we are again going to create boards for each and every sector of the Ministry and counties are also managing the same activities and creating the county corporations or county entities, I think that is why this country is facing the problem of running---

**Hon. Speaker:** Hon. John Mbadi, why do you not just stick to this one because I know you may wish to address that issue in a public rally somewhere. If you stuck to this, what is your view on this?

**Hon. Ng'ongo:** Hon. Speaker, you know at times I agree with you, but let me just conclude. I am informed that human brain receives a 100 per cent of information and only stores 7 per cent. So, 93 per cent is usually lost. So, the moment I have remembered it for record, because HANSARD is going to remain intact, let me just say it so that I can refer to the HANSARD later to make it a policy.



**Hon. Speaker:** Hon. Members, let me just put the Question. The Committee's proposal is agreeable to the Mover of the Bill. Therefore, we just put the Question.

*(Question put and agreed to)*

That is the right thing to do, hon. Members. It means therefore, you will go to the next stage of the Bill which would be the Committee of the whole House to consider those amendments. This was merely comments. After this, you will go to the next level.

Hon. Mutava Musyimi, what is your point of order?

**Hon. Musyimi:** I am on a point of order, hon. Speaker. Would I be in order to request you to consider granting my Committee the discretion to meet today so that we would have the opportunity to consider the amendments that you have directed that must be considered by the House tomorrow? Would I also be in order to also request you to allow us to meet as the Mediation Committee having been appointed by this House with respect to the Division of the Revenue Bill knowing that the House is likely to go on recess tomorrow? When that matter was being discussed, the Senate was on recess. They came back yesterday. They have now constituted a Committee. We have taken the liberty to agree to meet today at 12 p.m., but that is without your permission. I am now asking you to allow us to meet today so that we can see whether we can find some kind of resolution because if we delay this matter, it has huge consequences with respect to the county governments doing their own budgets.

**Hon. Speaker:** It is absolutely important. The Budget and Appropriations Committee and the Director of Committees are accordingly to be informed. The Committee is permitted to meet to consider those amendments. The Mediation Committee can proceed to hold their meetings in the course of today at whatever the time you want to meet.

Hon. Members, before we go to the next Order, it therefore means that business appearing as (iii) The Retirement Benefits (Deputy President and Designated State Officers) Bill, 2013 is deferred upon request by the Mover, Hon. Kimani Ichung'wah, the Member for Kikuyu Constituency. He has just sent an emergency note in the office that there is something happening in his constituency. Therefore, he is not available to prosecute his Bill. Maybe, he will come and explain to the House what kind of emergencies he has found in his constituency. The information I have which I have just received now is that it is something to do with fire. Hon. Members are birth attendants, fire extinguishers, mobile money transfers and all manner of things. So, it is only fair that--- I do not know whether Hon. Kimani Ichung'wah is now rushing with some extinguishers on the road.

*(Hon. Angwenyi spoke off record)*

The role of a Member of Parliament is valid especially in Kenya. There is something unique about Kenya, including being morticians. So, in fairness, I have acceded to the request that even that business appearing as (ii) The Alcoholic Drinks Control (Amendment) Bill, 2014, be also deferred to tomorrow. So businesses (ii) and (iii) are deferred to tomorrow.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

*[Hon. Speaker left the Chair]*

## IN THE COMMITTEE

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

CONSIDERATION OF THE SENATE AMENDMENTS TO THE FERTILIZERS  
AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, we are now in the Committee of the whole House to consider the Senate Amendments to the Fertilizers and Animal Foodstuffs (Amendment) Bill, 2013. Hon. Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives, do you have an amendment?

*Clause 2  
Senate Amendment*

That, Clause 2 of the Bill be amended in Sub clause (b) in the definition of the word “Board” by deleting the words “Fertilizer Board of Kenya” and substituting therefor the words “Fertilizer and Animal Foodstuffs Board of Kenya”.

**Hon. Nooru:** Hon. Temporary Deputy Chairlady, we have no problem with Clause 2. We agreed with the Senate as it is.

*(Question of the amendment proposed)*

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

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

*(Clause 2 of Senate Amendment agreed to)*

*Clause 3  
Senate Amendment*

That Clause 3 of the Bill be amended-

(a) In Sub-clause (1) of the proposed new section 2A by deleting the words “Fertilizer Board of Kenya” and substituting therefor the words “Fertilizer and Animal Foodstuffs Board of Kenya”.

(b) by deleting the proposed new section 2B and substituting therefor “the following proposed new section-

Functions of the  
Board

2B. The functions of the Board shall be to-

- (a) regulate the fertilizers and animal foodstuffs industry in Kenya, including the production, manufacture, packaging, importation and marketing of fertilizers and animal foodstuffs;
  - (b) regulate the importation of raw materials for the manufacture of animal foodstuffs;
  - (c) promote the manufacture of fertilizers and animal foodstuffs in Kenya;
  - (d) advise the national and county governments on-
    - (i) the procurement, importation and efficient and timely distribution of subsidized fertilizers and animal foodstuffs;
    - (ii) establishment of retail outlets of fertilizers and animal foodstuffs in the counties;
    - (iii) development of policies related to the manufacture and distribution of fertilizers and animal foodstuffs;
  - (e) inspect and test fertilizers and animal foodstuffs to ensure their quality and safety;
  - (f) license manufacturers, distributors and retailers of fertilizers and animal foodstuffs on the recommendation of the Director of Agriculture and the Director of Veterinary Services;
  - (g) promote, in collaboration with stakeholders in the agriculture industry, research on fertilizers and animal foodstuffs; and,
  - (h) ensure that fertilizers and animal foodstuffs imported, manufactured or distributed in Kenya meet the standards of quality and safety as prescribed by law.
- (c) in the proposed new paragraph 2C-
- (i) in subclause (1) by-
    - (a) inserting the following new paragraph immediately after paragraph (b) -
      - (ba) the Principal Secretary in the Ministry for the time being responsible for livestock or a designated alternate not being below the level of Deputy Secretary;
    - (b) deleting paragraph (e)
    - (c) deleting paragraph (f) and substituting therefor the following new paragraph-
      - (f) one person nominated by the Council of Governors;
    - (d) inserting the following new paragraphs after paragraph (f) -
      - (fa) the Director of Veterinary Services;
      - (fb) one person representing research institutions in the agriculture sector

competitively sourced and appointed by the Cabinet Secretary;  
 (ii) by inserting the following new sub clauses immediately after sub clause (2)-

2A) The Cabinet Secretary shall ensure that not more than one-third of the persons appointed under subsection (1) are of the same gender.

(2B) A person appointed under subsection (1) shall hold office for a period of three years and may be re-appointed for a further non-renewable term of three years.

(d) by inserting the following new clause immediately after Clause 2M-Annual Report 2MA. (1) The Chief Executive Officer shall cause to be prepared an annual report setting out the activities of the Board.

(2) The Chief Executive Officer shall submit the report referred to in subsection (1) to the Cabinet Secretary not later than two months after the end of each financial year.

3) The Cabinet Secretary shall transmit copies of the report to the Senate and the National Assembly within three months after receipt of the Report.

Hon. Temporary Deputy Chairlady, it is the same. There is no problem. We had agreed on it.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): You are not very audible Hon. Chairman. I did not get---

**Hon. Nooru:** We agree with the Senate amendment as it is.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Do you have an amendment?

**Hon. Nooru:** Hon. Temporary Deputy Chairlady, these people have mixed up the whole thing in Clause 3(2) (c)

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I do not know whether you have a copy. I can give a copy.

**Hon. Nooru:** I do not have a proper document.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Do you have it?

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

THAT we delete the proposed expression "Director of Veterinary Services" under the proposed paragraph 2C(d)(fa) and substitute therefor the following new expression: "the Attorney-General or his representative". The rest should remain as it is. I have explained this before.

*(Question of the amendment proposed)*

**Hon. Wakhungu:** Hon. Temporary Deputy Chairlady, indeed, I agree with the proposed amendment by the Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives because as early explained, we do not need this Director of Veterinary Services. That is because the Principal Secretary sits on that Board and he

can exercise discretion and designate the Director of Veterinary Services to be there. So, I agree with the amendments as proposed. I second that.

**Hon. Bowen:** Thank you, hon. Temporary Deputy Chairlady. I also want to support the amendment. Under Clause 3, especially on the functions of the board, there is an issue of manufacturing. In future, in our manufacturing industries, we need to consider bringing in the issue of the National Environment Management Authority (NEMA). What we saw on Kenya Television Network (KTN) to do with metal manufacturing in Mombasa was very disgusting. In the manufacturing of fertilizers, we need to bring in the issue of NEMA going forward.

I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I can see people who want to speak to this amendment. Hon. Daniel Maanzo, do you want to speak to this? Keep it brief, please.

**Hon. Maanzo:** Hon. Temporary Deputy Chairlady. I am a Member of the Departmental Committee on Agriculture, Livestock and Co-operatives. We had noted that a few things needed to be improved in the Senate amendments. When it comes to local manufacturing and the addition of animal foodstuffs, it complicates the matter because it needs new raw materials and a lot of due care. Animals are close to people and that is manufacturing and treatment thereof. We considered it.

I support the amendment.

**Hon. Onyura:** Thank you, hon. Temporary Deputy Chairlady. I also want to support this amendment. I am happy with the mention of policies that relate to manufacturing, importation and distribution. At the moment, I have noticed that in the distribution of fertilizers, particularly the subsidised fertilizers, there is no clear criterion on how it is distributed to the farmers on the ground in terms of numbers and timing. Recently, we had a problem in my constituency. We got a few bags and within a short time, everything had been cleared. Some farmers had already paid into the account expecting to get the subsidised fertilizer, but they did not get it. There is a lot of demand for this. If we are talking about food security, this is an area that we should support and look into very carefully.

I support the amendment.

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

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

*(Clause 3 as amended agreed to)*

*Clause 10  
Senate Amendment*

THAT, Clause 10 of the Bill be deleted and substituted therefor by  
the following new clause-

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10. Section 16 of the principal Act is amended by deleting the words “one thousand shillings or to imprisonment for a term not exceeding one month and for a second or subsequent offence to a fine not exceeding three thousand shillings” and substituting therefor the words “five hundred thousand shillings or to imprisonment for a term not exceeding one month, and for a second or subsequent offence to a fine not exceeding one million shillings”.

Hon. Temporary Deputy Chairlady, in Clause 10, the only thing that we are amending in the original Bill in the Senate amendment is to put the fine at Kshs500,000 and limiting the sentence to one month.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Are you saying that you have an amendment?

**Hon. Nooru:** No! It is the same. We have proposed an amendment from one month to two years in Clause 10.

**Hon. Maanzo:** On a point of order, hon. Temporary Deputy Chairlady.

The Senate improved the punishment from Kshs1,000 to Kshs500,000, if you commit an offence in the manufacturing or making fertilizers or if you sell fertilizers which do not exist or is poisonous. It is a very serious matter because if the fertilizer is poisonous, it is going to poison crops. If the foodstuffs that are manufactured are poisonous, the sentence in the original Act was Kshs1,000 and the imprisonment term was one month. Owing to the seriousness of the matter, which the Senate seems to have forgotten, we proposed to improve the fine from Kshs1,000. This was done in 1962 and so, we brought it to Kshs500,000.

With regard to the imprisonment term, we moved from one month to two years or both, if somebody has committed an offence. That is the import of the amendment and that is why we made improvements on what the Senate seemed to have forgotten.

**Hon. (Ms.) Nyasuna:** On a point of order, hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Gladys Wanga.

**Hon. (Ms.) Nyasuna:** We do not seem to have further amendments on the Order Paper. What we have on the Order Paper is the Senate Amendment which is a fine of Kshs500,000 and an imprisonment term of one month.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, that is true. At the Table, we are also struggling to get a copy of the amendment if there is one. I do not think it has been reflected on the Order Paper. Is it that it is not reflected on the Order Paper or there was no amendment? Hon. Chair, was there an amendment on this clause?

**Hon. Nooru:** Yes, hon. Temporary Deputy Chairlady. It is there in the Report. The Senate deleted that clause and came up with a new proposal. Within that proposal, the issue that Hon. Maanzo has explained of the fine of Kshs1,000 was upgraded to Kshs500,000. They left the one month sentence as it is. So, we improved it to two years.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I am not arguing about the gist of what you are saying. But I am just saying that the amendment approval for circulation that we have here, on which your signature is appended, only shows an amendment to Clause 3.

**Hon. Nooru:** The amendment is here in the Report.

**Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Report is not what you take to the Speaker.

**Hon. Nooru:** We tabled the Report yesterday.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, but you take the amendments for approval to the Speaker. Could you look at those, please? Do you see Clause 10 anywhere?

**Hon. Nooru:** No.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Give us a minute.

**Hon. Nooru:** That is just a typographical error. It was in the Report.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I will take a few points of order. Hon. Rasso.

**Hon. Dido:** On a point of order, hon. Temporary Deputy Chairlady. As a matter of procedure, we cannot discuss what is not on the Order Paper. That does not tell us what the substantive amendment to the Bill is.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): That is true. I hope these are points of order. Hon. Murungi, proceed.

**Hon. Murungi:** On a point of order, hon. Temporary Deputy Chairlady. As a matter of procedure, if the Committee does not agree with the Senate amendment, they should say so and have their own proposals. This is what should then go for mediation with the other clauses that they do not agree with.

**Hon. Muluvi:** On a point of order, hon. Temporary Deputy Chairlady. Much has been said, but I do not think it is procedural for us to continue considering amendments which are not reflected on the Order Paper. We need your ruling on this.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Chair of the Committee, we do not seem to have this amendment even if it is in your Report. The Members are right. We cannot ventilate on something that has not been brought to the Floor of the House.

**Hon. Nooru:** Hon. Temporary Deputy Chairlady, it is the discretion of the House to agree or disagree. The fact of the matter is that there is some discrepancy in the whole issue. The Committee has found that it is necessary to make that amendment. If it is a technical error that the amendment never appeared on the Order Paper and it is not procedural and the House rejects it, I have no power over the House. The necessity of this issue is that it is very critical. Sentencing a man who has poisoned Kenyans for one month is ridiculous. That is why we have proposed that amendment and have put it in our Report. If it does not appear in the Order Paper, I have no discretion of putting it on the Order Paper.

**Hon. Wakhungu:** Thank you, hon. Temporary Deputy Chairlady. I want to agree with what the Chairman and Hon. Nyasuna have said. It is not procedural because that amendment is not on the Order Paper. The fact that they had expressed themselves on it in the Report and it is not here, we call upon you, in line with Standing Order No. 1, to make a decision. What the Chairman has said adds a lot of value. We have many unscrupulous business people who are conning farmers. They might come with something and sell in the form of fertilizer and yet, it is not fertilizer. So, my humble request is that you exercise your discretion and allow him to draft the amendment. As

he has explained, that amendment will add a lot of value. Yes, it might be in the Report but we do not have it on the Order Paper. So, exercise your discretion, if it allows. If it does not allow, then we can proceed. However, what he said is very critical. We have unscrupulous business people selling chalk as fertilizer, which does not add any value. So, the punishment must be heavy to discourage those people from conning poor Kenyans as we strive towards food security in this country.

I thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I agree with what you are saying. However, at the end of the day, procedure must be followed. You have heard a lot about the procedure. We cannot go against the procedure.

*(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 10 of Senate Amendment agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Mover, we are now through with the amendments.

**Hon. Nooru:** Thank you, hon. Temporary Deputy Chairlady. I beg to move that the Committee of the whole House doth agree with the amendments of the Senate---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I have passed you a note. Maybe, you can do it again, please.

**Hon. Nooru:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Senate Amendments to the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### THE FERTILIZER AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Members! Let us have the Chairperson.



**Hon. (Ms.) Shebesh:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. The Mover of the Bill, move the Motion for the agreement with the Report.

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

**Hon. Mbiuki:** Thank you, hon. Temporary Deputy Speaker. I second.

*(Question proposed)*

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

*(Question put and agreed to)*

Next Order!

## BILL

### *Second Reading*

#### THE KENYA NATIONAL EXAMINATION COUNCIL (AMENDMENT) BILL

*(Hon. Wangwe on 22.4.2015)*

*(Resumption of Debate interrupted on 22.4.2015)*

**The Temporary Deputy Speaker** (Hon. Cheboi): On this Bill, the Member for Emurua Dikirr had four minutes. Is there an indication that he is in the House? He is not. So, we will proceed with the requests as they have come in. We will start with the Member for Likuyani.

**Hon. (Dr.) Kibunguchy:** Thank you, hon. Temporary Deputy Speaker. Let me thank the Mover of this Bill for having come up with this Bill on the examination fees. As I understand it, this is an amendment that is giving effect to what the Government has been saying all along, that examination fees for Standard Eight and Form Four candidates is going to be abolished. It is a move to assist the very poor.

As we talk about examination fees, it is very important that we critically start examining Article 43 of the Constitution. As much as we would like to have a few waivers here and there, subsidies and bursaries in the country, time has come for us to actualise Article 43 of the Constitution. The biggest problem with education in this country is that there are very many parents and households that cannot afford to educate their children. Over a period of time, a number of interventions have come up, notably

bursaries. We now have bursaries all over the place. We have bursaries from the Constituencies Development Fund (CDF), county governments, ward funds, the President and some Non-Governmental Organisations (NGOs) in this country.

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

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

Even the proposed Affirmative Action Bill from our lady colleagues also has some element of bursary in it. What is happening in this country is that with all this multiplicity of bursaries, there are no clear guidelines as to who gets and who does not get. There are no clear guidelines that one family should not benefit much more than the other families because the guidelines come from different entities.

The elephant in the room is this: We should be able to very quickly reach a stage where we say we have universal basic education. That is the direction we should be going so that we abolish all those bursaries. This is because, as much as many of them assist, quite a number of them do not quite reach the stage where parents feel adequately assisted to educate their children comfortably.

In my constituency, quite a number of kids have been picked to join national schools but because of the aspect of school fees, they opt to join nearby day school secondary schools. Therefore, we are losing some of our best brains in this country. As much as I support this Motion wholeheartedly, as a country and House, we need to move further and make primary and secondary education absolutely free, and leave further development to the abilities of every child. If a child qualifies to join Alliance High School or Mang'u High School, such child should be educated for free. If a child qualifies to join a county school, they should be educated for free. If a child qualifies to join a day secondary school, they should be educated for free. That is the only way of ensuring that there is equality in this country.

I do not know from where the Bible got the verse that says: "Those who have, more will be added and those who do not have, even the little that they have will be taken away from them." One day we shall ask the people who are more learned in this field to tell us what exactly the Bible meant by this verse. What we want to do is make sure that it is only the ability of the child that is going to determine what that child learns - not money. Most of us would not have gone to schools if money was the determinant factor. If I may use my experience as an example, I went to Mang'u High School from a Western Kenya rural school. From Mang'u High School, I went to Strathmore College. I would not do so presently, with the prevailing poverty and circumstances.

I want to congratulate my colleague, hon. Wangwe, for coming up with this Motion and urge that we take the bold step of making primary and secondary education free. When we talk about free primary and secondary education, it should be absolutely free. Even though we currently have the free primary education programme, there are

too many levies that come along the way. Therefore, we should emphasise that free education should be absolutely free.

Finally, as much as we have many children attending schools, there is an acute shortage of teachers. It is incumbent upon the Government to come up with a policy of employing enough teachers. When you look at the Budget Policy Statement (BPS) for the coming financial year, the aspect of teacher employment is not captured anywhere. This is something we are sweeping under the carpet but it really affects the quality of education in this country.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh: Let us hear the Member for Igembe North.

**Hon. M'uthari:** Thank you, hon. Temporary Deputy Speaker. I stand to support the Bill. It should be noted that in Kenya, we do not have private candidates. All examination candidates are Kenyans. Therefore, the Government should support even candidates in private schools. Some private schools, especially those being run by some churches, are not really private. It is only that they are registered as private schools. Many of the children who go to those schools are supported by well-wishers. If the Government can support free primary and secondary education, it should also take care of such children. At the end of the day, no child should fail to get registered for examinations because they did not pay examination fees.

At the same time, it is important for us to look at the whole aspect of assessment. How do we assess our children? I support this Bill so that the opportunity can be granted to all. There is also the aspect of equity and equality for all children. Even if we depend on choice of schools by children, be they public or private, the Government should pay examination fees for all candidates, so that all children can have an opportunity to be examined without the hindrance of fees. There are those schools which are based in informal settlement areas. Even if they are not registered as public schools, there is the possibility of well-wishers supporting them.

With those remarks, I support.

**Hon. Maanzo:** Thank you, hon. Temporary Deputy Speaker. I also stand to support the Bill as I congratulate the Mover, hon. Emanuel Wangwe. In many parts of rural Kenya, examination fees are very hard to come by for some parents. We know very well that education is the equalizer of all Kenyans. If I had not gotten the opportunity to acquire proper education at Starehe Boys Center, I would not be in this House today. Today, we have free primary education. The Government, in the recent past, has stated that it will be paying fees balances for secondary school graduates who have not been able to clear their fees for one reason or the other, so that they can access their certificates. Even to date, if a former student in primary or secondary school has pending payments, they are not given their certificates and, therefore, they are unable to proceed with their lives. They cannot get employed or process necessary documentation or join university and other institutions of higher education. Therefore, it is important that the Government pays examination fees for primary and secondary education examinations candidates to KNEC. Students in private institutions may be able to afford the examination fees, but students going to public institutions should be taken care of, so that we can equalise all Kenyans through education.

With those remarks, I support.

**Hon. Dido:** Thank you very much, hon. Temporary Deputy Speaker. I rise to support the Bill.

This Bill is important even though what it seeks to achieve is just a tip of the iceberg of the constitutionally envisaged free basic education that should be accessed by our young people. Even after paying the examination fees, the majority of our youngsters in primary schools are not able to transit to secondary schools. It is a pity that we can only help at the tip-end of one's primary education.

As Nelson Mandela said, education is the single equaliser of any society. Our Government must begin to look at both primary and secondary education as basic education. It needs to think beyond the FPE.

Hon. Temporary Deputy Speaker, the issue of bursary is very significant when we talk of basic education, particularly in secondary schools. As the Hon. Member who spoke before me said, we need to begin seeing why a bursary is important. Can the bursary be offered from one source? This is because today the Constituencies Development Fund (CDF) offers bursaries. The county governments and the Ministry of Education Science and Technology offer bursaries too. I am aware of all this because my constituents have been beneficiaries of the bursaries. Instead of penny-packetting all these efforts, it is important for us to co-ordinate, so that it is known what amount of resources is directed at each constituency. We also need to consider the population within each constituency.

I want to thank Equity Bank for their "Wings to Fly" initiative. I know there are big banks that have been here for almost five generations. It will be important for other major players like Safaricom to come out and, in a transparent way, with such initiatives. As leaders representing the people, we need to be fully aware of the efforts made by corporates towards improving education.

Hon. Temporary Deputy Speaker, examinations must be transparent. Examinations must be done on a level playing field. A student sitting for examinations should be confident that no other student has undue advantage over him or her during the examinations. In this country, we are always closing our ears and eyes to cases of examination leakage. Some schools have undue advantage in examinations because they access examinations questions way before the examinations are on. Unless we address this challenge, the equity that we are looking for in education will remain elusive.

Finally, on the Kenya National Examinations Council (KNEC), there are youngsters who lose their certificates through fires in their houses, or road accidents. It takes ages for those certificates to be replaced by KNEC, even when the necessary documents have been provided. KNEC must be alive to the fact that without a certificate, a young person can hardly access anything in life. Therefore, they must exercise prudence and provide certificates within the shortest time possible, provided all the necessary requirements have been met.

Hon. Temporary Deputy Speaker, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Rachel Ameso.

**Hon. (Ms.) Amolo:** Ahsante sana, mhe. Naibu Spika wa Muda. Nataka kuchangia Mswada huu ambao nauunga mkono. Ni jambo zuri sana kuwaona watoto

wetu wote wakifaulu katika shule za msingi na shule za upili. Ukisoma bila kufanya mtihani wa kitaifa, hakuna mahali popote ambapo utaelekea. Kwa hivyo, ni jambo nzuri sana tunapona kuwa zile senti za kulipia mitihani ya kitaifa zitatolewa kabisa katika shule zetu. Utapata watoto wengi sana wamemaliza shule lakini hawawezi kupata vyeti vyao ili waweze kujiendeleza kimaisha.

Waheshimiwa wenzangu, mtakubaliana nami kuwa kuna watoto wengi sana, ambao wemekaa nyumbani kwa sababu hawakuweza kulipa pesa za mtihani wa kitaifa walipokuwa shuleni. Kwa hivyo, tukiondoa pesa hizi za kulipia mtihani wa kitaifa, tutakuwa tumesaidia nyumba nyingi sana katika nchi yetu ya Kenya. Pia tutakuwa tunawasaidia watoto wengi ambao hawangekuwa viongozi kama sisi hii leo, kwa sababu ya kukosa senti za kulipia mtihani wa kitaifa, na hivyo basi kukosa kufaulu kimaisha. Kwa hivyo, naunga mkono jambo hili. Naomba tutoe kabisa zile pesa zinazolipwa za kufanya mtihani wa kitaifa iwe ni darasa la nane ama kidato cha nne.

Katika sekta ya elimu ni kuwa tulielezwa vizuri sana kwamba walimu wakuu wangepane vyeti. Lakini mpaka wa sasa watoto wakienda shuleni wanaelezwa ni lazima walipe pesa kabla ya kupewa vyeti vyao. Ningeomba kwamba tuwe na sheria, ili walimu wakuu wapeane vyeti vya wanafunzi waliomaliza kusoma ili wajiendeleze katika maisha yao.

Sheria inapopitishwa Bungeni, ni lazima ifuatwe. Kuna sheria nyingi ambazo tumepitisha hapa Bungeni lakini bado hazijaanza kufuatwa. Ninaomba walimu wakuu popote pale walipo wawapatie watoto vyeti vyao ili waweze kujiendeleza kimaisha, na wajiunge na vituo mbali mbali. Hivi majuzi mliona polisi wakisajiliwa. Ingawa hivyo, watoto wengi hawakuweza kujiwasilisha kwa usajili huo kwa sababu hawakuwa na vyeti vya kudhibitisha kuwa wamehitimu katika kidato cha nne.

Naunga mkono Mswada huu. Naomba walimu watilie mkazo kuona kwamba watoto wetu wanapata vyeti ili wajiendeleze kimaisha.

Ahsante sana mhesh. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Iringo.

**Hon. Kubai Iringo:** Thank you, hon. Temporary Deputy Speaker, for this opportunity to contribute to this amendment Bill. Let me also thank my brother, *mhe* Wangwe, for bringing it to Parliament.

Hon. Temporary Deputy Speaker, I support that the examination fees be waived for all the students who are doing examinations (exams) not necessarily for those who are in public schools, but even for those in private schools. Even if people take their children to private schools because they are able to, when it comes to exams, children in both public and private schools sit the same exams. So, I support the idea that all exam fees be waived.

I also propose that as the Government provides the FPE, let us put it in law that once a child goes to school, from nursery to Form Four, then his or her education will be for free. This will help parents and the Government to invest in higher education.

The Government could set up a fund, so that those who qualify to go to universities and colleges can get money. This could be done through the Higher Education Loans Board (HELB) or bursaries. That way, it will be cheap and easy to educate all the children who have excelled. I say this because sometimes we use a lot of money, especially on basic education in Form One to Form Four. We normally get the

best pupils to join the higher levels, but because we have spent a lot of money even on those who dropped from school, we end up not getting enough money to educate the best brains. A lot of brains are thus wasted on the way. Therefore, I strongly support that we get free basic education from Form One to Form Four, and thereafter parents and the Government can invest in specialized education in higher learning institutions.

I want to raise an issue about the Higher Education Loans Board (HELB). We are getting a raw deal from them because they even call upon us to give out a share of the CDF kitty, so that they can extend loans to our children. I do not know how the programme was visualized, but I believe they have their allocation from the Budget, which they should give to needy children. The mistake they are making is that they are not getting the right children who need to get this money. They are giving the money to everybody across the board. So, their vetting is wanting and it is high time it was done in a procedural manner, so that the neediest children get bursaries.

The Kenya National Examinations Council (KNEC), also has its weaknesses. A case in point is where a child misplaces his or her certificates and then he is told that he can only get a replacement after six months, yet the child is supposed to be reporting somewhere the following day. Is it that they do not have a system that can reproduce certificates? Why do they take that long? The organization there is quite analogue. They still have a lot of paperwork. They should try to update their systems in order to assist people as fast as possible. This is because when you are told to wait for six months to get a certificate, yet there is a job in the offing in the next one month, it becomes very disappointing.

Finally, let me finish by saying that the Teachers Service Commission (TSC) should also look at the shortage and distribution of teachers in this country. You find that most urban schools have got excess staff, because people tend to post their friends, relatives and people they know to where there are good roads, houses and electricity. The marginalized schools with the neediest children in this country do not have teachers, because not many teachers are willing to go to teach in areas where there are no good roads and guaranteed security; this is the current situation in north eastern region. Therefore, it is very important that the TSC harmonizes the distribution of teachers to schools. It should enhance the hardship allowances. There should be an extra coin for the teachers who are posted to those areas. If we leave the current situation to persist, we will have those who are more endowed schooling and those who are less endowed remaining at home, and getting poorer and poorer.

I support.

**The Temporary Deputy Speaker** (Hon. Shebesh): I now give the Floor to hon. Chris Wamalwa.

**Hon. Wakhungu:** Thank you, hon. Temporary Deputy Speaker. At the outset I want to congratulate my friend hon. Emmanuel Wangwe, MP for Navakholo, for coming up with such a wonderful Bill.

This Bill has been long overdue. I have known hon. Wangwe from the time I was a ranking Member of the Budget and Appropriations Committee. He came and presented this Bill before us. As a requirement for any money Bill, it had to go to the Treasury. However, the Cabinet Secretary (CS) did not give us a positive feedback and that is why this has taken long. Recently we heard of an executive order that fees

should be scrapped, and this is an idea that hon. Wangwe has been having since we entered this Parliament. So thank you hon. Wangwe; I know that in a short while we are going to have this Bill implemented.

We thank his Excellency for the executive order, but unfortunately, in case we get a rogue President, that executive order cannot be sustained. Therefore, it is, indeed, important that we have a law in place, so that whoever comes in is obligated not charge exam fees. When you look at the Millennium Development Goals (MDG), particularly Goal No.2, which talks of access to universal primary education--- Last time I had an opportunity to go to London to attend a conference on the MDGs titled "The Role of Parliamentarians". One of the critical issues that came up, and has been a handicap, was that many governments have in place the Free Primary Education (FPE) like Kenya; unfortunately, the exam fee becomes an obstacle. Therefore, if this Bill goes through, I have no doubt that the rating of Kenya as far as access to basic primary education is concerned is going to be high.

We know that some headmasters and principals squander fees. Poor children pay fees, but they are unable to sit examinations. So once this Bill is in place, the Government is going to budget for it and those poor children, who cannot afford exam fees, are going to be assured of education.

Free education cannot be achieved if at the end of going to school you do not have a certificate, and you can only have a certificate if you have sat for the exam. Therefore, this Bill is going to add a lot of value as far as improving people's welfare is concerned. When you look at MDG No.1, which talks about eradication of total poverty, you will realize that if people go to school, we are going to eradicate poverty, because their chances of getting employment are going to be enhanced. Once this fees is abolished, Prof. Kaimenyi will not need to tell head teachers that they must report to the Ministry for purposes of enforcing Government directive on school fees. It was because actually that was a critical issue. Therefore, once we finalize this, we will not want the TSC mandate to be interfered with, and the head teachers and principals should report to the TSC and not to the CS.

The legacy that the former President, Mwai Kibaki, left was that of Free Primary Education. We have been wondering what legacy the Jubilee Government will leave behind. We were thinking of the laptops, but they have not yet come. However, if the Jubilee Government actualizes the issue of exam fees, at least, that could be a legacy. The President has already given that executive order, and it is already in place. We now want to give it legal backing, so that it can be implemented. We want this to be in line with Article 43 of the Constitution, which talks of access to education. It is so that this issue of exam fees is abolished. However, the worry is: Are we abolishing it for everyone, including those in the private schools that can afford? This is something that we should think about. I would like to direct this to the Mover, hon. Wangwe.

In this Bill, if we abolish exam fees, are we abolishing it even in private schools or is it only in the public schools? When we go to the Committee of the whole House, we need to bring some amendments, so that we are able to know this. If somebody has gone to a private school and they can afford it, so be it. So, my interest here is critically on the public schools. This is because even when it comes to healthcare when you offer free medical services they can only be accessed in public hospitals. When you go to

private hospitals it is totally different. Some of these private schools are, therefore, profit making. If the parents can afford--- We should be focusing on public schools and not private schools.

I was sharing something with one of my colleagues in the Departmental Committee on Education, Research and Technology. It is good they are supporting this matter. You know there are committees which look for ways of frustrating nice Bills. I am happy and thankful to learn that the Committee of Education, Research and Technology is fully supporting this issue.

Thank you, hon. Temporary Deputy Speaker. I am requesting other hon. Members to support this Bill, so that poor children can access education.

I want to thank the Committee and I was sharing this with a Member of the Committee on Education, Research and Technology. It is good they are supporting the Bill. When a good Bill is brought to the House, some Committees look for a way of frustrating it. I am happy to learn that the Departmental Committee on Education, Research and Technology is fully supporting this Bill. I thank the Committee.

Thank you, Hon. Temporary Deputy Speaker. I request other Members to support this Bill, so that poor children can access education.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Wesley Korir.

**Hon. Korir:** Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this Bill. I take this opportunity to thank the Mover for thinking about a very special thing that has been neglected for a long time.

When we talk about education in this country, we are not talking about privilege, but a right. This is a right that is envisioned in the Constitution that every child should access education. However, in the recent past, education has become a privilege of a few individuals who can afford to pay and take their children to school. This is a very serious issue. As a country, if we do not take care of this issue, it will take us to a point where we will have two classes of people in this country. We will have the class of the rich, who can go to school and become better citizens and the class of the poor, who cannot take their children to school. Those children will continue being poor for the rest of their lives.

This is a small part of the big puzzle of the big problem that needs to be solved. In this country, we have the problem of increasing school fees. Right now, we are taking care of a small piece, namely the examination fees part of it. What about the rest? What about the Kshs30,000, Kshs40,000, Kshs50,000 or the Kshs100,000 that parents have to part with every time they take their children to school? As we move forward, we need to seriously look at the issue of education in this country.

I would like to differ with hon. Wakhungu that we need to look at this from a private and a public perspective. If you are talking about the Kenya National Examinations Council, it should be equal for everybody. We are talking about examinations. There are no examinations for private schools and public schools. We are talking about national examinations for all schools. So, let us make education affordable for every child in Kenya. There is no special child. There are no children of the rich and children of the poor. We are all children of Kenya. We belong to Kenya. So, let us have a Bill that covers everybody, but not one class of people.



Another issue that I want this House to look deeply into is the system of our education. We have a system that is failing us. It is failing us because we have an exam-oriented system of education. We need to move from an exam oriented system of education to a practical system of education. When our children sit for the Kenya Certificate of Primary Education (KCPE) or the Kenya Certificate of Secondary Education Examination (KCSE) and do not pass, they are looked at as failures. However, there are people who are not book smart, but if you give them a tractor or a car to fix, they will do it very well. Because our system does not give them an opportunity from a young age to discover the talents that God has given to them, they will look at what they have done in KCPE or KCSE and feel like failures, because they did not pass these examinations. Let us go back to the system where we had art and craft, music, agriculture and engineering, so that children can learn at a young age who they are and what talents God has given them.

I support this Bill, but we need to look deep into the issue of our education system and school fees and make sure that every child in this country gets a chance to get what is their right and not a privilege.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Jessica Mbalu.

**Hon. (Ms.) Mbalu:** Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to add my voice to the voices of the Members of the National Assembly who have contributed to this Bill. I wish to congratulate Hon. Wangwe for the good work he has done. I pray that he is going to be re-elected because he has touched the nerves of the people in the constituencies. He is doing the right thing.

The objective of the short Bill is to ensure that examination fees for the KCPE and the KCSE are abolished. This will go a long way in promoting education in this country. Education cannot be replaced. It cannot be left behind. It is the driver of development in this country. We are what we are because of education. I have been a university lecturer before and I know what it feels to be educated. An educated person is an empowered person.

As I support this Bill, I request the Government to look into the welfare of schools. Members of the National Assembly are doing very well through the CDF in terms of infrastructure and bursaries. We touch the hearts of mothers and fathers when we give bursaries. Just two weeks ago, I was giving bursaries to my constituents and you could see how parents were happy.

We have students and pupils who cannot collect their certificates because of outstanding fees balances that they cannot afford to clear. In terms of promoting education, this Bill will go a long way. Some of the amendments that we will be making--- This is an achievement of the Eleventh Parliament through the Member.

With regard to parents who cannot afford to pay school fees, the students will be assured of their certificates. There is nothing as bad as going to school and you cannot afford examination fees.

This Bill will go a long way in promoting education. However, as much as we promote students, we should not overlook teachers. Teachers should be paid good salaries. A teacher is like a pastor - I pray for them. They want their students to perform well. When we pay examination fees and we do not give teachers good salaries, we fail. We

could pay examination fees but teachers are not motivated. I want to cry with the teachers as we say “Kaimenyi must go”. He must go and he must pay the teachers well.

Members of Parliament do their duty by giving bursaries. In first term we get a lot of requests, because parents want to pay examination fees. I represent a constituency where parents’ purchasing power is very low. We are poor and this will go a long way in helping my constituents. I will be the first one to bring an amendment to ensure that examination fees for Standard Eight and Form Four are paid by the Government. The standard of living for people will improve when examinations fees for these students are paid by the Government. We will be assured that every pupil and student will have access to education.

I am happy with the Member of the National Assembly in terms of trying to implement the provisions of Article 43(1) of the Constitution. This will actualise full attainment of free and compulsory basic education as provided for in Part IV of the Basic Education Act, 2013. This is a small Bill that is seeking to amend Section 48, but it is as big as a 100-pages Bill because of what it provides.

The amendment to Section 48 also talks about the conduct of examinations, and the nature and extent of examination irregularities. Everything, in terms of exams, will be taken care of. I know Members of Parliament want to contribute to this small but weighty Bill, which is going to help parents and students when we abolish the payment of examination fees for KCSE and KCPE.

Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Cecilly Mbarire!

**Hon. (Ms.) Mbarire:** Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this important Bill. Let me also congratulate the Mover of this Bill for seeing it fit to go beyond the policy statement of the Jubilee Government on waiver of all examination fees for KSCE and KCPE. I congratulate the Mover for seeing it fit to make it law, so that it is not at the whims of individuals either waive or not to waive exam fees.

Education is a basic need. Basic needs are human rights. Therefore, it is important that we work towards ensuring that all the children of this nation acquire the necessary education they need to realise their potential. Every Member of Parliament knows that this is not as easy as it is made to sound. We have had many children who have not been able to do their examinations, because their parents could not afford examination fees. I thank the Government for finding it fit to actually waive this fee, so that every child can access education. Every Member of Parliament knows that once it gets to February, we get our offices full of parents in need of Kshs4,500 to pay examination fee for their children. We are happy that this is now gone. However, it is good to anchor it in law, so that every child can be assured of doing their examinations.

We need to go beyond just facilitating, or enabling, every child to do their examinations and think about access to their certificates after the examinations. Many children today are not in a position to get---

*(Hon. (Eng.) Gumbo consulted loudly)*

Hon. Temporary Deputy Speaker, I am completely unable to continue because the Chair of Public Accounts Committee, who is still very excited about his election yesterday---

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Gumbo! I am trying to get your attention. Your consultations are too loud. Hon. Mbarire cannot go on.

**Hon. (Ms.) Mbarire:** Hon. Gumbo, I know you are still very excited. I wish you well in that Committee. Just make sure that you do not get caught up in the mess that we were caught up in. Be alert to people who go about making crazy records out there in your name.

Hon. Temporary Deputy Speaker, I am saying that we need to go beyond just providing free examinations and come up with a way of ensuring that certificates of students who have passed examinations are made available to them. We heard former President Kibaki, and later President Uhuru Kenyatta, say that all certificates that have been withheld in secondary schools should be made available to students. I have had cases of students who have come to me and told me that principals had said that they could not release the certificates. The Government needs to look into this matter, so that we can ensure that the purpose of education, which is to take a student to the next level, or enable to get a job, is made possible.

It is important for this Parliament to stay true to basic needs which are well enshrined in the Constitution. These include education, food, health and shelter. I hope that after the passage of this Bill, as Parliament, we will look into the issue of healthcare. Without digressing, Members of this Parliament need to seriously relook at the new rates of the National Hospital Insurance Fund (NHIF). Kenyans cannot afford Kshs500 every month to be members of NHIF. If, indeed, we want to have universal education and healthcare for all Kenyans, we must revise those rates. They are way above the ability of Kenyans. In my own constituency, people have told me to come to this House and tell the Cabinet Secretary for Health and the President that they cannot afford Kshs500. I hope that after the education sector, we will also go and look into the health sector and ensure that Kenyans are made to pay what is affordable. Anything above Kshs200 would be hard for Kenyans to afford, especially farmers and people in the *Jua Kali* sector, who depend on less than a dollar a day. It is absolutely unfair for us, as Members of Parliament, to sit here and not mention that issue, which is a big concern to Kenyans.

With those few remarks, I support.

**Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): There is a point of order from hon. Patrick Makau.

**Hon. King'ola:** On a point of order, hon. Temporary Deputy Speaker, I am just concerned. This debate is creating a lot of interest. It has created anxiety amongst hon. Members. Would I be in order to request that we are given three minutes to contribute to the debate?

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Is three minutes agreeable to everybody? Is that the mood of the House?

**Hon. Members:** Yes!

**An. hon. Member:** No!

*(Question, that debating time be reduced, put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Each Member speaking will take three minutes.

Let us hear hon. Geoffrey Odanga!

**Hon. Odanga:** Thank you, hon. Temporary Deputy Speaker. I also want to support the Motion, and thank the Mover, hon. Emmanuel Wangwe of Navakholo Constituency.

First of all, the objective of this amendment is to amend the Kenya National Examinations Council Act of 2012, so as to abolish examination fees paid by primary and secondary school candidates. This goes a long way towards implementation of the right to education.

Hon. Temporary Deputy Speaker, education is very important service to Kenyans and, indeed, to all people of the world. Article 43 (1) (f) of our Constitution, as read together with Article 53 (1) (b), says that every child in Kenya has a right to free and compulsory education. Therefore, the fact that examination fees have been waived is a very important aspect of this achievement.

Education is supposed to make an individual function better in society. Any education without a certificate at the end of the cycle will come to naught. Therefore, the fact that we are trying to anchor the waiver of exam fees in law, as already announced by the Head of State, is a very good step in the right direction.

We also need to address ourselves to the fact that secondary school bursaries given out by the Ministry of Education, Science and Technology have been stopped, starting the current financial year. We have never received that money. This has caused a lot of concern to our children in secondary schools. We would like to urge the Budget and Appropriations Committee to ensure that these funds are brought back in the next financial year, so that they assist the very needy children we have in our midst.

Also, I would like to know how the issue of repeaters is going to be addressed as we talk about waiving of examination fees. For many years, we have always had children who, after completing one cycle of education, either primary or secondary school, would like to do it again so as to achieve better grades. Will they still be considered for the waiver or will they have to pay now that they will be repeating?

Finally, the issue of certificates is very important. We must address it, so that when children are done with exams, they get certificates.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Your time is up.

Hon. Onesmus Njuki.

**Hon. Njuki:** Thank you, hon. Temporary Deputy Speaker for the opportunity to contribute to this Bill. We pay for an examination that is supposed to be the culmination of four or eight years of education, and that is supposed to show what the children achieved. If, in this particular case, we had a scenario like the one we have in the United States (US) and Britain, where it does not matter which level of education you achieve, because you will still have your certificate, it will have be easier to avoid situations

where we have children who have nothing to show if they fail to sit for exams because of lack of fees. Children have repeated classes in this country because of lack of fees. I hail the Jubilee Manifesto that has promised provision of free primary and secondary education.

It will not be in order and doing any good if we pay for the tuition fees and other things that are required in providing education and then we fail to pay examination fees. The effect of withholding certificates that has been discussed here is not only making young people unable to get jobs but is also spoiling careers for students who end up in professions they did not want to take, because they have no certificates, which are illegally withheld by head teachers. This is going to be a thing of the past if we are able to pass this Bill because principals will no longer be able to hold certificates, if they have allowed the students to do exams.

My concern is on the contribution to education by the county governments. Currently, we know that it is the Early Childhood Development Education (ECDE) only which is devolved. If you look at the amount of money that we actually give the counties and the contribution they make to this very important sector, we should get a way to get a legal provision to only devolve the contribution to education, or the funds, and not give the role of supervising the policy implementation to counties.

With those few remarks, I would like to support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Peter Kaluma.

**Hon. Kaluma:** Thank you, Hon. Temporary Deputy Speaker. It is very difficult to debate such a big matter in three minutes. I will say three things.

This Bill is a big indictment of our Departmental Committee on Education, Research and Technology, which is in charge of education within Parliament. I hope that Committee is concerned that an ordinary Member of the House has thought through this. We are in a country where the President and the Executive says that certificates ought to be released to all students, yet nothing happens and it does not bother anybody. We are in a country where the Constitution says there is a right to basic education, but nothing happens and it means nothing.

I thank the Hon. Member for bringing this Bill but I want to say that we must be taking steps, as the leadership of this country, to ensure that basic education is not only free but also qualitative. The idea that you require fees for education, or whatever, is making education still a preserve of the rich.

Let me just mention one thing due to paucity of time. You know students are being admitted to national schools on a daily basis. However, students from poor families cannot take those chances. All leaders of this country in this House are aware that those opportunities are later given to people who are able to pay the fees. We are aware of corruption. Some of these opportunities are even bought. I urge the Member to permit that as we pass this important Bill, we go beyond what it is prescribing and ensure that basic education is free.

Let me end by thanking the people of Kenya who elected Hon. Wangwe to Parliament. I cannot say much. I was certain in my mind that up to 95 per cent of us would not return to this Parliament, because we have been underperforming. I am sure the number is now up to 90 per cent. Hon. Wangwe will come back with the additional five per cent,

because he is dealing with an issue of concern to the country. May we have more Members doing this, so that we can move our country forward.

I thank you, Hon. Temporary Deputy Speaker. We will be proposing further amendments, so that we can streamline the education sector.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Abass Mohamed.

**Hon. Mohamed Abass:** Thank you, hon. Temporary Deputy Speaker. I will also want to support the amendments to the Bill. As you are aware, this country has free primary education and there are so many students going to secondary schools. As a result of many parents taking their children to school, most of them cannot even afford to pay the examination fees at the time of examination. It is the right time *mhe*. Wangwe has brought a Bill for a waiver.

One other thing is that there are enough resources in this country. We have bursaries both in the Constituencies Development Fund (CDF) and at the county level. This country can afford free primary and secondary education. I commend the Jubilee Government for the initiative they have taken offer free primary education and plan for free secondary education.

Having said that, examination is not the end of everything. Out of the total number of students who sit for exams every year, 75 per cent of them do not make it to secondary schools. Most of them do not make it to universities. There is a big gap that this country needs to address. This has been brought about by the disparity in learning facilities for teaching and the unavailability of teachers. In my constituency, you will see a school with up to Class Eight with only two teachers. By the end of the day, most of the students do not make it to secondary schools. The issue is not examinations but the availability of teachers and facilities for learning. There is a big disparity in the education sector and schools. Having free national examinations is not the end of everything. The Government needs to address this disparity.

I also want to thank the Government for creating a national school in every county. However, these same schools do not even have facilities and teachers. That needs to be addressed.

I want to tell the Kenya National Union of Teachers (KNUT) and Kenya Union of Post-Primary Education Teachers (KUPPET) that leaders like Sossion who are always spitting fire condemning the Government for actions of the Cabinet Secretary and those kinds of things that they need to challenge the teachers to perform. It is the right time Mr. Sossion and his like took responsibility for the education of this country and stop defending teachers only. Teachers have all the reasons and need to be protected, but they must also be reprimanded when they fail to deliver. What happens is that these guys take all the time fighting the Cabinet Secretaries and telling the Government to do “a”, “b”, “c”, “d” but they do not take responsibility.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Gladys Wanga.

**Hon. (Ms.) Nyasuna:** Thank you, hon. Temporary Deputy Speaker for giving me a chance to contribute to this very important Bill, and to thank the Hon. Emmanuel Wangwe, Member for Navakholo, for bringing this Bill that touches not only the people of Navakholo but also on the people of this country, the length and breadth of this country. The poor people of this country will be appreciative of this initiative, which

essentially facilitates the right to education as guaranteed in Article 43(1)(f) of the Constitution. It also enables the full attainment of compulsory basic education as outlined in Part 4 of the Basic Education Act, 2013. This will also go a long way in helping this country meet the Millennium Development Goals (MDGs) Goal Two, which speaks to universal access to education. It does not make sense to learn for eight or four years only to be stopped at the end of those years because you do not have the necessary examination fees. This is a big problem and you find many parents approaching Members of this House to assist them in paying the examination fees.

Hon. Temporary Deputy Speaker because the time is very short, I would like to say that what breaks the poverty circle in families is education.

Apart from examination, another major factor that stops, particularly, the girl child from going forward is lack of sanitary towels. We know that the Ministry of Education has allocations every year for sanitary towels, but we never see these sanitary towels in our schools. I do not know where the money goes, where the sanitary towels go or whether they end up at the Office of the District Commissioner (DC) or the District Officer (DO). We want to see that our girls--- Just as examination fees will stop you from doing exams, so will a girl who is in her periods, and does not have sanitary towels--- That girl will not go to school, will not concentrate and will not pass exams.

I want to challenge the Ministry of Education, Science and Technology to enhance the sanitary towel programme; we want to see sanitary towels in our schools and in the furthest ends of villages of this country. The Education sector cannot be regulated, or manned, through finger pointing. So, the Cabinet Secretary (CS), Prof. Kaimenyi, must now come down; he is leading the education sector; he needs to sit down with stakeholders, negotiate and come to consensus on the issues affecting the education sector.

Thank you, hon. Speaker.

**The Temporary Deputy Speaker** (Hon.) (Ms.) Shebesh: Hon. Aisha Katana.

**Hon. (Ms.) Katana:** Asante sana mhe. Naibu Spika wa Muda. Ningependa kuchukua nafasi hii kumpongeza sana mhe Wangwe kwa kuleta Mswada huu. Tunajua sisi wote kwamba elimu ni mwangaza na ni muhimu sana kwa watoto wetu katika taifa hili. Mhe Wangwe amefikiria si eneo Bunge lake tu, lakini watoto wote katika taifa letu la Kenya.

Mhe. Naibu Spika wa Muda, nataka kusema kwamba nimesimama kuunga mkono kabisa Mswada huu ambao utakuwa muhimu kwa sababu tumeona Rais wa Jamhuri ya Kenya akitoa amri kwamba malipo ya mitihani yetu ya kitaifa ya Darasa la Nane na Kidato cha Nne yote yaondolewe. Serikali imejitolea kabisa tukipitisha Mswada huu itakuwa ni sheria, na itakuwa ikifanyika bila pingamizi. Hii ni kwa sababu Rais akiongea, ama wakuu wetu wakiongea, ni kwamba bado kuna waalimu ambao ni wakuu wa shule wanaosemba. Kwa mfano, mwaka jana tulimwona Rais wetu pamoja na makamu wetu wakiongea kuhusu vyeti vya watoto wa Kidato cha Nne, kwamba vyote vipeanwe. Tuna ushahidi kama viongozi wa kule chini nyanjani kwamba waalimu wakuu wengi wamekataa kupeana stakabadhi zile muhimu kwa watoto wetu wa Kidato cha Nne. Kwa hivyo, nataka kusema kwamba ni Mswada muhimu sana, na utasaidia

sana watoto wetu kuhakikisha kwamba wamefanya mitihani bila matatizo na wanapata vyeti bila shida.

Wabunge wetu wanafanya bidii sana kutumia Hazina za Maeneo Bunge kujenga shule na kupeana *bursary*. Lakini haya hayana msingi iwapo vyeti havitapeanwa kutoka katika shule mbalimbali katika Jamhuri yetu ya Kenya.

Nataka kuunga mkono na niseme kwamba ni jukumu letu sisi wote tuhakikishe kwamba Wabunge wenzangu Mswada huu umepita, upite na tuweze kuwa na sheria mwafaka ambayo itatusaidia sisi kama wazazi, na pia kama viongozi kutoka mashinani.

Asante sana, mhe Naibu Spika wa Muda.

**Temporary Deputy Speaker** (Hon. (Ms.) (Hon.) Shebesh): Hon. Zipporah Kering.

**Hon. (Ms.) Kering:** Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Motion. I also want to take this opportunity to thank hon. Wangwe for bringing here a Bill that is so important.

We know that education is a right of every child in this country, and we have had several cases of many children of this country missing examinations simply because they could not afford to pay for the examinations. Those children went through school, that is from Class one to Class Eight and from Form One to Form Four, and missed examinations; it meant that their learning was irrelevant. I want to thank His Excellency the President; when he gave his Statement here, he had actually seen the needs of children. That is why we thank Hon. Wangwe for bringing this matter to this House; now the matter will be law. I want to say that the children of this country can only depend on education if the Government supports them.

Despite the fact that we know education is free, though we do not know to what extent it is free--- When you go to primary schools, children are asked to buy exercise books. They buy pencils and you will see that a child misses class, because he or she does not have a pen or book.

Hon. Temporary Deputy Speaker, just as Hon. Wanga has put across, this Bill is going to set free our children to sit for examinations and move to the next level. Even the sanitary towels we are talking about--- It will not be of any use to abolish examination fees and leave school girls without some of the basic needs. I am also telling the county governments that the national Government is going to abolish examination fees, and they should also look into ways of giving sanitary towels to our girls. We are going to abolish this fee, but teachers who man examinations will be put at risk. Whenever there is an issue In an examination, these are the people who suffer. As we abolish the examination fees, we appeal to Kenya National Examinations Council (KNEC) to give something reasonable to the teachers who man examinations.

Hon. Temporary Deputy Speaker, as Kaimenyi and we---

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. (Ms.) Kering, your time is up.

Hon. Johnson Sakaja.

**Hon. Sakaja:** Thank you, hon. Temporary Deputy Speaker. I would like to congratulate hon. Wangwe for coming up with this legislation. I think beyond this, we need to look at our education in a very holistic manner. In as much as we are abolishing school fees being charged o our students in Form Four and in Class Eight, there is a



cardinal issue that must be addressed in this country, if you want to provide a sustainable future for our children. Every year, hundreds and thousands of young people fall by the wayside in our education system. Two years ago, I remember we were saying that 600,000 students were doing the KCPE, and they were going to join Form One; before that, in 2005, 1.5 million students joined Class One. From the 1.5 million students who joined Class One, only 600,000 students made it to Class Eight. Of the 600,000 students who made it to class eight, only 400,000 students were able to get places to go to Form One. That is a tragedy in itself as we look at it; where do these children go to?

Even as we abolish the fees, we must address radically the issue of transition, and I dare say, as put in the Jubilee Manifesto, we must ask the Ministry of Education, Science and Technology what their plans are to ensure that we have a 100 per cent transition rate from Class One to Form Four. The biggest threat to our security is actually those young people who are left on the wayside, without hope, disillusioned, without jobs, without a means to earn a living and without enough know-how to enable them come up with something to do.

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

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

Hon. Deputy Speaker, world over, a child at the age of 14 must go on with education. I am seeing the light that the light is on, but just allow me to finish my point. The reason why we subject our children to exams in Class Eight before they go to Form One and tell them you are too stupid to go to Form One is not because of intelligence or lack of it; it is because of our structural inadequacies and we have refused to provide places for them in Form One.

Every primary school in the village has enough space to build, say, a Form One Classroom. So, I ask, as I finish, that the Budget and Appropriations Committee and the Departmental Committee on Education, Research and Technology, at least, start providing for this 100 per cent transition rate. Otherwise, even this will not have much effect. I thank you for this because it is a good step. We thank the President and the Deputy President because they are the ones who launched it.

**Hon. Kobado:** Hon. Deputy Speaker, allow me to start by thanking Hon. Wangwe for this very innovative amendment Bill. This is a Bill that is touching on weighty issues affecting this nation. As a pointer to the gravity of this matter, allow me to refer this House to an article that appears in today's Daily Nation, and is attributed to the Cabinet Secretary for Education, Prof. Kaimenyi, where he states that over two million Kenyan children are not attending school. If this is from Jubilee Government, then I am sure the figure is even higher. We could be talking about five million children in Kenya who are not attending school today. That is the entire population of Nairobi. So, this indicates the gravity of the problem that we are facing. The Bill is timely in the

sense that it addresses issues to do with inefficiency and wastage in our education system.

An examination is the tangible output of an education process and so it is critical. That is why we are saying that examinations should be made free. If we are going to talk about quality education, then we have to address the entire education value chain. Quality must start from Early Childhood Education (ECD), primary up to secondary school, if we are going to talk about basic education. Quality should be at a price that you can afford. You cannot talk about quality of food in Intercontinental Hotel if you cannot afford to taste it. So, it is quality at a price that you can afford. There is need to ensure that the entire system meets the quality standards, if this nation is really keen on going anywhere.

We need to address ourselves to the issues of retention and transition. I agree with my good colleague, Hon. Sakaja. We need to look at the transition rate. There is a very high dropout rate at Class Eight. Those who do not proceed to Form One in this country are so many. The percentage is very high. Unless the Government takes this seriously, so that we align the education sector to the Constitution, 2010 and Vision 2030, we may not get anywhere. Education is an equaliser, and it is the only strategy that you can use to narrow the gap between the poor and the rich.

With those many remarks, my time is up and I---

**Hon. Deputy Speaker:** Hon. Janet Wanyama. She is not here!

Yes, hon. Justice Kemei.

**Hon. Kemei:** Hon. Deputy Speaker, I rise in support of this Bill. Secondly, let me congratulate our colleague, Hon. Wangwe, for bringing this Bill to Parliament. When we talk of Free Primary and Secondary Education in this country, it should be free in every sense. We should not be getting our children sent home for textbooks, extra curriculum activities charges and stuff like that. Examinations should also be free, so that at the end of the day, those children who have gone through every stage of education in our country are able to produce a certificate to say that they have completed this level of education. Apart from making secondary school education free, we should also have free education in our vocational training institutions, so that those who are not able to go to secondary schools and institutions of higher learning also get education in areas in which they are gifted. This directive by the Government that examination results should be released to our children after they finish secondary school education is not being adhered to. I want to ask the Government to apply sanctions, so that principals who fail to honour this directive are punished. This will enable our children, who are not able to pay school fees, to get their certificates and move on with life.

It is tragic that when you go to various primary and secondary schools you will find that those with ten classes have five teachers and those with 14 classes have five teachers. Although, we know that there is a shortage of teachers in this country, the Government must increase its ability to make sure that teachers are posted in all primary and secondary schools. Finally, we can use education to make society equitable in terms of economic, social and political sense.

I support.

**Hon. (Ms.) Khamisi:** Ahsante sana Naibu Spika kwa kunipatia nafasi hii kuunga mkono Mswada huu. Kwanza napenda kumpa kongole mhe Wangwe kwa sababu ya kuleta Mswada huu. Katika nchi yetu tunaelewa kwamba jambo lolote likifanywa kisheria, linaweza kutekelezwa, na hivyo basi kuona limetendeka kwa njia inayofaa.

Ni haki ya kimsingi kwa kila mtoto wa Kenya kupata elimu yenye manufaa. Jambo hili limesisitizwa katika Kifungu 42 cha Katiba yetu. Elimu yenye manufaa ni elimu ambayo mwanafunzi amesoma na baada ya kusoma ameweza kutahiniwa na baadaye kuweza kuendelea katika daraja ya pili ya kielimu. Kwa mfano, watoto wetu wengi sana hapa Kenya huweza kusoma katika shule ya msingi na wanapofika Darasa la Nane wanashindwa kulipa pesa za mtihani. Hivyo basi wanashindwa kuendelea katika masomo ya shule ya upili. Hii ndiyo sababu tunaona watoto wengi sana wanafika Darasa la Nane, lakini wanakosa kwenda katika shule ya upili. Kuhusu kuondoa umaskini, elimu ndio jambo ambalo litaweza kutuondolea umaskini katika nchi yetu ya Kenya. Ili kuondoa umaskini, lazima tuweze kupata elimu yenye manufaa na kuendelea. Mwanafunzi hawezi kuendelea kufika hata chuo kikuu ama kuenda katika shule ya kitaaluma ikiwa hajapata vyeti katika Darasa la Nane, na Kidato cha Nne. Hivyo basi tunapoteza watoto wengi wenye talanta kwa sababu wamekosa vyeti. Leo hii unapokwenda kuajiriwa katika vikosi vyetu vya ulinzi kama Jeshi la *Navy* ama jeshi la nchi kavu, utaulizwa cheti cha Kidato cha Nne. Iwapo hukuweza kutahiniwa na kupata cheti hicho, basi wewe huwezi kupata kazi kama hiyo.

Hili ni wazo nzuri sana kwa sababu wakati tunasema elimu ni bure yatupasa tujiulize, je, kutahiniwa ikiwa hakutakuwa bila malipo tutawezaje kusema kwamba elimu imetufaidi? Rais wetu amezungumzia sana suala hili na ametangaza kwamba elimu iwe bure ili tuweze kubadilisha nchi yetu. Hii ni kwa sababu nchi nyingi zilizoendelea katika ulimwengu ni kwa sababu elimu ya upili na msingi imefanywa kuwa bila malipo. Aidha wanafunzi hawatozwi pesa za kutahiniwa. Wizara ya Elimu na ile ya Fedha, zikishirikiana na Kamati yetu ya Bajeti na Kamati ya Elimu, zihakikishe kwamba ikiwa sheria hii imepita tumeweka pesa za kutosha ambazo zitafidia pesa zile ambazo wazazi sasa watakuwa hawalipi.

**Hon. Deputy Speaker:** Your time is up Hon. Mishi.

The hon. Member who is the Mover of the Motion, you have ten minutes. If you are generous, you can donate a minute. If you want to get my guidance on who was on the list, I can tell you it is Hon. Florence Mutua, Hon. David Wafula, Hon. Boniface Gatobu, and Hon. Charles Gimose. If you can give a minute to each one of them or if you want to use friendship and other relationships, that is up to you. That is the list as it appears on my screen. Do you want to give each one of them a minute?

**Hon. Wangwe:** Thank you, Hon. Deputy Speaker. There are Members who had approached me earlier on with a view to enriching my Bill. It is my humble request that we give priority to the Members who had already approached me over the issue.

**Hon. Deputy Speaker:** Then you go ahead.

**Hon. Wangwe:** Hon. Deputy Speaker, we will have Hon. Makau, the Member for Mavoko; Hon. Kiuna, Member for Njoro; Hon. Nyaga, the Member for Tharaka Nithi and lastly, Hon. Wafula, the Member for Saboti, because they had all spoken to me. I will only allow them to use one-and-a-half or two minutes, so that I can conclude.

**Hon. Deputy Speaker:** Okay, but you will agree on which ones. Have you written them down? Let us start with Hon. Makau. Is he in the House?

**Hon. King'ola:** Thank you, hon. Deputy Speaker. I have always respected the power of knowledge of Hon. Wangwe. This law is wanted by Kenyans like yesterday.

As much as we are asking ourselves why we have many Standard Eight dropouts, as a nation, we must ask ourselves where the rain started beating us. We cannot have free primary education yet we are not addressing the issue of examination fees for Standard Eight and Form Four. We must enact laws that govern children's rights including strengthening the law that prohibits child labour. Most children who drop out after Standard Eight end up being employed. We must enact those laws, so that all our pupils who complete Standard Eight can join Form One and proceed to Form Four. That is a concern of Hon. Sakaja and the nation.

**Hon. Deputy Speaker:** Your time is up. It was just a minute. The next one was Hon. Kiuna.

**Hon. J. K. Ng'ang'a:** Thank you, hon. Deputy Speaker. I also want to thank my colleague for giving me this chance to contribute to this important Bill. I support it. This Bill is overdue. All the Members will agree with me that this nation cannot develop and achieve anything if we do not have a strong background in our education system. We should not only deal with the examination fees, but we should go further and make sure that all the teachers are well catered for. The children should have enough teachers to teach them, so that when it comes to examinations, they perform well.

**Hon. (Ms.) B. N. Nyaga:** Thank you, hon. Deputy Speaker, for giving me the opportunity to support this important Bill by Hon. Wangwe. It is pathetic to put a pupil in class for eight years and at the end of the day, they have no certificate. A student is in class for four years and at the end, there is no certificate. When these children go for any appointment or want to apply for any job, they have to produce their certificates.

The other issue is the girl-child. When you do not give the girl-child enough sanitary pads, what are we talking about? We need to give them sanitary pads, so that they can stay in class and enhance their lives. We should be giving them sanitary pads at the beginning of every term. There is also another category which has been forgotten--

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**Hon. Deputy Speaker:** Unfortunately a minute is a minute. Hon. David Wafula.

**Hon. Wekesa:** Asante sana, Mhe. Naibu Spika kwa kunipatia fursa hii. Ningependa kuitumia nafasi hii kumpa mheshimiwa mwenzangu heko kwa kuuleta Mswada huu.

Sisi sote tunajua umuhimu wa masomo na kufanya mtihani. Ni heri sisi kama Bunge tuuhalisishe Mswada huu ili wazazi na wanafunzi wetu wajue kwamba mitihani ni ya bure. Ingekuwa muhimu pia kama wanafunzi wote wangehusishwa. Sisi sote tunajua umuhimu wa shule za binafsi. Shule za binafsi zimechangia pakubwa sana kwa masomo hapa nchini. Tunajua kwamba shule za Serikali haziko kila mahali katika Kenya. Kuna sehemu ambazo utakuta kuna shule nne tu za sekondari za Serikali.

**Hon. Deputy Speaker:** That was the last one. Those were the four that you donated time to. Hon. Wangwe, you have five minutes.

**Hon. Wangwe:** Thank you, hon. Deputy Speaker. Given that we still have some more five minutes, you could extend it to Hon. Gatobu, who was next and finally, Hon. Tong'i. I will then sum up within the last two minutes.

**Hon. Kinoti:** Thank you very much, hon. Deputy Speaker. I wish to sincerely thank Hon. Wangwe for moving such an excellent Bill. Further, I wish to thank this House because it will go down in history as the House that has done the most in helping the education system in Kenya.

2013, we passed a Motion that increased the contribution of the Executive to the Free Primary Education Programme by 30 per cent. We are now passing a Bill by Hon. Wangwe that will make examinations free. This is the House that will go down in history as having done the most in making education free. This is the right step in empowering the people of Kenya.

I strongly support this Bill. This House should make more steps towards making education fully free especially in primary, secondary and even university level.

I beg to support.

**Hon. Tong'i:** Thank you, hon. Deputy Speaker, for the opportunity. I want to appreciate Emmanuel, my schoolmate, for the job well done.

From the outset, I support the Bill. I want to propose that we include the repeaters. As it is, people who are repeating Standard Eight or Form Four are required to pay examination fees even in public schools. We recommend that, that be included so that repeaters also get the same opportunity and the benefits that pass on from the Government.

We all know that education makes us equal. Education is the function which has created leaders and the structures that we have in the Government today. Most of us are here today because of the function of education. Success of it cannot be a reserve of the people who have money. Education must be made available not just in terms of going to school, but also in terms of getting certificates. It is the only measure that can tell the world that you went to school. Without a certificate, you cannot demonstrate that you have gone to school.

**Hon. Deputy Speaker:** You are going to lack time for yourself, Hon. Wangwe.

**Hon. Wangwe:** Thank you, hon. Deputy Speaker. From the outset, I want to appreciate my colleagues for the overwhelming support from both sides of the House. I wish to request that they accept my appreciation. I wish to acknowledge and welcome any amendments from my colleagues as proposed by various speakers on this Bill. As soon as we move into the Committee of the whole House, any Member with amendments is welcome to contribute and enrich my Bill.

I also wish to let the Members know that this Bill is aligned with the Constitution. As they make the various amendments, I urge my colleagues to take cognisance of Articles 27(1) and (4), 43(f) and 53(b) while making their various proposals during the Committee of the whole House.

I most sincerely thank all my colleagues.

I beg to move.

*(Question put and agreed to)*

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

## BILLS

### *Second Readings*

#### THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

**Hon. Deputy Speaker:** Hon. Members, is Hon. Keynan in the House?

**Hon. Member:** No, he is not in the House.

**Hon. Deputy Speaker:** Okay. Can we then move to the next Order?

#### THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

**Hon. Deputy Speaker:** Hon. Members---

*(Hon. Tongi spoke off the record)*

Hon. Tong'i, you cannot move a Bill which has not been recorded as your Bill.

Hon. Members, again we do not see the Member who owns that Bill. Remember this is Members' day. This is the day that you move your Bills, Members. A lot of times you complain that you do not get enough time. Now there are two Bills that we cannot debate because the Movers are not here.

Next Order!

## MOTION

#### REVIEW OF PROCEDURE AND COST OF MARRIAGE REGISTRATION AND DECENTRALISATION OF THE OFFICES OF THE REGISTRAR OF MARRIAGES

**Hon. Deputy Speaker:** The Hon. Malulu Injendi

**Hon. Members:** He is absent.

**Hon. Deputy Speaker:** Hon. Members, I hope the Members had been informed by the Clerk's Office that their Bills and Motions were coming up for debate.

**Hon. Kipyegon:** On a point of order, hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Kipyegon?

**Hon. Kipyegon:** Hon. Deputy Speaker, thanks for the opportunity. I was just wondering because you have been calling names and nobody is there. I am rising on a point of order on a matter that is very serious and happening now in Narok.

There was a flood in Narok yesterday evening. Several people have been carried away and several people are still missing. More than 11 people have been found dead. I would wish you allow us as a House, especially Members from that county, to pass our condolences to those families who have been bereaved. I urge our Government to up the

process of trying to find the lost souls and the people who are still missing in that river. I wish to condole with the families and the people of Narok County at large. I also urge our county government and the Government to ensure that we have good drainage system so that whenever there is a flood--- This is because it has been coming repeatedly every year.

**Hon. Deputy Speaker:** Hon. Johana Kipyegon, I hear you and I sympathise with you for what has happened. Unfortunately, I am sure you know we have procedures in this House. If you can follow the proper procedure, we have this afternoon if you want the House to adjourn so that we can talk about it. You can use that procedure. It would not be in order for us to stop in the middle of something else that is going on for us to do that.

**Hon. Sakaja:** On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Sakaja?

**Hon. Sakaja:** Thank you, hon. Deputy Speaker. On the issue we are dealing with right now, it cannot go without saying that Wednesday mornings are reserved days for Members to bring Private Motions and Bills. Very many Members have played their role and have many Bills that are pending. We need a Communication from the Chair to reprimand Members who, despite their matters being listed on the Order Paper, do not find time to appear on the Floor of the House to pursue their issues. Even Hon. John Waluke, the sponsor of the Motion at Order No. 13, is not in the House and yet the Order Paper is done. Many of us have Bills and Motions that are yet to be slotted in whereas those whose Bills and Motions are on the Order Paper are not appearing. We need direction from the Chair and probably a Communication about this issue to Members so that even us in the House Business Committee (HBC) know whether to change how we slot in the Private Members' Bills. We need to know whether the Member is committed or whether the Member will be there. If the Member is not in the House without permission, they are wasting not just the time of this House but the time of millions of taxpayers and Kenyans.

**Hon. Deputy Speaker:** That is a very valid observation. I will give a few Members to make comments on the same. Let us start with Hon. Rachel Shebesh.

**Hon. (Ms.) Shebesh:** Thank you, hon. Deputy Speaker. I also want to join in the comments made by Hon. Sakaja. It is very unfortunate because most of the time Members come to the House on Wednesday morning, some very dedicatedly as you will attest because you also sit on that Chair. They are so dedicated and they come to participate in the consideration of these Bills or Motions that we have in front of us. It is very unfortunate that when the House wants to do its work, it is curtailed by a few Members who may have not taken their work seriously. I do not want to cast aspersions on anybody. However, I would also want to add my voice that the Members who have Motions or Bills in front of us that were supposed to have been discussed be reprimanded. They should also give this House a good explanation as to why their Bills should go forward.

*(Applause)*

I do not know whether there is a method through which we can take over the Private Bills that Members bring. For example, the one we have just discussed of education is very important. Even the other ones I am reading are quite important to this country. So, I join Hon. Sakaja in his comments.

Thank you very much.

**Hon. Deputy Speaker:** Hon. Ferdinand Wanyonyi.

**Hon. F.K. Wanyonyi:** Hon. Deputy Speaker, I am a very disappointed person. You know I am a very dedicated attendant of this House. I am always here. For four people not to be present, as raised by Hon. Sakaja, it cannot go unnoticed.

Secondly, the leadership of the House is also in doubt because there is none in both my side and the majority side. We have to take the business of the House seriously. I had prepared to take part in two or three of these businesses and yet there is nobody to move them. We should raise this as a concern, particularly for us Members who are very dedicated in this House. The leadership of this House must also be questioned because none of them is present on either side.

*(Hon. Wandayi spoke off the record)*

No. You are not the Leader of the Opposition. I take great exception to this.

**Hon. Wandayi:** Hon. Deputy Speaker, it goes without saying that the issues raised by Hon. Sakaja are of great importance. It is not just abdication of responsibility. It demonstrates carelessness and lack of regard to those who voted us in.

*(Applause)*

If you have a Motion lined up for debate in the House, how can you fail to come to the House? More importantly, the leaders of these coalitions, just like Hon. Wanyonyi has indicated, need to take their work more seriously. They know what is lined up for debate and most of them sit in the HBC. They need to whip their Members to come to the House to prosecute their Motions.

However, a bigger paradox is that as others take lightly their Motions which are lined up for debate, some of us are waiting for eternity for our Motions to come up for debate. I have a case in point: The Motion on education which I introduced some time last year was approved by the HBC but come this Session, it was referred back to the Budget and Appropriations Committee. Up to date that Motion has not been brought to the House and yet it was adopted by the Minority Party as a Party Motion. You need to make a ruling on that as well.

More importantly, these Members who have decided to make a disappearance act when their Motions and Bills are lined up for debate need to be cautioned and reprimanded in the strongest terms possible. In fact, I would suggest that their Motions, if ever they will be debated again, should be taken back to be the last in the queue so that they do not have the luxury of coming here again to prosecute Motions which they seem not to have interest in prosecuting.

Hon. Deputy Speaker, I thank you.



**Hon. Deputy Speaker:** Thank you. Hon. Kabando wa Kabando, is it on the same?

**Hon. Kabando wa Kabando:** Thank you very much, Hon. Deputy Speaker. I want to make a different observation on the same. Number one, we should not be condemning any Member in his or her absence irrespective of whether the matter is listed or not. That would be condemning somebody and yet there is no substantive Motion on that. This is an administrative matter and it falls on two platforms: Number one is the House administration. The House has qualified administration bureaucrats who should ensure that, when matters are listed, they prompt Members that their matters are appearing on the Order Paper.

Sometimes it happens that a matter that is slotted for deliberation in the House the following morning is not on Parliaments website. I have experienced this before. Therefore, if you have another stressing matter on your constituency, or even a national matter, and you are in a Committee, you may not know exactly what matters are coming before the House. That could happen.

Secondly, on the question of parliamentary staff, we are spending a lot of public resources to empower parliamentary offices. That means all Members of Parliament, elected or nominated, in both Houses, have staff assigned to them. Hon. Deputy Speaker, I beseech you out of honour and humility to ask for an audit of the money that is given to Members of Parliament, amounting to about Kshs0.3million, for payment of their staff every month; with a view to establishing whether it is being utilised for the purpose for which the personnel have been recruited. It could be the case that the people and office assigned to hon. Members at Continental House, Harambee Plaza and Kenyatta International Conference Centre (KICC) are being used for businesses that have no relationship with parliamentary work. The purpose of the Parliamentary Service Commission (PSC) establishment is to ensure enhancement of the performance of Members of Parliament. The said resources, personnel, equipment and materials should be assigned to specific work for which the Commission has been established, and from which Members are benefitting. This needs parliamentary audit.

We also need to find out whether the staff assigned to us are qualified to do the work that they have been employed to do, or we have just lumped into offices people who do not understand how Parliament works, and who cannot even track parliamentary business. At those two levels, we need some audit.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Nyikal, is it on the same?

**Hon. (Prof.) Nyikal:** Hon. Deputy Speaker, thank you for giving me the opportunity. I also feel that this should not be happening. Hon. Members should not be sitting here, expecting to discuss a matter only to find that nothing is happening. Is there a way through which the Office of the Clerk and the House Business Committee can communicate with hon. Members, so that one can know in advance, for instance, that his Motion is slated for debate tomorrow? If it is known that the Member will not be available tomorrow, his time will be allocated to somebody at the House Business Committee meeting stage.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Let us hear the Member for Emurua Dikirr.

**Hon. Kipyegon:** Thank you, hon. Deputy Speaker. I wish to voice my concern, especially on the issue of Motions. Sometimes we deal with Bills and amendments which are very important. The amendments to the Kenya National Examination Council (Amendment) Bill are very important. Most of us would have wanted to make serious contributions but we were being given two or three minutes because there are other Motions that have been lined up for debate. I am one of the Members who have never brought a Motion to this House, the only reason being where Motions end up. They end up in the archives. They have never become anything meaningful. Sometimes we need to take things seriously. Even if we are going to give Motions one hour or 30 minutes, let us give Bills – which go a long way to change people’s lives – between three and five hours. We should not dedicate a lot of time to Motions which end up in the archives, where they are forgotten forever. This House has been debating and passing Motions since its inception, but those Motions have not become anything meaningful to society. I do not know whether we need to amend the Standing Orders, so that whatever issue comes up for debate in this House can be in the form of either a Bill or amendment to a Bill. The issue of discussing Motions every now and then, and remaining with only few minutes to discuss matters of great importance to this nation, should be done away with. I wish we could do a serious analysis of what we do in this House.

Secondly, I would like to comment on the issue of absence of movers of Bills or Motions. As Members of Parliament, our main responsibility is to legislate, in addition to oversight and other roles. We have been elected by Kenyans to sit in this House and legislate, especially when your matter is slated for debate. It is important that we take the business of this House very seriously. Hon. Members should not be coming to sit here in vain. Some of us come to sit here, waiting to discuss Bills, which are very important to this nation. We are disappointed when movers of Bills do not turn up to do their work. The most annoying thing is when we are given two minutes to speak on a Bill. Even if it means locking out some of us from contributing to a particular Bill or Motion, we should desist from the idea of voting every now and then to reduce the speaking time to three minutes. What is the importance of many people speaking shallowly? If each Member speaking on any Bill or Motion is allocated five minutes, we should leave it that way. We would rather have 10 Members substantially contributing to debate on a Bill rather than give each Member in the House one minute to contribute to the same Bill. What can I say in one minute? I cannot say anything in one minute. I will just stand here and sit. We need to change the way we deal with matters in this House. Let us give ourselves enough time.

In the Senate, each Senator is allowed to speak for 20 minutes but in this House, we are given two minutes. We need to change the way we deal with matters in this House.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Kipyegon, your point was very clear but you are now bordering on casting aspersions on what happens in this House. I do not want to say that debate in this House is less mature than in the Senate or vice-versa. As you talked about the difference in terms of the time allocated to Members in the two Houses of Parliament, bear in mind the difference in the numbers in the two House.

Secondly, all Bills have a certain amount of time. They do not have unlimited time. The reason as to why towards the end of debate you are given a minute or two to speak is that we are coming to the end of the three hours allocated to the Bill.

**Hon. Kipyegon:** How about Motions?

**Hon. Deputy Speaker:** Motions, too, have a timeline.

Hon. Yusuf Chanzu, is it on the same?

**Hon. Chanzu:** Yes, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, you ventilated on this matter quite a lot. Let us come to a decision.

**Hon. Chanzu:** Hon. Deputy Speaker, with due respect, the Member who is saying that we should keep time is the same one who was asking for a minute to be able to contribute.

*(Laughter)*

When we had pigeon holes in this Chamber, it was easier for Members to pass through the lawns and access information posted in the pigeon holes. I do not know whether Parliament can consider reinstating them. I would strongly suggest that they consider reinstating the pigeon holes.

As we automate and go digital, we should automate parliamentary communication through use of email or short text message services. We have employed a lot of clerks and other staff. So, we should be able to deal with automation and sending of messages to hon. Members who have matters coming up for discussion in Parliament. There are a lot of things that happen.

Thank you, hon. Deputy Speaker.

**Hon. Wekesa:** Thank you, hon. Deputy Speaker. I am surprised that we, hon. Members, are making excuses by pointing fingers at the administration and staff members. All of us have personal assistants in our offices. Our personal assistants can get in touch with the relevant parliamentary offices, concerning our duties in the National Assembly.

I am surprised because most of the Members of Parliament whose Motions are listed here were here. Hon. Dawood was here and so was Hon. Walukhe. In fact, he was here by the time we were concluding debate on Hon. Wangwe's Bill. We should not take excuse and point fingers at the staff of the National Assembly.

**Hon. Deputy Speaker:** Hon. Members, I can see the expression and disappointment by most of us who have been mentioned or who have come here to debate and have not had the opportunity. We will give Communication on this matter because there are a lot of Members who really have Bills that are waiting and have been waiting for a long time to debate them. However, these particular ones have been put on the Order Paper. Since we do not want, as you have said, to waste taxpayers' money--- You also know that we have some serious Committee meetings that have been going on with regard to matters that need to be concluded by tomorrow. I will use Standing Order No. 1, that is, my discretion, to allow hon. Kang'ata to move his Bill.

**Hon. Kang'ata:** Thank you, hon. Deputy Speaker. May I move---

**Hon. Deputy Speaker:** Order! Let us allow the Order to be read.

**BILL***Second Reading*

## THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

**Hon. Kang'ata:** Hon. Deputy Speaker, I beg to move that the Higher Education Loans Board (Amendment) Bill be now read a Second Time.

I am proposing that we amend the law to include two students' representatives in the Higher Education Loans Board (HELB). One will be from a public university and the other one will be from a private university.

Secondly, I am proposing that the Members who have then been included from the students body to be elected by the student leaders on a rotational basis and from the respective public and private universities and they shall not serve for a period exceeding two years. The rationale of this amendment is that one, in Tanzania, students are part of the higher education loans board. Two, we need to hear the voice of students inside the board. Students are the clients of the HELB and their voice has continuously been excluded from the management of HELB. It will be democratic where we give them an opportunity to be elected and serve in the HELB. They will bring the perspective of students into the management of the loans.

Thirdly, I wish to propose that a student who is a minor and wishes to be considered for a grant of a higher education loan should be entitled to make an application through a parent or a guardian.

Fourthly, I am also proposing that where a student who is a minor has been granted a loan, the loan shall be transferred to the student's name upon attaining the age of the majority of that student. The rationale is that presently as we speak, there are so many young people who are yet to reach 18 years and are now joining universities. This has to do with several reasons. So many children are starting Standard One when they are yet to attain five years or six years of age. As a result, those students if they excel in education and they do not repeat – it is the Government's policy that students should not be made to repeat - they complete Form Four when they are about 16 years or 17 years.

Since the time the Deputy President of this county was the Cabinet Secretary for Education, he brought very good reforms in HELB. He did away with the requirement of students waiting for two years before joining the university. As a result, students are coming out of Form Four and directly transiting into the universities. We do have so many students who are 17 years old joining campus. Ideally when you look at the present law, there is no reason why HELB should not be giving those students loan. The current law talks about an applicant, but when I made inquiries with HELB as to why they are refusing to do that, they reverted to contract law. The contract law, of course, states that you can only contract between adults unless you make arrangements for guardianship.

For us to navigate that legal landmine, I am proposing these amendments so that those many young children who are joining universities---The earlier you get educated,

the better. We have to expressly provide for that in these amendments so that those young children do not miss out on those loans.

The other amendment I am proposing to the HELB is that if you apply a loan and that loan is rejected, you need to be given a reason by the Board on why your loan has been rejected. Presently, they do not notify students. You only make inquiries and at times they are vague inquiries. So, when you have a statutory obligation as HELB to notify students when their loans have been rejected, that is very important because you will be in a position to make alternative arrangement to finance your education.

Secondly, you can also now commence the process of appealing. However, without that information, you can neither appeal nor know the way forward. Therefore, we need to have a specific amendment clearly giving the duty upon HELB to notify students why their loans have been rejected. Therefore, as you can see from my proposed amendment number four, I am stating that a student may appeal against a decision of the Board to reject his or her application for grant of HELB in writing to the Secretary of the Board.

Hon. Deputy Speaker, my final amendment, which is No.7 has to do with penalty. When you complete university you are supposed to repay that loan and that is very good. We all know that the rate of unemployment in this country is quite high. So, we have so many students who may be unable to pay that loan. The problem currently is that there are now very grave consequences for non-payment of the loan. You may be listed with the Credit Reference Bureau (CRB) which means you may be unable to acquire loans with commercial banks. Presently, we have other entities apart from commercial banks which are taking people to the CRB. A person who is unemployed, therefore, suffers two forms of prejudices: You cannot get a loan from a bank and already you have a liability with HELB. To cure that problem, this amendment proposes that if you are unemployed and you do a letter, maybe, an affidavit--- In my original drafting I had proposed an affidavit because one can always recant a letter. If you recant an affidavit you can easily be taken to court. So, you do an affidavit and tell HELB that you do not have a source of income. Once you do that, you are then not going to be levied a penalty. We do have so many unemployed students who have huge liabilities with HELB and they have never got employed. It is in public knowledge that there are several courses presently which do not have good employability.

It is a sad reality that those students who tend to do these courses come from poor families; this is because if you are rich then you are able to pay for your child to do a more prestigious course like medicine or engineering. However, if you are poor you are forced to take up any course that the Joint Admissions Board (JAB) or its successor gives you. Therefore, we end up having a situation whereby students from poor backgrounds are the ones who are doing courses which are not employable. When they come out, again, they get a double jeopardy of being told to pay the loan from HELB with so much accumulated penalties. Again, they are also listed with CRB and so they cannot even keep a business. Therefore, this amendment is going to cure all that. If you can prove that you do not have employment, penalty shall not accrue to you. Of course, once you get employed it is morally and also legally important for you to repay the loan from HELB so that other poor students can benefit.

I was thinking along the idea that we introduce in the Third Reading an amendment to the effect that we increase the money that goes to HELB. I feel that we have been underfunding HELB. Particularly this year I foresee a problem. There are so many students who have passed and will be joining the universities. That increment of about 20 per cent needs to be addressed by us here in Parliament by apportioning more money to HELB to ensure that our students go through their university education.

As opposed to those days when many honourable Members here went to university as regular students and they were guaranteed things like accommodation, these days universities do not guarantee accommodation. Many students living outside campuses are forced to pay rent at the prevailing market rates. Therefore, they have so many financial burdens, of course taking into account inflation. The way we used to buy things during our era is not the same way the present students are buying them; things have gone up. So, we need as Parliament, to sit down and think about the issue of giving more money to HELB. I made a proposal, though it was presented somehow informally to the Budget and Appropriations Committee. I was somehow disappointed, because I saw some form of resistance on the part of that Committee to think about those young children. Those young children are our future. We need them to inspire other generations which love education. Without us coming up with a very strong thing to enable those young students go through education, I think our country will not go far. Without university education, attainment of Vision 2030 will be a mirage. One way of addressing the problems of public education at the university level is for us Members to support these amendments and to think about that idea of increasing funding to HELB.

With those many remarks, I am grateful that you have agreed that we move these amendments. They are very important, particularly at this time when we are headed for a crisis at our public universities. We need to pass these amendments as soon as possible, because as a former professor, you know how we depend on our public universities to give us the best brains and to wheel the cog in our education. I rest my case there and ask Members to support these amendments. I take this opportunity to invite *Mheshimiwa* Ngeno, to second these proposals.

Thank you.

**Hon. Kipyegon:** Thank you, hon. Deputy Speaker, for giving me the opportunity to actually make a serious contribution to this particular Bill. I wish to second the Bill and thank hon. Kang'ata for thinking about it. Education is very fundamental. If your population is not educated, what you have are potential criminals who will look for other avenues of survival. They will always look at the criminal element of making ends meet.

The reason why most of our students cannot access education is basically because of fees. We say that we have free primary education and free secondary education, but the truth is that they are not free. So many students are dropping out of school in primary and secondary and even university for lack of school fees. The country is in a poor state. Our citizens are not rich. They cannot afford education or send their children to the best universities in this country or the best universities abroad because of lack of that basic need which is school fees. When Hon. Kang'ata brought this amendment, I was very enthusiastic. I had the same sentiments and I had made a

proposal, but when we found out that we were sailing on the same boat, we came together to amend this Bill.

One important amendment to this Bill is the representation by the students. For a long time, the decision to award the students the loans has solely been on the Board, which has never had membership from the students. Our Constitution has anchored the issue of inclusivity in everything. I wish to support hon. Kang'ata on the inclusion of students in determining how the loans are awarded, more so the question of students in public universities. We have always thought of students who are in regular programmes in public universities. We should also think of the students who are studying in private universities. These are citizens and residents of this country. They deserve to have equal opportunities in accessing education. There is no other way that we can allow them to access education other than giving them the opportunity to acquire loans.

Loans are to be repaid. Everybody knows that. If you were to vie for any position or to be interviewed for any position in this country, you must show a certificate to prove that you have cleared the loans you acquired when you were studying in this country. This money is going to be paid back. Therefore, it should not be a hard issue for the Government to allow students to access these loans knowing very well that when they are employed, they will refund.

I support the idea of including student representatives in the Board where they will be discussing who should access these loans. The second issue is the question of age limit. For a long time, we have been told that students who get admitted to universities before acquiring the age of 18 years cannot access these loans. There are so many bright students out there. There are pupils who will move from Class One, Class Two to Class Three without necessarily complete those years based on the fact that they are very bright. Worse is when the Cabinet Secretary for Education, Science and Technology gives an order; a presumed regulation that no student should sit for examination when he or she is below 18 years. We are going backwards in this country. There are students in this country who can sit for exams when they are 16 years old. Should we deny them that opportunity? Should it be based on the fact that people should proceed to a level at a certain age?

I did my Bachelors Degree when I was a little bit old. Unfortunately, I sat with students who were even 16 years old in the university. Nobody questioned their legitimacy in that class. This country should allow bright students to move to the levels that they want to move without hindrance from anybody. Based on the contract law, whoever is supposed to acquire a loan must be an adult. These are students who have parents and guardians. In our law, we should have a situation where a student who is below 18 years can sign a contract and be allowed to access loans through the parents or the guardians. A student who is below 18 years cannot be denied to acquire a loan just because he is below 18 years. We should have a situation where students can access loans regardless of their age. In this Bill we need to allow the parent or the guardian to enter into a contract with the Higher Education Loans Board, on behalf of the student. This will allow the student to access loans. After attaining 18 years, there should be a clause that allows the loan to revert back to the student. We should not disallow our students to access loans based on age.

We also have another issue on transition. By enacting this particular amendment, we will assure several students who want to have an express transition from secondary school to universities. In most countries, especially developed countries, there is no student who has sat Form Four examinations and failed to access university education. It is only in Africa where a total of 400,000 students sit for KCSE examination and only 100,000 acquire university education. The 300,000 are lost in the society and they become criminals. There should be a situation where we allow express transition from secondary school to university education. We should not claim that if we produce many graduates, it will affect the quality of education. Even a graduate who is a plumber or electrician by profession, will do quality work compared to one who has not gone to school. We should not be scared or afraid of allowing our students to access university education. The idea of allowing students below 18 years to acquire loans will help most of our students to access university education.

There is also the question of equal opportunities. When you look at the way loans are disbursed, most of the students who are studying in private universities or who are on parallel programmes are not allowed to access loans. We should allow students who are on regular and parallel programmes to access loan equally. No one is more equal than the other. We should allow students to access loans based on the fact that they are in university.

In the process, we are also looking at an amendment where even students who go to international universities and who attend universities in England, the United States of America, India and even Tanzania will be able to access these loans because they are Kenyans. These are people who went to study there and they will come back and help build this country. We should not deny them the opportunity of acquiring loans because they are studying in other universities which are not in this country. We are yet to bring that particular amendment so that we can allow students who are studying in international universities to access these particular loans.

My third point is on the question of recovery of these loans. The Mover of this particular Bill stated clearly that several penalties are actually meted out to the students before they even get employed. The reason as to why we actually give these students loans is to enable them complete education. However, we also believe that they will refund the money when they get employed. We cannot start trying to force these students to repay the loans before they get employed. We need to allow them to get employed.

*(Question proposed)*

**Hon. Macharia:** Thank you very much, hon. Deputy Speaker for this chance to contribute on the Bill. I support the amendment Bill by Hon. Kang'ata. At the outset, I appreciate what the Higher Education Loans Board (HELB) has done in ensuring that university students in this country who are mainly from poor backgrounds are able to go through university. I am one such example who used HELB loan to pay for the required school fees at the university. I know HELB is critical in ensuring that university students in Kenya are able to complete their studies. Otherwise, it would be a different story if HELB was not there.



I also appreciate the fact that not all students who go through university or graduate are employed. In most cases, you start getting fined when you do not start paying the HELB loan. It is important that HELB develops a mechanism where they will be able to decide and know who has gotten into employment so that they do not start fining students who are not in employment. On the other hand, it is also important that students who get employment are also declared to HELB because we know that most students who are employed after university do not declare until the law catches up with them. Some of us had to clear these fines even before we came to this august House because we had accumulated them. The fines keep on accumulating when someone is not working. Sometimes they hinder some of these students from taking up appointments especially in the public sector.

I support the amendment by Hon. Kang'ata. Thank you.

**Hon. Tonui:** Thank you, hon. Deputy Speaker for this opportunity to support this Bill. This is a very great Bill and I thank the Mover for initiating it. It has come at the right time especially because of the issues it is trying to address, the issue of representation of the students in the HELB and the issues dealing with awarding loans to the minors. These are critical issues which need to be addressed.

First of all and as a House, we need to address the issue of the funding of HELB. Currently, the funds that we give to HELB are quite inadequate. We need to adjust in order to address the levels of poverty in this country. Our students are currently unable to meet the cost of education in the university. Therefore, the funding to HELB needs to be addressed so that we have adequate funds for our students in the universities.

The issue of interest on HELB loans needs to be addressed. Currently, I understand that it starts at a rate of four per cent which is quite unfair to the students because the issue of providing education is in the Constitution and it is the role of the Government. The Government must provide education to all. The issue of putting the interest at a rate of four per cent is unwelcome bearing in mind that most of the public servants and State officers are getting mortgage from this Government at a rate of three per cent in terms of interest but when it comes to students, the interest is at four per cent rate.

## ADJOURNMENT

**Hon. Deputy Speaker:** Order, Hon. Tonui! You will have a balance of eight minutes when this business next comes on the Order Paper. It is now time to adjourn the business of the House. The business stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.