



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 26th November 2024

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Members, we now have quorum to transact business.

(Several Members stood in their places)

COMMUNICATION FROM THE CHAIR

RE-ARRANGEMENT OF BUSINESS

Hon. Speaker: Members on their feet, take your seats. Leader of the Majority Party, I direct the House as follows. You will move your Procedural Motion shortly hereafter, and then in Order No. 9, we will debate the Motion on the President's Address. I will call upon the Mover to reply at 4.00 p.m. This is the fourth day of debate. Be ready to reply at 4.00 p.m., and then we will go to a very short Motion, which is not contested, in Order No.10 on the Appointment of Sen. Wamatinga to the Parliamentary Service Commission.

Thereafter, in Order No.11, we will consider the Kenya Revenue Authority (Amendment) No.2 Bill, and then we will quickly move to Order No.12. We will then move to the Committee of the whole House on the Coffee Bill (Senate Bill No.10 of 2023). That is the reason for the Procedural Motion. Once we go into the Committee of the whole House, you will drool on it until you finish, even if it is midnight. There are Members from the coffee-growing areas who go and wail at funerals about unfairness in the coffee sector, but when the Bill that is very critical to your constituents is being considered, you are not in the Chamber. I sit in my Chamber and I see nine or 10 Members from one region and a few other Members from other regions that grow coffee. When I meet them in public, they say that the Coffee Cherry Advance Revolving Fund has only gone to one place. When you have an opportunity to make sure the Coffee Cherry Advance Revolving Fund does not go to one place, you do not speak. My Members, you must style up and take business seriously.

(Applause)

The place Hon. Pukose represents is the new frontier for coffee-growing. It is the case for other Members. We are not saying that only those who come from coffee-growing areas should be interested in coffee. This is a national Bill. However, those with the overwhelming

interest are those who represent Kenyans who grow coffee, who used to grow coffee, and who intend to grow coffee.

Next Order. Sorry, you have called it out.

(Hon. Rahim Dawood stood in his place)

Hon. Dawood, take your seat. You are in the wrong place. I have never seen you seated there.

MESSAGES

Hon. Speaker: Hon. Members, I have two short Messages from the Senate.

PASSAGE OF TWO MEDIATED BILLS

The first one is on the approval of the Mediated Version of the National Rating Bill (National Assembly Bill No.55 of 2022) and the Water (Amendment) Bill (National Assembly Bill No.33 of 2023)

Pursuant to the provisions of Standing Order 41(4), I wish to report to the House that I have received two Messages from the Senate regarding the approval of the mediated versions of two National Assembly Bills by the Senate. They convey that on 19th November 2024, the Senate considered and approved the Mediated Version of the National Rating Bill (National Assembly Bill No.55 of 2022), and the Water (Amendment) Bill (National Assembly Bill No.33 of 2023).

You recall that the two Bills were committed to respective mediation committees, pursuant to Article 112(2)(b) of the Constitution following the National Assembly's rejection of the Senate amendments to the Bills. You will further recall that the House considered and approved the Mediated Versions of the Water (Amendment) Bill (National Assembly Bill No.33 of 2023) and the National Rating Bill (National Assembly Bill No.55 of 2022) on 16th October 2024 and 13th November 2024 respectively.

In this regard, the approval of the mediated versions of the two Bills by both Houses of Parliament now concludes their bicameral consideration in accordance with the provisions of Article 110(5) of the Constitution. I will now proceed to present the two Bills to His Excellency the President for assent in accordance with the provisions of Article 113(3) of the Constitution.

I thank you.

PASSAGE OF TWO NATIONAL ASSEMBLY BILLS

Hon. Speaker: The second Message from the Senate is on the passage of the National Construction Authority (Amendment) Bill (National Assembly Bill No.59 of 2022), and the Cancer Prevention and Control (Amendment) Bill, (National Assembly Bill No.45 of 2022).

Pursuant to the provisions of Standing Order 41(1), I wish to report to the House that I received two Messages from the Senate regarding the passage of two National Assembly Bills. They convey that on Tuesday, 19th November 2024, the Senate considered and passed the National Construction Authority (Amendment) Bill (National Assembly Bill No.59 of 2022) and the Cancer Prevention and Control (Amendment) (No.2) Bill (National Assembly Bill No.45 of 2022), both with amendments.

You may recall that the National Assembly considered and passed the National Construction Authority (Amendment) Bill (National Assembly Bill No.59 of 2022), and the Cancer Prevention and Control (Amendment) (No.2) Bill (National Assembly Bill No.45 of

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2022) on 26th October 2023, and 20th March 2024 respectively. Thereafter, I referred the two Bills to the Senate for consideration, pursuant to Article 110(4) of the Constitution.

The Senate has now referred the said Bills back for reconsideration, pursuant to Article 112(1)(b) of the Constitution. The House is, therefore, required to consider the Senate amendments to the two Bills. In this regard, I hereby direct the Clerk to circulate the schedules of the Senate amendments to the two Bills to all Members, as required by the Standing Orders.

Further, the schedule of Senate amendments to the National Construction Authority (Amendment) Bill (National Assembly Bill No.59 of 2022) stands referred to the Departmental Committee on Housing, Urban Planning and Public Works for consideration.

With regard to the schedule of Senate amendments to the Cancer Prevention and Control (Amendment) (No.2) Bill (National Assembly Bill No.45 of 2022), it stands referred to the Departmental Committee on Health for consideration.

I urge the two Committees to prioritise their consideration and report to the House as soon as is practicable to enable the House to consider the Senate amendments to the respective Bills.

The House is accordingly guided. I thank you.

PAPERS

Hon. Speaker: Leader of the Majority Party. I see they have written Majority Whip. The Deputy Majority Whip, I thought this is normally...

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, what was there was laid in the morning. We have nothing to lay.

Hon. Speaker: You have nothing, but what about all these Reports here? There is a Report of the Auditor-General and financial statements of some schools. Do you not have them?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes, Hon. Speaker. The Clerk's Office had duplicated what was laid in the morning, but there is one for the afternoon sitting.

Hon. Speaker: Clerk, the heading on this Paper should always read "The Leader of the Majority Party," whether it is the whip, the Deputy Whip, or the Deputy Leader of the Majority Party, they all act under the umbrella of Leader of the Majority Party.

Go ahead.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Speaker. I beg to lay the following papers on the Table:

1. Reports of the Auditor-General and Financial Statements for the years ended 30th June 2021, 30th June 2022 and 30th June 2023 and the certificates therein in respect of:
 - (a) Saka Girls Secondary School;
 - (b) Kulamawe Secondary School;
 - (c) Kinna Secondary School;
 - (d) Garbatula Girls Day Secondary School;
 - (e) Garbatula Boys High School;
 - (f) Kitui High School; and
 - (g) Ikuu Boys' High School.
2. The Exit Report of the National Hospital Insurance Fund Board.

Hon. Speaker: The Chairperson of the Departmental Committee on Social Protection, Hon. Alice.

Hon. Alice Ng'ang'a (Thika Town, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

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Report of the Departmental Committee on Social Protection on the vetting of nominees for appointment as Chairperson and as a Member of the National Gender and Equality Commission.

Hon. Speaker: The Chairperson of the Departmental Committee on Health, Hon. (Dr) Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Health on the harmonisation of the proposed amendments to the Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022).

Hon. Speaker: Is this Hon. Millie Odhiambo's Bill?

Hon. (Dr) Robert Pukose (Endebess, UDA): Yes, after we did the winnowing.

Hon. Speaker: Excellent. The Chairperson of the Departmental Committee on Labour, Hon. Karemba.

Hon. Muchangi Karemba (Runyenjes, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Labour on the vetting of nominees for appointment as Chairperson and as Members of the Salaries and Remuneration Commission.

Hon. Speaker: The Chairperson of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I beg to lay the following papers on the Table:

Reports of the Departmental Committee on Finance and National Planning on its consideration of:

1. The Public Finance Management (Amendment) Bill (No.3) Bill (National Assembly Bill No.44 of 2024).
2. The Public Finance Management (Amendment) (No.4) Bill (National Assembly Bill No.45 of 2024).
3. The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No.48 of 2024).

Hon. Speaker: The Chairperson of the Departmental Committee on Administration and Internal Security, Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Administration and Internal Security on the vetting of nominees for appointment as Chairperson and as Members of the Board of the Independent Policing Oversight Authority

Hon. Speaker: The Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Justice and Legal Affairs on the vetting of nominees for appointment as Chairperson and as Members of the Commission on Administrative Justice (CAJ).

Hon. Speaker: Next Order.

NOTICES OF MOTIONS

Hon. Speaker: The Chairperson of the Departmental Committee on Social Protection, Hon. Alice.

APPROVAL OF THE APPOINTMENT OF PERSONS AS
CHAIRPERSON AND MEMBER OF THE NATIONAL
GENDER AND EQUALITY COMMISSION

Hon. Alice Ng'ang'a (Thika Town, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Social Protection in its Report on the vetting of nominees for appointment as Chairperson and as a Member of the National Gender and Equality Commission, laid on the Table of the House on Tuesday, 26th November 2024, and pursuant to Article 230 of the Constitution and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap.7F, this House approves the appointment of:

1. Hon. Rehema Dida Jaldesa as the Chairperson of the National Gender and Equality Commission.
2. Mr Michael Nzomo Mbithuka as a Member of the National Gender and Equality Commission.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Labour, Hon. Karemba.

APPROVAL OF THE APPOINTMENT OF PERSONS AS
CHAIRPERSON AND MEMBERS OF THE SALARIES
AND REMUNERATION COMMISSION

Hon. Muchangi Karemba (Runyenjes, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Labour in its Report on the vetting of nominees for appointment as Chairperson and as Members of the Salaries and Remuneration Commission, laid on the Table of the House on Tuesday, 26th November 2024, and pursuant to Article 230 of the Constitution and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap.7F, this House approves the appointment of:

1. Mr Sammy Chepkwony as the Chairperson of the Salaries and Remuneration Commission.
2. The following nominees as members of the Salaries and Remuneration Commission to represent the specified institutions:
 - (a) Maj-Gen. (Rtd) Martin Kizito Ong'onyi, CBS as a nominee of the Defence Council;
 - (b) Mr Mohamed Aden Abdi as a nominee of the Senate on behalf of County Governments;
 - (c) Ms Jane Gatakaa Njage as a nominee of the Teachers Service Commission;
 - (d) Dr Gilda Odera as a nominee of the Federation of Kenya Employers (FKE);
 - (e) Dr Geoffrey Apollo Omondi as a nominee of the Central Organisation of Trade Union (COTU); and

(f) Mr Leonid Ashindu as a nominee of the Association of Professional Societies in East Africa (APSEA).

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Administration and Internal Security, Hon. Tongoyo.

APPROVAL OF THE APPOINTMENT OF PERSONS AS
CHAIRPERSON AND MEMBERS OF THE INDEPENDENT
POLICING OVERSIGHT AUTHORITY

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Administration and Internal Security in its Report on the vetting of nominees for appointment as Chairperson and as Members of the Board of the Independent Policing Oversight Authority, laid on the Table of the House on Tuesday, 26th November 2024, and pursuant to Article 250(2)(b) of the Constitution as read together with section 11(5) of the Independent Policing Oversight Authority Act, CAP 86 and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, CAP 7F, this House approves the appointment of

1. Mr Ahmed Issack Hassan, CBS as the Chairperson of the Board of the Independent Policing Oversight Authority;
2. The following nominees as members of the Board of the Independent Policing Oversight Authority –
 - (a) Ms Ann Wanjiku Mwangi;
 - (b) Dr Micah Onyiego Nyakego, PhD, OGW;
 - (c) Mr Boniface Kipkemoi Samati;
 - (d) Dr Annette Mudola Mbogoh;
 - (e) Hon. John Muchirir Nyaga, HSC;
 - (f) Mr Kenwilliams Nyakomitah, OGW; and
 - (g) Ms Jackline Lukalo Mwenesi.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Justice and Legal Affairs.

APPROVAL OF THE APPOINTMENT OF PERSONS
AS CHAIRPERSON AND MEMBERS OF THE
COMMISSION ON ADMINISTRATIVE JUSTICE

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on the vetting of nominees for appointment as Chairperson and Members of the Commission on Administrative Justice, laid on the Table of the House on Tuesday, 26th November 2024, and pursuant to Article 250(2)(b) of the Constitution as read together with sections 10 and 11 of the Commission on Administrative Justice Act, Cap.7J and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act,

Cap.7F, this House approves the appointment of the following to the Commission on Administrative Justice –

- | | | |
|---------------------------------|---|--------------|
| 1. Mr Charles Orinda Dulo | - | Chairperson; |
| 2. Hon. Charles Njagua Kanyi | - | Member; and |
| 3. Ms Dorothy Jemator Kimengech | - | Member. |

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

Hon. Speaker: There is a response to the Statement sought by Hon. Rael Kasiwai. Hon. Tongoyo, are you ready? The Chairperson of the Departmental Committee on Administration and Internal Security, it is a Statement requested by the Member for West Pokot County. Sorry, she is requesting for a Statement.

Hon. Gabriel Tongoyo (Narok West, UDA): She is requesting, Hon. Speaker.

Hon. Speaker: Is Hon. Rael Kasiwai in the House? Statement dropped. Next is Hon. Hon. Gonzi Rai.

STATUS ON IMPLEMENTATION OF MAKAMINI DAM PROJECT

Hon. Gonzi Rai (Kinango, PAA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation regarding the status on implementation of Makamini Dam Project.

The Makamini Dam project is located west of Makamini Shopping Centre in Kwale County and it is financed by the national Government, through the Coast Water Works Development Agency. The project aims to improve access to water and hygiene for over 40,000 residents from Makamini, Kinagoni, Matumbi, Mtaa, Mabesheni, Bofu, Kibandaongo, Myenzi and Mwabila sub-locations. It is also the second biggest project after Mwache Multipurpose Dam project, which is meant to harness the flood flows from the Mwache River basin for domestic water supply and irrigation in Kwale and Mombasa counties. Despite its strategic importance, the project has been faced with inordinate delays since the launch of its construction by the Ministry of Water, Sanitation and Irrigation in 2021.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation on the following:

1. A report on the status of the Makamini Dam Project including progress reports and any challenges encountered by the Ministry of Water, Sanitation and Irrigation.
2. The measures put in place to facilitate collaboration between the county government, the National Land Commission, and the County Land Office to jointly fast-track resolution of ownership of the targeted pieces of land and compensation of owners of the acquired land; and ,
3. The steps taken by the Ministry to ensure timely completion of the construction of Makamini Dam Project (Phase 1) and the expected date of completion.

I thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Committee, Hon. Bowen when can you bring a response? Next week?

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Speaker, I will bring the response in two weeks.

Hon. Speaker: You cannot say two weeks, yet you are aware that we are breaking for recess next week.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Speaker, let me see if I can speed up the matter.

Hon. Speaker: Bring a response by Thursday morning.

Hon. Kangogo Bowen (Marakwet East, UDA): Much obliged, Hon. Speaker.

Hon. Speaker: Hon. Rashid Bedzimba.

CRITERIA FOR RECOGNITION AND EQUATION OF CERTIFICATES
AND DIPLOMAS OBTAINED FROM SCHOOLS
OFFERING INTERNATIONAL CURRICULA

Hon. Rashid Bedzimba (Kisauni, ODM): Hon. Speaker, pursuant to Standing Order 44 (2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Education on the criteria for recognition and equation of certificates and diplomas obtained from schools offering international curricula in the country.

There exist two curricula in the Kenyan education system: the international curriculum, and the Competency Based Curriculum (CBC) which replaced the former 8-4-4 curriculum. International curricula are recognized by the world's best universities and employers, giving students a wide range of options in their education and career. However, students who complete their studies under the international curricula often face challenges seeking admission to local universities or employment in the public sector, due to restrictive guidelines set by the Kenya National Examination Council (KNEC).

One of the core functions of KNEC is to carry out equation of certificates and diplomas issued by other credible examining boards. However, the guidelines published by the Council on 31st May 2024 stipulate that institutional based certificates or courses, whether local or international, similar to those offered by KNEC are not equitable.

Currently, over 11,000 students are enrolled in various institutions offering international curricula in the country. This policy effectively bars these students from admission to local universities and from employment within the public sector, solely due to the lack of an equivalent certification.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Education on the following:

1. The reasons for the inordinate delay by KNEC in formulating guidelines on equation of certificates or diplomas obtained from schools offering international curricula within the country.
2. Measures undertaken by the Ministry of Education to facilitate the equation of certificates and diplomas obtained from international schools in the country, thereby allowing these students access to local university admissions and public sector employment opportunities.
3. Actions taken by the Ministry of Education to address the challenges faced by students of international curricula who are impacted by KNEC's policies.

I thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Education. Hon. Malulu Injendi are you the Vice-Chairperson?

Hon. Malulu Injendi (Malava, ANC): Hon. Speaker, we will be on recess from next week. So, we will organise a meeting after next week and give a response when we resume next year.

Hon. Speaker: No, you will bring a response next week on Thursday afternoon.

Hon. Malulu Injendi (Malava, ANC): Well guided, Hon. Speaker.

Hon. Speaker: Thank you. Next order.

Hon. Gideon Mulyungi (Mwingi Central, WDM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Architect Mulyungi. Give him the microphone.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Speaker. The Chairperson of the Departmental Committee on Administration and Internal Security responded to my request for Statement in April.

Hon. Speaker: Responded?

Hon. Gideon Mulyungi (Mwingi Central, WDM): Yes, he responded but I was not satisfied. I raised it on the Floor of the House and you directed that he comes back with a substantive answer in two weeks. I discussed with him...

Hon. Speaker: You have sat on your rights from April to November?

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, I will address that shortly. I have been discussing with him and he asked me to resubmit the request for a Statement, again, asking for clarification. I went to the Table Office and they told me that cannot work.

Hon. Speaker: There is no provision under the Standing Orders for re-submitting a request for Statement.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Yes. They asked me to raise it as a point of order on the Floor of the House, so that you can re-direct again.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, the Hon. Member has admitted that we spoke. I suggested that he re-submits it as a Question addressed to the Cabinet Secretary so that when he comes to the House he can have an opportunity to interrogate him. We agreed that he should do so.

Hon. Speaker: Hon. Mulyungi if you agreed, why are you raising it? There is a microphone where you are seated.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, it was a very urgent matter. Considering that questions take a long time to be answered, I thought the Chairperson seeking further clarifications from the Cabinet Secretary would be faster; if you can so direct.

Hon. Speaker: I direct that you engage with the Chairperson privately. If you feel dissatisfied, I will give you an opportunity on Thursday this week to raise the issue on a point of order.

Next Order.

PROCEDURAL MOTION

RESOLUTION TO SIT UNTIL CONCLUSION OF SPECIFIED BUSINESS

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Orders 30(3)(a), this House orders that should the time appointed for adjournment of the House be reached before conclusion of business listed as Order No.13, Committee of the whole House, in today's Order Paper, the Sitting shall stand extended until conclusion of the said business.

Hon. Speaker, I am moving this on behalf of the House Business Committee. Yesterday, we resolved that the Coffee Bill listed as Order No.13, Committee of the whole House, be concluded. As you mentioned, this Bill was on the Floor the whole of last week, from Tuesday all the way to Thursday. We only managed to go up to Clause 11. Last week, the Chairperson of the Committee was here to transact business, but we could not get the numbers.

Hon. Speaker, I agree with you that Members from the coffee-growing areas should be present during this business. You will give me latitude tomorrow morning to name any Member who will be absent during this business. Last week, when I mentioned Members who were absent from the House, I saw a lot of good and positive change. Hon. Members are now in the House when it is time to ask their questions.

Equally, the Chairpersons of Committees are also present when there are questions and statements that relate to their Committees. It is good to note that the Chairperson of the Departmental Committee on Agriculture and Livestock, Hon. Mutunga has been in this House throughout this debate.

Hon. Speaker: He is always here.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes, he is always here, but the Vice-Chairperson of that Committee is never here. If you count the Members of the Departmental Committee on Agriculture and Livestock, a handful are here. I am serving them notice. I know the whips are here and they know what to do. Hon. Millie Odhiambo knows what to do as the Minority Whip. Equally, Hon. Osoro knows what to do with Members of this Committee who are not here to transact their own business. Members of Parliament who come from coffee-growing areas should also be present.

Hon. Speaker, as you said, it is not enough to shout in funerals on how much you are pushing for coffee farmers, yet when you should be pushing legislation that will benefit them, you are never here. After this, you will hear Members over the weekend saying: "we legislated and passed the Bill". You passed it yet you were not here and did not contribute even a word in the enactment of that legislation!

I will list all constituencies that grow coffee, including those with potential. Yesterday, the Member for Ainabkoi told us that he was the first farmer to introduce coffee in Uasin Gishu County. Therefore, when we talk about coffee growing areas, we want to see Members from Uasin Gishu County and other coffee growing regions. Hon. Sunkuli has been here because he knows that farmers in Kilgoris are now growing coffee. So, it is not just Members from Central Kenya or Mount Kenya region, where coffee is traditionally grown, who should participate. Hon. Speaker, as you said, I have seen coffee in Endebess, Trans Nzoia County. I am glad that Hon. *Magufuli*, Hon. Ferdinand Wanyonyi...

Hon. Speaker: Leader of the Majority Party, if you want to know, coffee is grown in Kiambu, Murang'a, Kirinyaga, Embu, Nyeri, Machakos, Meru, Nyamira, Kisii, Kakamega, Bungoma, Kericho, Nandi, Uasin Gishu and Trans Nzoia counties.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. You have done what I intended to do tomorrow. If Members from those counties named by the Hon. Speaker are not here to legislate on this Coffee Bill, they should not waste time shouting in funerals and weddings and crying more than the bereaved farmers about coffee prices and the Cherry Fund. The time to act is now.

Hon. Speaker, this business will go on until its conclusion. Yesterday, the House Business Committee directed that it cannot continue being on the Order Paper every other week. It has to come to an end today. Therefore, I request all the Members from Kiambu County, where I come from even though I do not have a single coffee bush, to be present. My neighbour, Hon. KJ, had about a hundred coffee bushes around Muhuri area. Nowadays, he has built more houses instead of planting coffee. It will be important that all of us are here so

that we can conclude this debate. I want to ask the Chairperson of the Committee to continue with the good work he is doing.

This is a Procedural Motion so there is nothing much to say. The Deputy Minority Whip, Hon. Mwenje, Member for Embakasi West, has no single coffee bush but he was here last week. It was very embarrassing on Thursday when we closed business. Only the Chairperson of the Departmental Committee on Agriculture and Livestock, Hon. Pukose and the leadership were here; about eight people.

(Hon. Gathoni Wamuchomba spoke off the record)

On Thursday, the Member for Githunguri was also not here yet she is among the people who are very good at shouting in funerals about coffee. So, Member for Githunguri make sure that you are here up to midnight.

I beg to move and request Hon. Mwenje to second. Thank you, Hon. Speaker.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. Even though I represent a constituency where coffee is not grown, I am a coffee farmer in Kandara and Muranga. To my in-laws who are busy mentioning it, it is important to mention that the biggest consumers of coffee are Nairobians. In fact, the New Kenya Planters Cooperative Union (NKPCU) plant is located outside my constituency. Before that, it used to be in the larger Embakasi Constituency. It is literally at the doorstep of my home in Mowlem, where people call it Dandora.

I will be here, and I second the Motion.

Hon. Speaker: Thank you.

(Hon. Bisau Kakai stood along the gangways)

Order, Hon. Bisau. Take your seat.

(Question proposed)

(Question put and agreed to)

It means that you will sit on this particular Bill until you finish or till midnight, whichever comes earlier and, therefore, you should be ready. If you want to know the importance of this legislation, go back to the law books of the 1950's when the late, Hon. Mbiyu Koinange was prosecuted by colonialists for attempting to grow coffee merely because it was an exclusive crop for the colonial oppressors and settlers.

You are opening up opportunities for your people to grow coffee and if you also want to know more concerning this issue, a country called Vietnam imported a coffee variety called Ruiru 11 from Kenya 20 years ago after being devastated by a harrowing war. Today, Vietnam is the second largest grower of Ruiru Coffee and any coffee in the world after Brazil. It is making billions of dollars. They got their coffee from Kenya. Therefore, you now have the opportunity to unlock the potential for our country.

Next Order.

Hon. Dorice Donya (Kisii County, WDM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Donya. What is it? Is it on the same issue?

Hon. Dorice Donya (Kisii County, WDM): Yes, Hon. Speaker. We are discussing the issue of coffee. Two months ago, I requested for a Statement on tea bonuses. I somehow bumped into the answers that the Ministry had given to the Departmental Committee on Agriculture and Livestock. If we are promoting coffee, we should promote tea and other cash

crops too. We have to be authentic on what we are doing so that we do not appear as favouring some parts of the country; rather, we should promote all the cash crops grown in Kenya. We are now discussing coffee yet the answers they have given us concerning tea issues that I raised, are fake and opaque.

Hon. Speaker: Order, Hon. Donya. The reason we are now discussing matters coffee is not to the exclusion of any other crop. You just passed a Bill on sugar. Last Parliament, we passed a Bill on Tea. I saw your Statement Request and if it was not adequately replied to, I will direct that Hon. (Dr) Mutunga respond to you, tomorrow, afternoon. Next Order.

Hon. Members, before we proceed with the Order, allow me to acknowledge the following five visiting residents from Loiyangalani Sub-County, Laisamis Constituency, who are seated in the Speaker's Gallery. They are Mr John Lolope, Mr Deya Lentipan, Mr Chehekuna Bonke, Mr Marcelino Amatalem, and Ms Evanna Esekun, HSC. You are welcome to Parliament. On my behalf and that of all the Members who are present, especially Hon. Lekuton and Hon. Raso, who had requested me to welcome you, I welcome you all. Because of time, I will not give them a chance. Hon. Raso and Lekuton, I have spoken for you and your constituents have heard.

MOTION

DEBATE ON THE PRESIDENT'S ADDRESS

THAT, pursuant to the provisions of Standing Order 24(6), the thanks of this House be recorded for the exposition of public policy contained in the Address of His Excellency, the President delivered in Parliament on Thursday, 21st November 2024 and further, that this House notes the following Reports submitted by His Excellency, the President in fulfilment of the provisions of Articles 132(1)(c) and 240(7) of the Constitution, laid on the Table of the House on Monday, 25th November 2024:

- (i) The 11th Annual Report on the Measures Taken and Progress Achieved in the Realisation of National Values and Principles of Governance.
- (ii) The 11th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya.
- (iii) The Annual Report to Parliament on the State of National Security.

(Moved by Hon. Kimani Ichung'wah on 25.11.2024 – Afternoon Sitting)

(Resumption of debate interrupted on 26.11.2024 – Morning Sitting)

Hon. Speaker: Hon. Members, like I said, the Mover will be called upon to reply at 4.00 p.m. How many Members have not spoken and would wish to? My screen is showing very few Members.

(Several Members raised their hands)

Okay, we will start with...

(Hon. Speaker consulted with the Clerks-at-the-Table)

Hon. Gachagua, you had a balance of three minutes. Proceed.

Hon. George Gachagua (Ndaragwa, UDA): Thank you, Hon. Speaker. Before we broke for lunch, I was contributing to this Motion, the Address of the Nation by the President, and I was almost concluding.

I wish to put across that the President did a great speech by virtually addressing all concerns by Kenyans. I would like to address the issue of Adani. As much as the Adani issue was addressed and they were stopped from doing business in Kenya, this should not condemn the Public-Private-Partnerships (PPPs). That is what will unlock the deteriorating aspect of infrastructure in this country. I believe once we encourage the PPPs engagement, our infrastructure will be improved.

I have a dam in my area called Pesi. Given its capacity, the required budget for that dam is Ksh20 billion to Ksh30 billion. Without a PPP arrangement, it will be a tall order for the Government to execute it. As much as one entity was regarded unfit to work in this country, let us encourage the issue of PPPs.

There are indicators that this country is on the right path. The President talked about inflation and the performance of the Kenya Shilling against the Dollar. The Government is saying that we have improved economically, but how I wish this aspect would be experienced by money being in the pockets of Kenyans.

Hon. Speaker: Hon. Timothy Toroitich.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Speaker for giving me the opportunity to contribute on the President's State of the Nation Address.

I have read the letter, spirit and intent of the Address. I wish to acknowledge that from the beginning, particularly paragraph six of the Address, the President said that the concerns and issues voiced by millions of Kenyans about the state of our nation deserve meaningful engagement through an understanding and thoughtful response. From the preamble of the speech, it was very clear that the President has noted that Kenyans are facing challenges. It is good that the President has acknowledged that there are certain challenges we are faced with as a country. The purpose of his speech was to assure and reassure the nation that we are on the right trajectory.

The President touched on many issues such as agriculture, affordable housing, and corruption. This House has an obligation to assist our President to fight impunity and corruption. The only way to fight corruption and impunity in this country is through strong parliamentary oversight. As a House, if we do not stand firm and fight impunity and corruption in the country, we shall be doing a disservice to Kenyans and the President.

The President chose his words carefully. On Page 17 of his Address, he stated that our national democratic culture expresses itself energetically through robust discourse, boldly speaking truth to power. Those are the words of the President. He said very clearly that this House and Kenyans must speak truth to power. Members of the public have the perception that this House has become a rubberstamp, and a praise and worship choir of the Executive. That is the perception of Kenyans out there. To redeem the image of this House, we must not be a praise and worship choir as envisaged by the members of the public. When it comes to loyalty and speaking the truth, we should speak the truth at any moment as a House.

I want to thank the President for cancelling the Adani engagements. On Page 23 of his speech, he said that in the face of undisputed evidence of credible information on corruption...

Hon. John Kiarie (Dagoretti South, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, KJ. Order, Hon. Timothy.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, it is not my intention to disrupt my very good friend, Hon. Toroitich.

Hon. Speaker: Go ahead. You have already disrupted him.

(Laughter)

Hon. John Kiarie (Dagoretti South, UDA): Is the Member in order to say that the public envisions this Parliament to be a praise and worship choir? I am sure he did not mean that the public envisions this place to be such. I hope that, maybe, it is his English that is failing him because I know he is a lawyer. There is no way he would imagine that the public envisages this Parliament to be a praise and worship choir for the Executive.

Hon. Speaker: Hon. Timothy, is that what you said?

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Speaker, if you listened to me carefully, I said that members of the public have the perception that this House is a rubberstamp of the Executive. That is the perception of the public. Therefore, I will not withdraw my words.

I have said that the only way to fight corruption and impunity in this country is through strong parliamentary oversight. The only way we can assist our President to fight impunity and corruption is by overseeing the Executive. When Montesquieu talked about separation of powers, he envisaged that there should be a Legislature, an Executive and a Judiciary. We should play our oversight role without fear or any kind of intimidation, so that we live up to the ideals of our role as Members of Parliament.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. David Bowen.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker, for giving me this opportunity. The President's Speech gave hope to many Kenyans. I want to point out a few issues which His Excellency the President talked about. First, is the issue of affordable housing. In the next 20 or 30 years, over 60 or 70 per cent of Kenyans will be living in urban areas. We cannot continue to be a country where the majority of our people live in slums. Affordable housing is very important.

The President talked about the reforms which are currently happening in the health sector. The transformation of the National Health Insurance Fund (NHIF) into the Social Health Authority (SHA) and the Social Health Insurance Fund (SHIF) is very important. When the NHIF was in force, all Members of Parliament, employed Kenyans, and ordinary Kenyans were paying Ksh500. Whether you were earning Ksh1 million, Ksh20,000, or Ksh2,000, you would all contribute the same Ksh500. With SHA, those who earn more can carry other Kenyans who earn less, so that they also benefit from Taifa Care.

We also have a problem with our current education funding model, which has been there for the last 40 or 50 years. The President announced reforms to the education funding model. With the new model, children of Members of Parliament will not pay the same as those of ordinary Kenyans. We are coming up with a model where children from families with means will pay a bit more than those who are from poor families.

I want to put emphasis on the issue of corruption, which the President mentioned in his speech. We need to deal with it very firmly and seriously. The President cancelled the Adani contracts during his Address. It was very embarrassing that there were no serious background checks conducted on the Adani Group. We know that our airport requires expansion. We also need to increase our electricity connectivity. However, as we do so, we need to follow the due processes. Those who are involved should ensure that we do not get ourselves in embarrassing positions.

I support the President's Address. We need to play our role as a House and ensure that we check the Executive properly. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Antony Wainaina.

Hon. Antony Wainaina (Kieni, UDA): Thank you very much, Hon. Speaker, for the opportunity to add my voice to the President's Speech. All of the 80 talking points in the President's Address were quite live, valid, and due at this point in time. Therefore, it may not

be possible to underline all the 80 talking points by the President. However, with your permission, I will mention a few points that are very valid in my constituency and in our country, Kenya.

With regard to the CBC, the Government's expectation is that the book to student ratio should be 1:1. However, the books for the lower classes are starting to wear out and they need urgent replacement.

We were told yesterday that once the broad-based Government was formed, four professionals came on board in the Cabinet. I prefer to say that four Kenyans came on board because Kenya is not short of professionals.

On fertiliser, this is an area that has really helped this country maintain food security throughout the year. I was told, and I have also witnessed it during my visit to Busia about three weeks ago, that food was not crossing from Uganda to Kenya. It is Kenyan food that is being taken to Uganda. This is because of subsidised fertiliser, which has made food security in this country possible and even allowed us to export food outside our borders.

On the matter of listening, our President is a truly listening leader. I would like to say that listening is an art that is not learned in class; rather, it is a matter of character development. I can say that our President listens attentively until you have exhausted what you want to tell him. I encourage him to continue being a wonderful listening President for we have much more to learn from him.

Regarding the democratic space, this is a crucial area. It is one of the reasons investors are not running away from Kenya despite the unnecessary noise in our country about various issues. We are a democracy, and our visitors and partners understand that. In fact, it is the reason they tolerate and observe how we manage our democratic space. However, on this matter, I would like to emphasize that while we have a democratic space in our country, those exercising it must do so with caution and goodwill towards other Kenyans. There is a point where exercising democracy can pose a risk to the security of our nation.

On job creation both within and outside the country, I would like this Parliament to act as a witness to the many students and workers who have secured opportunities outside Kenya. It would be a meaningful gesture if, as Members of Parliament, we could escort those leaving for foreign countries. It could act as a testimony to the nation and the world that such opportunities are happening and have been made possible.

Lastly, Hon. Speaker, I want to talk about Adani. When we talk about Adani, and this Parliament...

Hon. Speaker: Your time is up. Hon. Elizabeth Kailemia.

Hon. Elizabeth Kailemia (Meru County, UDA): Thank you, Hon. Speaker, for giving me the opportunity to contribute to the President's Address. It reflects a multifaceted approach addressing corruption, gender-based violence, economic stability through inflation control, educational empowerment via teacher hiring, and healthcare accessibility through the SHA initiative. The President made a commitment to address corruption, particularly targeting leaders involved in malpractices or misappropriating public funds. The focus on corruption is critical as it undermines public trust and diverts resources meant for development. The President's stance indicates a willingness to confront powerful critics and hold them accountable, which is essential for restoring integrity in governance.

Regarding femicide, the alarming rise in femicide, or the killing of women based on their gender, has prompted the President to pledge decisive action against perpetrators. The reference to the 16 days of activism and campaign highlights an intentional effort aimed at raising awareness about gender-based violence and advocating for women's rights. This initiative seeks to mobilise communities and governments to take concrete steps towards preventing violence against women and ensuring justice for victims. The President's

commitment suggests an acknowledgment of the severity of this issue and a determination to implement policies that protect women.

In addressing inflation, the President claims that there has been a decrease in the prices of basic commodities since he took office. This assertion is significant because inflation directly impacts the cost of living and economic stability. A reduction in inflation can indicate effective economic management and policies that support consumer purchasing power. However, it is crucial to analyse economic data from credible sources to verify these claims, as inflation rates can be influenced by various factors, including supply chain dynamics, Government policy changes, and global market trends.

On education, I want to applaud the President's ongoing commitment to hiring teachers, reflecting an understanding of the importance of education in national development by emphasizing empowerment through education. The administration aims to enhance teaching quality and accessibility. This initiative could lead to improved educational outcomes, which are vital for fostering a knowledgeable workforce capable of contributing to economic growth.

On health insurance, the Social Health Insurance (SHA) programme offers numerous benefits aimed at providing universal health coverage by encouraging registration in SHA to ensure individuals gain access to essential health services without facing financial hardship due to medical expenses. The emphasis on Universal Health Care aligns with global health goals aimed at ensuring that all individuals have access to necessary health services without experiencing financial difficulties.

Hon. Speaker: Hon. Samwel Moroto

Hon. Samwel Chumel (Kapenguria, UDA): Thank you very much, Hon. Speaker, for giving me time to contribute. I want to sincerely thank the President, as a person, because I have known him for a long time and we have worked together. He is someone who is committed to ensuring that human beings, especially Kenyans, benefit and improve their lifestyles. However, I have a problem with those people who are supposed to assist the President in realising the objectives that Kenyans are striving for, and hoping to benefit from. For example, you have mentioned coffee in Trans-Nzoia. If you look at what is happening now in Trans-Nzoia, especially with regard to the land issue, you will find that there is a lot of corruption and cartels within the Ministry of Lands, Housing and Urban Development. They are selling land, day and night.

I do not know where they get some of the title deeds they are giving to people yet they are civil servants who are paid by the taxes collected from Kenyans. They are not seeing that. We ask the President to deal with these people. Just like you, Hon. Speaker, and your team in this Parliament, there are many sincere Kenyans who wish to work for Kenyans and help Kenya. There was a time hundreds of Members were fighting in this Parliament. However, everything has been running smoothly since you became the Speaker. Because of your leadership, Members can stay in Parliament up to midnight without any problem. It is not for any other thing.

I urge all Committees, their Chairs, and the leadership of this House—especially those who are close to the President—to be bold enough and tell the President the truth. He has to get rid of these people and get the right people who can work. I do not say that all Cabinet Secretaries and Principal Secretaries are weak. Some like those in the Ministry of Interior and National Administration are working really hard. Those of us who come from the North Rift can now say there is peace. These people work without problems day and night. They go to the people and listen to them. The people there assist them to troubleshoot problems for solutions. They identify places and corners with problems. Things move.

I have read the President's Speech from the first page to the last. It is brilliant yet no fruits come from there because some people around the President just talk and do not help. Let me hope something good comes out of it. Let me stop there.

Thank you very much.

Hon. Speaker: Hon. Dekow.

Hon. Dekow Mohamed (Garissa Township, UDA): Hon. Speaker, thank you for giving me this opportunity to contribute to the State of the Nation Address by the President. The Constitution requires him to come to Parliament and address the nation on issues affecting this country.

For sure, the President addressed many issues of concern to this country and Kenyans. Many of those issues were based on hope. The fact is that we have had a very difficult time during the last two years of his governance and leadership. In addressing the nation, the President addressed very fundamental concerns of our people and country. The improvement of our economy and cost of living is one of the issues he raised. We have, as a country, witnessed improvement of our economy. The fact is that prices of fuel and the dollar have come down. The cost of living, food production, and the prices of food and commodities are coming down. All economic indicators show that this country is heading towards the right direction. This is as a result of the policies and the foundation the President laid since he took over office.

As leaders and the people of this country, we all know that the country was doing very badly when this President took office. Now all indicators are that the country is taking a very good direction. Hopefully, we will by the end of this term of five years, go the direction we have taken.

We all know the previous two Presidents have tried taking affordable housing, SHA and SHIF head on for the last 20 years. The issues were in all manifestos for the last 20 years. Every presidential candidate promised to implement affordable housing programmes and changing to universal health coverage programmes. They were unable to take that head on. They were unable to take strong positions and decisions on this.

I thank the President of the Republic of Kenya, Dr William Ruto, for taking it head on. He has shown leadership and being a very strong leader in taking a strong position on these issues. We all know that there were a lot of fights against implementation of the two programmes; affordable housing and universal healthcare.

As I speak and for the first time since Independence, the national Government is undertaking about 1,100 housing units in my constituency. Affordable housing, SHA and SHIF have taken off. More than 70,000 people from Garissa County are registered members of Taifa Care and SHA as we report today. Seven million more Kenyans have joined this programme and we are getting good testimonies from them. They say that the programme is working. This thing would not have taken off had he gone back on the decision he had made on implementing this programme. I hope this country will not let down the President and the people of Kenya. I mean the very poor people who are benefiting from these two programmes.

The President talked about another issue: corruption in this country. Corruption is a national security threat for us in this country. We, as a people, of this country must address it. The President or the Executive or this Parliament alone cannot handle it. It is a national cancer that we are all aware of. We must all play our part in ensuring that we fight this thing.

Extrajudicial killings and abductions are a very big problem to those of us who are from the northern part of this country. Extrajudicial killings and abductions are very rampant in our region. I hope security agencies of this country have heard the position the President has taken on the issue, that there shall be no more abductions and killing of our people.

Thank you.

Hon. Speaker: Hon. Eve Obara.

Hon. Eve Obara (Kabondo Kasipul, ODM): Thank you very much and my apologies, Hon. Speaker. I was engaged on another matter with my sister here. Nevertheless, I stand to add my voice to the President's Speech of last week, 21st November 2024.

Let me not repeat what many people have said. The cancellation of the Adani Group contracts at the airport and the Kenya Electricity Transmission Company (KETRACO) stuck out for me. This matter has been going on for a long time. There was displeasure among Kenyans about these contracts. I am happy he listened to the ground and went back to the drawing board so that at the end of the day, we carry out projects that are in the interests of the people and people also have confidence in.

Secondly, I was happy he raised the issue of the two-thirds gender rule that has been going on from the time we got a new Constitution which is no longer new. I hope this time he will be the one to deliver this come next Parliament. I believe we should be deliberate to come out with strategies to make us realise this. That is if all parties get together and agree on a formula. I know we have discussed several formulas with women leaders in and outside this House. Our President will be remembered for it once we put our heads together again on how to deliver this come 2027.

I was happy he addressed gender-based violence. What has been going on in this country has become alarming. Particularly women and young girls being killed out of relationships with people who are supposed to take care of them. As much as we were saying that men or boys should be mentored on how to manage their emotions and how they can take care under those situations, it is also a lesson to our women and girls. That shortcuts are not there in life. All of us must strive to work hard and avoid situations where we put ourselves in positions like we have seen in the last few years.

Corruption is a tired story. We must, as Kenyans and leaders, be deliberate to lead from the front. As we always say, actions speak louder than words. We can say it a thousand times but if there is no result or related action against corruption, it will continue. Our country has been bleeding because of corruption. It mainly comes from procurement. Even though he directed that e-procurement must be enforced by the first quarter of 2025, I hope that in the performance contracts that were signed last week by the ministries and state corporations, this is one of the targets that each must achieve by the first quarter of 2025.

Hon. Speaker, in order not to repeat what has already been said by my colleagues, once again, thank you very much for giving me the opportunity. We thank the President for coming out boldly on some of the issues that have been affecting Kenyans. I desire that at least we should see that they are all realised.

Thank you very much.

Hon. Speaker: Dr Mutunga, had you not spoken on this?

(Hon. (Dr) John Mutunga Kanyuithia spoke off the record)

Why are you on the screen?

Hon. Ekwom Nabuin, Member for Turkana North, proceed.

Hon. Paul Nabuin (Turkana North, ODM): Thank you Hon. Speaker for giving me this chance to talk on the President's Address.

One of the things that came out is that the President has committed to be listening. This means that once Kenyans speak, whether positive or negative, they will expect their President to listen to them and respond to their issues. This is positive from the President and we really appreciate that.

By choosing to unite the country, the President has taken a very positive direction. There was a time when part of this country was feeling that they were left behind and were not being given a chance in terms of development. Uniting the country in the broad-based Government is a positive thing. The President identified and put forward a number of successes that the Government has implemented. But we are looking at a number of other things that

some of our communities are looking forward to from the Executive. The pastoralist communities want to utilise their mainstay and make it more economical than traditional.

In the President's Address we see how the coffee, dairy and sugar sectors have been supported. We are looking forward to the next financial year for the Executive to set up similar meat factories like the Kenya Meat Commission (KMC) in these areas that are far from Nairobi. If we can have a number of sub-KMCs like in Turkana where it is said we have the largest number of cows and goats, it will be better. What happens currently is that we transport our livestock all the way from Turkana or many miles away, to Nairobi. Maybe in the next President's Address, he will give a positive indication on something that has been done in those parts of the country.

Hon. Speaker, the other thing that came out of the Address that needs to be tackled in this country is corruption. Corruption is still taking a toll on many sectors of this country. It seems, and this is the feeling of most Kenyans, that the institution that is meant to fight corruption is facilitating corruption because no action is being seen to be taken by it. Kenyans have eyes and see corrupt activities or actions that are being undertaken, especially by the Government and counties, but nothing is happening. So, we are looking up to this institution for action.

Lastly, I want to mention something about the way we are doing things.

Hon. Speaker: Your time is up, Hon. Nabuin. Hon. Pauline Lenguris. Order, Hon. Pauline, I give you just one minute. I said we stop at 4.00 p.m. The Leader of the Majority Party is going to reply.

Hon. Pauline Lenguris (Samburu County, UDA): Thank you Hon. Speaker for giving me this opportunity to contribute to the State of the Nation Address by the President. The President's Address tackled many issues affecting Kenyans that had been raised by them. This was a very positive speech because the President mentioned most of the issues that he is going to address and settle the problems that are facing our people.

One of the important things that struck me most was the SHIF. We know that the transition from the NHIF to the SHA is one of the most important schemes for the people of Kenya. We know that the scheme is going to cover the people who are employed and those who are not employed. So, our transition from NHIF to SHA will ensure that most of our people will get healthcare services when they require them.

This week, I was one of the beneficiaries of the SHA, which was met with a lot of negativity by most Kenyans. I was a beneficiary this week when I had a patient suffering from cancer who was covered entirely for chemotherapy by the SHA. I want to encourage Kenyans to enrol themselves and benefit from this scheme which has been facilitated by the Kenyan government.

Another important issue that the President mentioned in his speech was education. We are all impressed by the employment of 46,000 teachers, which will settle the issue of our schools, which are currently facing a shortage of teachers, especially the CBC.

Hon. Speaker: Your time is up Hon. Pauline. Hon. Ruku, what is it? Do you want to contribute?

Hon. Ruku GK (Mbeere North, DP): Yes.

Hon. Speaker: Time out. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. Let me begin by thanking all the Members who have contributed to this debate on the State of the Nation Address by His Excellency the President since yesterday morning when it began, and also even those who were very resilient up to 9.00 p.m. last evening and many others who came very early today morning to contribute.

I do not want to say much in response because Members basically have reiterated what His Excellency the President said in his State of the Nation Address. As we said and as many

Members have said in their contributions, the State of the Nation, as the President said, is resilient. And that resilience has been exhibited by the emerging growth of our nation's economy right from a time when one dollar was trading at Ksh162.

Yesterday I heard the Deputy Leader of the Minority Party asking whether indeed there is appreciation of the shilling. I know Hon. Robert Mbui is not an economics student and he may not understand most of these things. When the shilling to dollar rate appreciates from Ksh162 to Ksh129, it is something you cannot deny. I also heard him say that at the time this administration took over the reins of leadership, the dollar was trading at Ksh125. That is a fact. But it was, however, trading at that rate in the backdrop of major economic setbacks, with devastating drought. You remember there was no fuel in the country. Kenyans may have forgotten that they had to queue with jerry can to get fuel. When the G-to-G fuel procurement process came into being, this administration was able to stabilise not just the pricing of fuel and that of foreign exchange rates but it also ensured availability of fuel. Without naming names, because they are friendly countries, people in many neighbouring countries still queue to get fuel. They do not have fuel. Our country has fuel and the prices have been coming down almost every month for the last few months.

When he said the state of the economy is resilient in terms of food security, it speaks for itself. As I said in moving the Motion and as the President enumerated in his State of the Nation Address, we were buying *unga* at almost Ksh262 in September 2022.

Hon. Speaker: It was Ksh280.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes, Ksh280. Actually, there is a brand that was retailing at Ksh287. Today the same brands are at an average of Ksh120 and Ksh110. I have even seen some brands going for as low as Ksh90. If indeed the demonstrations that Hon. Robert Mbui, my good friend, was involved in then, during the *unga* and *sufuria* movement, were about the price of *unga*, then he cannot claim that there have not been positive changes since. But that does not mean we do not have room for improvement. We still have a long way to walk. All we call for is focus. I am glad the President and his administration are focused in walking the long journey to bring back our economy to where it ought to be. I am very confident that we shall walk together.

In the Legislature, our job is to support the administration in power today with legislative interventions and anchor economic policies that will help them realise the aspirations of the Kenyan people and all the promises that we all made. It does not matter whether you are in the Minority or the Majority party, or whether you support William Ruto as the President or not. If you love your country and are patriotic enough, you must stand out to be counted in support of policies that will anchor good legislation to help us to achieve what we all promised the people of Kenya. I say this aware that we all belong to different political parties. There are those that support this administration and those that do not.

In the Minority side, I heard Hon. Mbui speak about these issues yesterday. Whether you support this administration or not, you represent the people of Kenya, and you made certain promises and pledges to them. They elected you on the basis of the things you promised them. I am glad the President remains focused. Even with all the negativity, I am glad he has shut his eyes and ears to it.

The President told us that one of our core responsibilities as leaders is to listen. Listen but do not get distracted. Remain focused on what you want to achieve for the greater good of the people of Kenya and our nation. As legislators, we should remain focused. We were elected because the people in our constituencies believed and knew that we knew better, amongst the many other people we competed with. Your task to show the people of Kenya that you know better and they never made a mistake in electing you is by offering leadership. Offering leadership does not always mean doing what is popular. What is popular may not necessarily be right. When we tend to act out of political expediency and playing to the gallery, we may

be doing all the wrong things. But when you do what is right, time will vindicate you. I am confident that time will vindicate the Kenya Kwanza administration and the President. Those who talk about Ruto and lies will know that there is nothing about lies with him. He said in Kiswahili, “*Tutawainua walio mavumbini ili wale kwa meza moja na wafalme.*”

I have listened to Hon. Lenguris saying that she has been a beneficiary of the Taifa Care under the SHIF. I have seen men and women who are boda boda riders and *mama mboga* testifying and posting online how they have benefited from Taifa Care. If we have a medical care programme under UHC that is taking care of Hon. Pauline Lenguris, a Member of Parliament, the same way it takes care *mama mboga* and the boda boda person, then there cannot be lies about it.

Let me conclude since we are now good. I was taking some time for the obvious. As the President said, as leaders, let us continue listening to our people. Let us reaffirm the resilience of our nation and remain focused to ensure that we succeed. The President said that failure is not an option. I know this rubbed some people the wrong way. I say this on a light note. I was elated and posted and reposted the message. I saw many people online bashing me and asking the number of times I was going to post. I would repost the message again to rub them the wrong way, because I truly believe that failure is not an option and nobody should ever pray that this nation fails. If we are speaking about national values, one of them is patriotism. We have been told before that praying or hoping that your president or nation fails is the height of being unpatriotic. Let us be patriotic Kenyans in line with our national values. Let us all in one accord say that failure is not, cannot and will never be an option for this administration.

With that, I beg to reply. Thank you, Hon. Speaker.

Hon. Speaker: Thank you.

(Question put and agreed to)

Hon. Speaker: Next Order.

SPECIAL MOTION

Hon. Speaker: Leader of the Majority Party.

APPROVAL OF THE APPOINTMENT OF SEN. WAHOME WAMATINGA TO THE PARLIAMENTARY SERVICE COMMISSION

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Article 127(2)(c)(i) of the Constitution, this House approves the appointment of Senator Wahome Wamatinga to the Parliamentary Service Commission to fill the vacancy occasioned by the resignation of Senator John Nderitu Kinyua.

This is a very simple Motion for approval of a commissioner of the Parliamentary Service Commission (PSC) following the resignation of Senator Kinyua of Laikipia County. Senator Kinyua was a representative of the Senate in the PSC which is chaired by you, Hon. Speaker. Last week, the Senate approved the appointment of Senator Wahome Wamatinga. He is the Senator for Nyeri County, and a focused gentleman. He is a good Senator serving his first term in the House. I have no doubt to believe that he will serve well in the PSC.

Since the Senator comes from a county that is not far away from Parliament, I know there are Members of Parliament from Nairobi and its environs like Nyeri, Nairobi, Murang’a,

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Machakos, Kiambu where I come from and Kajiado who have certain issues pertaining to the Members welfare that they have been complaining about for many years. I would want to beg that as much as Senator Wamatinga is coming to the Commission, he does not represent a region. He should not go to the Commission to represent sectarian interests. The Commission must ensure there is equity. What benefits one Member benefits the other and what hurts one Member should hurt everybody.

We are all elected Members of Parliament and we represent people equally in this House. It is not fair that some Members have certain benefits which others do not. Hon. Speaker, as the Chairman to the Commission, you have a huge responsibility to ensure that there is equity. With the budget allocation to PSC, it is possible to strike a good balance. I hope that Senator Wamatinga will bring in his expertise. He has been a very good engineer, and he can re-engineer whatever goes on in the PSC to ensure there is equity.

Lastly, Senator Wamatinga is an elderly man. He is much younger than the Senator for Laikipia who was there. I, therefore, believe that he will bring more wisdom. Hon. Speaker, you now have two elders. I want to believe that you will conduct the affairs of the Commission in a good way. It should be balanced, fair, creating equity and ensuring that the Members here and in the Senate, remain dignified. We must also carry ourselves with dignity if we are to be dignified by the public out there.

With those many remarks, Hon. Speaker, allow me to request the Member for Mombasa County, Hon. Zamzam to second this Motion in agreement on behalf of the Leader of the Minority Party who is away.

I beg to move.

Mhe. Spika: Mama Mhe. Zamzam, umetoka kuhudhuria harusi ama?

Mhe. Zamzam Mohammed (Mombasa County, ODM): La, Mhe. Spika, bali nimetoka kutoa mahari mahali.

Asante sana kwa kunipatia nafasi na mimi pia niweze kuunga mkono uteuzi wa Seneta Wamatangi. Majina ya Seneta nayo... Nampongeza Senator Wamatinga kwa kuteuliwa. Ningependa kumuelezea kuwa akishateuliwa, awashikilie Wabunge. Maswala yetu kama Wabunge yanaangaliwa na Makamishna wa *Parliamentary Service*. Tunawasihi wafanye usawa kwa kila jambo. Kuna Wabunge wanaolia na kutatizika juu ya maswala yanayowahusu. Tunawasihi tu, mkiteuliwa, na nyinyi mkumbuke wenzenu. Mara kwa mara, sisi huwapigia kura ili mpate nafasi ya kuhudumu katika hili Bunge na kuangalia maswala ya Wabunge bila upendeleo. Ninamuomba Mungu ili apate mafanikio kwa uteule wake.

Ninamshukuru sana Mhe. Rais, Daktari William Samoei Ruto kwa yale aliyotueleza jinsi anavyoendeleza uchumi. Kwa hivyo na wao, wasimkatishe tamaa; inafaa washike kasi na waangalie Wabunge na maswala yao maana kuna malalamishi mengi yanayotoka kwa Wabunge. Ninavyoongea, niko kama sauti ya Wabunge kwa ujumla. Makamishna wasiangazie mambo yao ya kibinafsi. Kuna wale wanaofanya kazi nzuri, na tunawapongeza lakini wengine, wanajiangalia kibinafsi. Tunawasihi waangalie nafasi ya Wabunge pia. Vile tumechaguliwa, nasi tuko na mambo mengi ambayo tungependa yaangaliliwe.

Kwa yote, ningependa kumshukuru Mhe. Spika. Umekua Mwenyekiti ambaye ametushikilia mikono. Hao Wabunge wanaweza kujisemea. Tunapokuja kwako kwa minajili ya mambo kadha wa kadha, umekuwa kama baba. Tunakuomba Mungu azidi kukubariki. Hicho kiti ni chako, na uzidi kubarikiwa. Asante sana, Mhe. Spika.

Hon. Speaker: Asante mama, Mhe. Zamzam.

(Hon. Paul Nabuin stood in his place)

Order, Hon. Members. Order, Hon. Nabuin, take your seat.

(Question proposed)

Do you really want to debate this? Do I put the Question? You have more serious Business than this.

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

Order, Hon. Members. You have the quorum to vote.

(Question put and agreed to)

Next Order.

BILL

Second Reading

THE KENYA REVENUE AUTHORITY (AMENDMENT) (NO.2) BILL
(National Assembly Bill No 35 of 2024)

(Moved by Hon. Owen Baya on 20.11.2024 – Afternoon Sitting)

(Resumption of debate interrupted on 20.11.2024 – Afternoon Sitting)

Hon. Speaker: Is that from the Leader of the Majority Party. This is the resumption of debate. Who was on the Floor? It seems there was nobody. Hon. Ngusya and Hon. Ikiara, are you for this Bill?

(Hon. Dorothy Muthoni spoke off the record)

It seems you are not. Hon. Johana Ng'eno?

(Hon. Johana Kipyegon spoke off the record)

There being no interests in debating, I call upon the Mover to reply. Leader of the Majority Party.

*(Hon. Marianne Kitany, Hon. Julius Melly
and Hon. Caroli Omondi stood in the gangways)*

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, could the Members leaving led by the Member for Aldai, the Hon. Melly and Hon. Caroli Omondi kindly take their seats for two minutes for the obvious reasons?

Hon. Speaker, I beg to reply. This Bill is a four clause Bill. The Mover of the Bill – who did it on my behalf – Hon. Owen Baya, the Deputy Leader of Minority Party had indicated that I had written to your office seeking to get a withdrawal of Clause 3 of the Bill for the simple reason that it gives the Commissioner-General powers to appoint his own deputies.

A year ago, this House enacted a legislation that sought to create proper corporate governance within the Kenya Revenue Authority to ensure that the Deputy Commissioner-

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Generals are interviewed and appointed by the Board of Directors of the Kenya Revenue Authority in line with the tenets of corporate governance as it happens in other corporates.

In an institution like ours, you are elected as the Speaker by the Members of Parliament who form the Board of Elections. They also elect the Deputy Speaker. It is against this background that I sought to drop Clause 3. Therefore, I will be doing that since the communication had not come from your office. In the Committee of the whole House, I will move a proposal to drop Clause 3. As soon as Hon. Osoro does the needful ...

In the Committee of the whole House, I will drop that particular clause to ensure that there is proper corporate governance in all our public institutions including parastatals. It will not be fair, for instance, for the Managing Director of the Kenya Power and Lighting Company to appoint his own deputy. Let us leave that to the Board of Directors so that it can interview people and give them jobs based on merit. If there will be a weakness in one office, that will not trickle down to the other offices. With a Board as the oversight body of any parastatal or State corporation, it will be easier to ensure that corporate governance is enhanced.

Many Members who contributed to the Bill alluded to the need of having a specialised school on revenue mobilisation in the country. That is what the Kenya School of Revenue Administration (KESRA) is doing. It is owned by the Kenya Revenue Authority (KRA). Those of us who have had the privilege to go to business schools in this country and the wider East African region know that KESRA has been training revenue officers not just from our country but also from other countries in the region. Members are aware that all public and private universities in our country that offer degree courses do not have specialised degree courses in revenue administration. Therefore, it is important that we allow KESRA to administer tax and customs training in collaboration with public universities. The Kenya School of Revenue Administration in collaboration with the University of Nairobi School of Business or with Strathmore University School of Accounting can offer specialised degrees in revenue administration so that as we progress, we do not have revenue officers in the KRA who belong to the school of thought of walking into business premises to harass people.

The mobilisation of revenue in the country must be done in a way that it is respectful to the taxpayers, does not discourage people from investing in business in this country and encourages taxpayers to pay their taxes. Therefore, it is important that we empower KESRA to train our young men and women to offer these services in a very good way. I have nothing much to add because this Bill is a very short one. I was buying time in replying for other reasons.

I am being encouraged to mention one other thing that I did not mention. We all know that we have already begun the budget-making process. Members of the public and ourselves are aware that in October we begin collecting views from members of the public through public participation that is by the National Treasury. We will get the annual estimates by the end of April next year. I want to encourage all of us to participate in the budget-making process. Many of us wait until the last minute when the annual estimates books are tabled on the Floor of this House. We want to start perusing the books and ask, for example, if a road in our constituency or a water pond has been factored. Now is the time to start engaging with the Government Ministries and Departments to ensure that what we want captured in the next year's budget is, indeed captured. We will make it easy for KRA – even as we pass this Bill for them – when they will be training the revenue officers to collect revenue with ease.

With those very many remarks, I beg to reply and thank all the Members that contributed.

(Question put and agreed to)

Hon. Speaker: Hon Caroli Omondi, I can see you are on intervention.

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(Hon Caroli Omondi spoke off the record)

Next Order.

Hon. Speaker: The Member for Molo. As we hold for the Member for Molo, Clerk, the Women Representative for West Pokot had a Statement at Order No.7. The Women Representative for West Pokot, Hon. Kisawai came late. I had directed that her Question be dropped but when she explained, her reasons were legitimate as to why she was late. So, I will give her an opportunity back at Order No.7 to request for a Statement. Hon. Tongoyo, the Statement is directed at you. Hon. Kisawai. Hon. Kasiwai, I have a village in Bungoma called Kisawai.

(Laughter)

Sorry mummy, your name is Hon. Kasiwai.

REQUEST FOR STATEMENT

SECURITY SITUATION IN CHESEGON AREA BETWEEN ELGEYO-MARAKWET AND WEST POKOT COUNTIES

Hon. Rael Kasiwai (West Pokot County, KUP): Thank you, Hon. Speaker for pronouncing my name correctly. It is Kasiwai Rael.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the security situation in Chesegon area, located on the border between Elgeyo-Marakwet and West Pokot Counties.

The Chesegon area has for long experienced periods of insecurity with recurring incidents of violence and banditry attacks. The recent conflicts along the Pokot-Marakwet border have particularly devastated the Cheptulel area, resulting in the closure and desertion of essential facilities, including schools and hospitals. Consequently, the residents of Chesegon area have been forced to vacate their homes due to persistent security concerns that have plagued the region. The current situation has led to abandonment of homes, which continue to deteriorate, severely impacting the lives and livelihoods of the thousands of residents in that area. While the Government has commendably undertaken renovation of local schools in the area, those facilities remain unutilised as families have relocated due to the prevailing insecurity.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. A report on the Government's awareness of the displacement of residents in the Chesegon area, including an assessment of the number of displaced households and individuals from the region and their current location.
2. Plans by the Government, if any, to provide building materials and support to displaced residents to facilitate the reconstruction of their homes and strengthen community resilience.
3. Long-term strategies to address and permanently resolve the persistent insecurity issues and cross-border conflicts in the region.
4. The status of the establishment of the army camp in Sokotou area in the region, which was intended to help reduce insecurity in the region.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Tongoyo, when can you bring a response?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I will try to bring it on Thursday afternoon.

Hon. Speaker: So be it.

Hon. Gabriel Tongoyo (Narok West, UDA): However, I want to mention one thing. One of the questions was on the long-term strategies. As a Committee, we visited the region extensively some time back.

Hon. Speaker: Say that on Thursday.

Hon. Gabriel Tongoyo (Narok West, UDA): Okay.

Hon. Speaker: The next Order had already been called out. Before Hon. Ndindi Nyoro moves the next Motion, I would like to tell the distinguished Member for Kiharu, all chairpersons of committees, and Members who have business on the Order Paper that once your business is on the Order Paper, you are not entitled to think that it will be reached at the time you desire. Your business can be reached at any time. So, I advise the Leader of the Majority Party to ensure that every Member with business on the Order Paper is in the Chamber because business can collapse or fail for whatever reason and we move to the next Order. With Hon. Ndindi, I have gone back to Order No.12 to accommodate him to move his Motion. Go ahead and do so now. The Order has already been called out. Give Hon. Ndindi the microphone.

MOTION

APPROVAL OF THE MEDIATED VERSION OF THE DIVISION OF REVENUE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.38 OF 2024)

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House adopts the Report of the Mediation Committee on the Division of Revenue (Amendment) Bill (National Assembly Bill No.38 of 2024), laid on the Table of the House on Monday, 25th November 2024, and approves the mediated version of the Division of Revenue (Amendment) Bill (National Assembly Bill No.38 of 2024).

Hon. Speaker, I, first of all, wish to thank all the Members of the Mediation Committee, who spent long hours in trying to mediate this matter between the National Assembly and the Senate. I also wish to thank the Members of the Senate who attended the mediation sessions, led by the Co-Chair, Hon. Ali Roba.

At the outset, when we met in the Mediation Committee, we agreed that we are all Members of Parliament in the National Assembly and the Senate, and that there was no tussle between our standpoints. It was just a matter of exchanging ideas, so that we come up with the optimal level in terms of the Division of Revenue Bill. As has been misconstrued before, we do not go for mediation because we are pulling in different sides. We meet because we are looking for the best option for the country. That is why even when the mediation sessions became very heated, we were able to conduct all the sessions with a lot of decorum, based on the fact that we were looking for the best figures for our counties, but also what the country could afford.

The genesis of that process was when we passed the Budget in the middle of the year. What we usually call the Budget is the Appropriations Bill. We had already passed the Division of Revenue Bill. We need to align the Appropriations Bill, the Division of Revenue Bill, and the County Allocation of Revenue Bill. The predicament in the Mediation Committee was that these were unprecedented times. There has never been a situation where we meet to revise the

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Division of Revenue Bill downwards. Any time there has been any variation, it has always been an enhancement of the allocated amounts.

Therefore, the first question where we had to scratch our heads to get the answer was on the process we would use to arrive at the figure we ended up arriving at. I say so because the Division of Revenue Bill has to be in tandem with the County Allocation of Revenue Bill. Currently, the President has already sent a memorandum on the County Allocation of Revenue Bill. Therefore, we need to pronounce ourselves on that. That needs a two-thirds majority in order to pass in both Houses – the National Assembly and the Senate.

First, we had to find a pathway. Even before we talked about the contents of the Bill, we needed to be sure that after the conclusion of the Mediation Committee, the pathway would be anchored in law and the documents that we had already passed. To cut a long story short, in terms of the pathway, the Mediation Committee Report that we are passing today has a figure of Ksh387 billion. In the last financial year, the shareable revenue to our counties was around Ksh385 billion. After what happened in the country in June, we amended that figure and approved an allocation of Ksh380 billion. It appears as if the counties are getting Ksh410 billion in the current budget. That is because there were carryovers of Ksh30 billion. Therefore, the shareable revenue of Ksh380 billion plus the Ksh30 billion carryovers currently reflect in the budget of Ksh410 billion. I say this so that Members can also appreciate the figure that we have and the modalities around it.

However, the version of the Bill that we are passing today reflects a figure of Ksh387 billion. I beseech the House to pass it. This figure differs from the earlier passed amount in the Supplementary Budget, which was Ksh380 billion. The County Allocation of Revenue Act (CARA), which we forwarded to the President, initially proposed Ksh400.1 billion but was returned with a memorandum. To overturn this memorandum, both the National Assembly and the Senate need to pass it with a two-thirds majority. I want the Members to understand that, even after here, there is another process to follow.

In arriving at this figure, there are several amounts I would like to mention. The figure we had passed in the budget, in the Appropriations Bill was Ksh400.1 billion. The figure we ended up passing in Supplementary One is Ksh380 billion. The figure that the Senate requested we sustain is Ksh400.1 billion, but now, we have a figure of Ksh387 billion. This is an increase of approximately Ksh2 billion from the last financial year and an enhancement of Ksh7 billion from what was already passed in this House, which was Ksh380 billion. This figure is also higher than what is constitutionally required. Constitutionally, shareable revenue should constitute no less than 15 percent of the revenues from the last audited revenues.

Hon. Speaker, as it stands now, we are allocating over 24 percent of the last audited revenues, which just goes to show that this House supports devolution, as our brothers and sisters in the Senate do as well. That is why, even when we met, there was no acrimony because we all knew that the money going to our counties is still going to serve the Kenyan people. The money going to our constituencies also serves the same Kenyan people. Therefore, there was no point in belaboring the issue of who supports and who does not support devolution. All of us in this House have shown, in the past and are showing now, that the National Assembly supports devolution. The Senate, too, in the Mediation Committee, was on the same page. There was no contestation; we all support devolution, and which is why we were able to conclude this issue in a very amicable manner.

There was also another clause we had included in the initial report, which suggested that when there is a shortfall in revenue, both the national Government and the county governments should bear that shortfall in a manner that reflects their initial figures, what I would call proportionately. However, after deliberations, we noted something very consistent in this country: the National Treasury and Economic Planning sets revenue targets, but for the last ten years, we have never met our revenue targets even once. We decided in the Mediation

Committee that, as we have been advising the National Treasury and Economic Planning, the revenue projections they provide need to be in tandem with reality, because there are ramifications on that. When you set an unrealistically high target and fail to meet it, what happens by the end of the year is that the debt grows, or many projects end up being unfunded by the lapse of the year on the 30th of June.

For example, in the last financial year, the country was unable to fund projects worth Ksh218 billion, and the only carryovers were Ksh30 billion for counties, a small amount for the National Government Constituencies Development Fund (NG-CDF), and around Ksh60 billion for pensions. Developmental projects went unfunded by the lapse of the financial year. To make a credible budget, we need to set revenue targets that reflect reality. For that reason, the Mediation Committee deleted that clause that when there is a revenue shortfall, the people who set revenue are the National Treasury, which represents the national Government, and not the county governments.

Therefore, in our report, we have decided that counties can no longer carry a burden they were not part of creating. Therefore, when there is a shortfall in revenue targets, it is only the national Government, as has always been the case, that should carry the entire burden. County governments should not bear this burden, as they are not the authors of these revenue targets. This approach also ensures that county assemblies do not pass budgets based on moving targets. When we give them figures that may change, we are essentially telling county assemblies to pass budgets that may not be fulfilled. That is why we have decided to delete that clause, so that in case of a revenue shortfall, the National Treasury, which sets these targets, will carry the burden on behalf of the national Government.

The other thing that I want to highlight is that besides this Motion before us, there is another Mediation Committee meeting which will begin tomorrow, as there are discrepancies between the figures passed by this House and those passed by the Senate regarding conditional allocations to our counties. I urge this House to allow the next mediation to address the undercurrents. These matters are better handled then because it is the conditional grants that involve sectoral allocations, such as the Road Maintenance Levy Fund (RMLF). Therefore, the Division of Revenue we are discussing now has nothing to do with RMLF, and that will be addressed in the next report. I hope that by that time, we can engage in a debate on that matter, as it will be where it is domiciled.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

[The Deputy Speaker (Hon. Gladys Boss) took the Chair]

In conclusion, I wish to thank our county governments and governors. They have been doing a credible job. They have been trying their best under the financial circumstances we are in. This is even more reason why there is no need for any House or any leader to fight against each other because we are all pulling in the same direction. When the NG-CDF builds classrooms for Junior Secondary Schools (JSS) and our counties support healthcare, and when county governments collaborate with the national Government on projects like industrial parks, all these efforts serve the people of Kenya.

Under our watch, we have chosen not to disenfranchise ourselves as the Mediation Committee by pointing fingers at anyone. The financial challenges we face are not the creation of any one individual or group; they are simply a reflection of the state of the economy. This is why we were able to reach a good conclusion.

As for the issue of revenue shortfalls, I know the governors expected more than what could be delivered, especially in terms of their own-source revenues. While the national Government collects revenue, county governments also collect their own revenue. Hon.

Speaker, even when the Commission on Revenue Allocation tries to project own-source revenues, there are always shortfalls. This is understandable, as when there is a shortfall in one area, it is likely to be symmetrical because we are dealing with the same economy. The shortfall in revenue targets that we experience at the national level is the same challenge faced by county governments.

This calls all of us—this House, county assemblies, the National Treasury, and County Executive Committee Members of Finance in our county governments... I think it is better to project less than more. It is better to deal with the surplus when it appears than deficit when it accentuates itself like in this situation.

Just a snapshot, this is how it happens. When we pass a Budget like the Ksh3.88 trillion one we have, revenue is on one side and expenditure on the other side. You know that government is a revolving door. For the pensions civil servants are paid, as an example of before I joined the Budget and Appropriations Committee, I used to think there is a bank account to which your deducted money is deposited. I am sure that is what most people think. However, there is no such a kitty. Government is a revolving door. There is no granary even for deducted pension itself. All these monies are the monies we collect as taxes every day. Even for persons who retired 15 years ago, there is no deducted money in any bank account. It is the taxes we are collecting today that pays their pensions today.

Therefore, I was trying to talk about hierarchy. Consolidated Fund Services (CFS), especially interest rates and debts, is the number one thing the National Treasury pays when it receives revenue. Salaries for civil servants is the second thing they pay. Pensions is the other thing they pay. The other thing is the recurrent expenditure. Development is the last thing the National Treasury ends up funding when we collect revenue. Therefore, the development kitty bears all the shortfall when there is a shortfall in projected revenue. That is why we are requesting the National Treasury, even in this Report, to project revenues that are cognisant to reality or reflect it. That is so that we do not find ourselves in years at lapse without projects being adequately and fully funded.

Otherwise, I thank you and all Members of the Mediation Committee in both the National Assembly and the Senate. I thank the leadership of this House. I request the Leader of the Majority Party, Hon. Kimani Ichung'wah, to second this Motion.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker.

Allow me to, first, thank our Chair of the Budget and Appropriations Committee who also co-chaired the Mediation Committee between us and the other House. I thank all Members of this House and the Senators who engaged in this very rigorous mediation process.

Every mediated Bill is a question of give and take. I must even thank the Senators who had otherwise taken a very intransigent position of standing with governors to ask for Ksh400 billion. I must thank them for eventually seeing the light and appreciating that resources are not there as much as we all desire of giving even beyond Ksh400 billion shillings to our counties. Since we all live in this country, we know what happened with the loss of the Finance Bill. The projected revenues are not the same as at the time the first Division of Revenue Bill was being done. Allocations had to be reviewed downwards because of the loss of the Finance Bill of 2024/2025.

In that give and take spirit, I thank the Senate together with the Council of Governors (CoG). I know they may not be very satisfied with the figure of Ksh387.425 billion going to counties but it is a great improvement. This now constitutes 24.67 per cent, almost 25 per cent, of the last audited accounts. I think they are audited accounts of the year 2021. Progressively, it tells you that the money going to our county governments is increasing every year. Indeed, it was the spirit of this House and the Government to give our counties Ksh400 billion. You remember we had a similar significant increase in shareable revenue going to our counties during the year 2020/2021. We increased county shareable revenue by Ksh50 billion in one

year. That was on the understanding between us, again following a mediation process with the Senate and an agreement with the CoG that they would cede ground on the question of revenue coming from the Fuel Levy Fund.

It is sad that our governors and the CoG are now reneging on that very good gentleman's agreement and pitting ourselves against them. At the time we increased money that goes to constituencies from Fuel Levy by over Ksh50 billion shillings of shareable revenue, it was on the understanding that most of that money would go towards rehabilitation and maintenance of roads at the county level.

Today, I do not know whether I will speak for Kiambu County or it is indeed the case in all our counties. County roads are not being done at all. Members of the public have become accustomed that they can only go to their Women Representatives or their Members of Parliament to get a road fixed. I mean even roads that are not under the purview of Members of Parliament or Constituency Roads Committees.

I know the CoG has a new leadership now. I take this opportunity to beseech the CoG to drop the cases in court. Those cases are not helping them. They are not helping the country. They are simply holding services and the maintenance and rehabilitation of roads around the country at ransom because governors want more money. This insatiable thirst for resources should come with service delivery.

My problem with many of our governors is that the resources that go to counties are not commensurate with the services being given to the people around the country. It is not lost on us that the CoG had a huge role to play even in the courts, even on the NG-CDF matters. We know the sponsors of the people who are in courts on the NG-CDF matter. You can even see the nexus between the advocates that represent the parties in court on the NG-CDF matter and those that represent the CoG in other matters. This is not how to expend public resources for institutions of the same Government and the same country taking each other to court.

I really plead with governors. The Mediation Committee of the National Assembly went into this mediation process with clean hands and mediated in good faith. It even ceded resources that the Chairman of the Budget and Appropriations Committee can tell you are not there. We are only hoping that we will get a bit more resources to cater for this with the anticipated passage of the tax and business laws. In that give and take, could we plead with our CoG to please cease the litigation matters in court, especially around the Fuel Levy money that goes to the Kenya Rural Roads Authority (KeRRA) and Kenya Urban Roads Authority (KURA).

These national agencies maintain roads around the country. For instance, I have for the last two weeks seen Citizen TV being very keen on highlighting how dilapidated roads are in Nairobi County. I saw the Governor of Nairobi saying that Jogoo Road does not belong to him. He said it belongs to the national Government, and it is a fact that it belongs to the national Government. That is why, out of the money coming from the Fuel Levy Fund, you will see KURA has advertised Jogoo Road for rehabilitation.

The other Sunday the President was in a church in Soweto, Embakasi East Constituency that Hon. Babu Owino represents. When the President set foot in that church all that the church leaders and residents of Soweto could tell him was about the state of the road that is very dilapidated. That road was done three years ago under the Kenya Informal Settlements Programme funded by the World Bank. It is now so dilapidated that you have to wade through pools of water even to get to that church in Soweto.

Hon. Deputy Speaker, the church has become very famous for other reasons but I can also confirm; that money has not found its way back to the President. I also have a long list of other churches waiting for that money to get back to the President so that it can be donated to them.

(Applause)

Besides the money and service to God and humanity that the President engaged in, he promised the people of Soweto that that road would be rehabilitated. The money for rehabilitating that road by KURA will come from the Fuel Levy.

I do not need to belabour this point but I want to take this opportunity to request the Council of Governors to adopt the give and take attitude that the two Houses of Parliament have adopted in this mediation process. Let them give in on the Fuel Levy and we will support them in everything else they want to do. However, please, let them stop pitting themselves in a fight against Members of Parliament. These Members of Parliament have no business to do with roads. I have due respect to the former Prime Minister. I know he had his views on this matter, having engaged him on it. Members of Parliament are the first point of call by their constituents when roads are dilapidated in their constituencies.

Governors are never seen anywhere. There is a case in one of the counties where a Member of Parliament neighbours a governor. The governor has seven Administration Police officers guarding his residence but the Member of Parliament has none. Everybody flocks to the Member of Parliament's office on issues of healthcare, food, funerals, hospital bills, and roads. Nobody ever goes near the governor's residence. I do not want to say that they have elevated themselves to small gods or anything. However, they need to open up and be accessible to their people. These Members of Parliament are elected the same way governors are elected.

Therefore, they cannot bear an unequal share of the burden of the people's problems than governors. Members of Parliament supervising work done by the *Constituency Roads Committees* (CRC) because they are not committees. They do not participate in the implementation of projects. What they do is offer meaningful oversight to ensure that, at least, the national Government roads at the constituency level are being rehabilitated and are in good condition.

Should we sacrifice all the money to go to governors? Ask Kenyans next year if they would have seen the work the Ksh387 billion would have done. Also, ask Kenyans whether they would have seen the billions that have gone through NG-CDF. They will only tell you about the NG-CDF money and what it has done but not money from this sharable revenue.

I beg to support and second this Motion for agreement on the mediated version of the Division of Revenue Bill. Hopefully, upon passage of this Bill, the Senate will be able to start with the County Allocation of Revenue Bill and we will be able to pass it before we proceed on recess.

With those remarks, I beg to second.

(Question proposed)

Hon. Deputy Speaker: Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to the mediated version of the Division of Revenue (Amendment) Bill (National Assembly) Bill No.38 of 2024. I must go on record that I was together with the Chairman of the Public Accounts Committee as a Member of the Mediation Committee. I learned much about the mentality of Senators in respect of this matter. I also had an opportunity to engage some of the governors and learned much about how they view things in this country.

First of all, we need to go on record and reiterate to the country and all the Members here that all of us are in full support of devolution. All of us are 100 per cent in support of devolution.

Secondly, devolution was supposed to change the lives and welfare of the people at the grassroots.

Thirdly, devolution was not supposed to be a core centre of the National Treasury entirely. Devolved units were not supposed to remain dependent wholly on the National Treasury. They were supposed to generate their own revenue to complement or supplement whatever they got from the National Treasury.

Members of Parliament are not in any way part of the Executive that implements any projects at all. We have now given the counties Ksh387 billion from the Ksh380 billion that had been passed with the amendment Bill after the Gen Z demonstrations. The county governments up to this moment have not demonstrated that they are also sharing the burden of reduced revenue. The counties have not demonstrated the austerity measures they have put in place to ensure that they live in the reality of modern times. County governments have not even made any effort to make sure that the equitable share they receive actually supports them to improve own source revenue. We were given documents, reports, and data by the Parliamentary Budget Office that indeed own source revenue has been increasing over time but probably at a lower percentage than expected. This is, therefore, a call upon the county governments in all cadres that they must improve on the existing systems for purposes of improving on-source revenue. We could plug the deficit that so-called that they are talking about. There is a lot of potential. How do we explain that the Nairobi City County still depends on the National Treasury yet own source of revenue for Nairobi City County is boundless, is massive? Can we curb corruption?

I listened to the President's State of the Nation address emphasise on fight against corruption. We never intended to devolve corruption. When we devolved systems, we expected county governments to work. I must testify here that since today morning I have received five calls from my constituents looking for money to pay medical bills. Some for delivery in maternity, some for basic malaria, some for fractures, and some for basic ailments. So, I keep on asking them where the user charges money the county government collects and the devolved funds on health go to. Indeed, it is frustrating. Time has come for us to call county governments to order. We never give them money...

Hon. Deputy Speaker: While you are calling them to order, it is always useful to have the name of the hospital in the *Hansard*.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Deputy Speaker, earlier today, I had to send money to pay a bill at Busia County Referral Hospital. As I speak, there is a patient who is stranded at a village called Busijo with a fracture. When he went to the county government hospital, he was asked to raise Ksh150,000 so that he could be operated on. They are saying SHA or Taifa Care does not apply in respect to implants. They expect me as a Member of Parliament, with my meagre income, to pay for that kind of expenditure yet we appropriate funds to county governments to literally solve medical care problems. Members who sit on the government side should, honestly speaking, call these governors. You are in good books with them. Plead with them that we Members of Parliament are suffering. We are suffering!

As we speak, many schools in the country have no ECD classrooms. The classrooms we built through NG-CDF is what I have to partition for Grade 1 and pre-unit. This is the case and yet, every year billions of shillings are allocated to counties. This year Ksh387 billion is going to counties. I want to echo the sentiments of the Leader of the Majority Party. By this time next year, the impact of the Ksh387 billion will be hardly noticeable in the entire country while the impact of the Ksh30 billion allocated to NG-CDF will be seen and felt all over. We must start asking ourselves, did we make a mistake on devolution? No, we did not make a mistake. We need to have a mentality change. Otherwise, 90 per cent of Kenyans would call for scrapping of county government so that the money can be channelled through NG-CDF with better checks and balances, because the Fund is accountable.

The Office of the Auditor-General is where the weakest link is. We need to be thorough in the audit of the books of accounts prepared by county governments. We call upon the Controller of Budget. It is not good enough to go lamenting in public yet her office approves illegal and unlawful expenditures that do not support the local mwananchi on the ground.

We want to make it very clear that RMLF and NG-CDF are not money for a Member of Parliament. The RMLF finances road construction. The funds are many a times allocated to KeRRA and county governments, but county governments deliberately neglect to fix roads. Mwananchi will come and tell you, “*Mimi sijui kama mimi ni mtu wa devolved function ama mimi ni wa Kenya.*” All they know is that they are Kenyans and they deserve services regardless of where the money is coming from. As we support, we want to call on county governments to exercise prudent management of resources. Otherwise, those who doubt will continuously doubt the efficacy and usefulness of county governments.

With those remarks, I support.

Hon. Deputy Speaker: Thank you. The Member for Baringo, Hon. Jematiah. Sorry. Apologies, Member for Baringo. Let me allow Hon. Osoro to contribute. I know he needs to go and do his other real job.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Deputy Speaker, for this opportunity to support the Report by the Mediation Committee as moved by its Chairman. As we support this Report, there is something that we need to ponder as a House. It is also important for us to guide members of the public that this is a procedure. There has been a misconception out there that Members of Parliament are fighting county governments or devolution by not allocating funds to the counties. That is misleading and it is a misconception. People should know that this is a process.

Article 113 of the Constitution directs and guides us that where the bicameral Parliament has divergent views in terms of allocation of funds, then a mediation committee is formed. People who have been moving around, slandering and telling lies to the public that Members of Parliament are fighting devolution, are misleading the public.

We live in very interesting times. For county governments to seek Ksh400 billion is not a bad idea. After all, we passed this Constitution so that the devolved units get a good amount of money. Resources need to be taken back to villages, to mwananchi and to the counties. That is not a bad thing. But we also need to live in the reality of time. We need to be practical with what is happening in the country. We all live in this country and know the status of our economy. We know very well that because of what happened in June when we passed the Finance Bill clearly means that we cannot meet our revenue target. And it could not be practically possible to allocate counties all the funds they wanted. This Committee has really overstretched itself to even raise the allocation by 24 per cent to Ksh387 billion.

We need to ponder and ask ourselves this very pertinent question: Where does this money go to? It is going to the counties. It is not the first time funds are going to the counties. Every county has received funds since 2013, but where does this money go to? The President was here and he talked about corruption. If there is a place where we need to fight corruption, it is in the county governments. It is a place with high-level corruption that is massaged. We have created demigods in the name of excellencies. It is a very bad thing. If you move from county to county, you will hear very unique problems. Where is this obsession of governors fighting for the Fuel Levy coming from? They have enough money. Some counties receive up to Ksh13 billion. We are talking about Ksh387 billion of the shared revenue, but you are fighting for RMLF, which is less than Ksh10 billion. What kind of gluttonous mind-set is this? This is pure greed. You are all over and going to court, saying Members of Parliament get Ksh100 million. Really?

The Leader of the Majority Party spoke very well and stated facts. Governors have 12 bodyguards guarding their homes. They also have people, in the name of *kanjo*, carrying *rungus*

and guarding them, so *raia* can hardly reach them. All problems are taken to Members of Parliament, who only have one bodyguard. And by the fact of our operations and duties, we are ever with the people. Governors walk with too many people that *raia* can hardly reach them to explain their problems. There are no medicines in hospitals. They are now sabotaging every health system. They cannot build classrooms.

I even heard my governor bragging that the Kisii Teaching and Referral Hospital (KTRH) makes Ksh247 million in a quarter. You are bragging of making Ksh247 million in a quarter in a hospital that does not have drugs, doctors and enough personnel and where people are dying. Why are people attracting curses? Why would one person need 20 vehicles following him to a burial function that does not belong to him or his relative? One vehicle carries a chair, another one carries a carpet, another one carries goons, another one carries a girlfriend, another one carries water and another one carries a toilet. Toilet! Is there a special toilet?

Hon. Deputy Speaker, this is very painful. Kenyans are suffering, under devolution. Its intention was to help and devolve functions back to the villages. However, professionals are being killed today. Doctors who went to school for several years cannot even get promotions. They are frustrated. When they raise issues through their society groups and unions, they are threatened, fired and transferred. I know a dentist who could not agree with the governor over their affairs because he sits in a union. He was transferred to a dispensary where he cannot practice. He cannot do his dental work because he questioned the governor on the operations of the county. It is very painful and sad. Some are building their offices which cost a lot of money. Some have even abandoned their offices. They work from stadia. Others have converted their homes to be small state houses, where they hold meetings until at night. It is a sad situation.

As we seek to approve the nominee for the Chief Executive Officer (CEO) position of Ethics and Anti-Corruption Commission (EACC), we call upon them to start arresting some of these governors. It is time to start arresting some of these thieves who call themselves excellencies. In fact, this term does not belong to them. They are excellent thieves. There is no other better term we can call those governors. We are allocating Ksh397 billion to counties, but you need a microscope to see what it does. You need a microscope to see a classroom and to identify an ECD class. It is a sad situation. I speak with a lot of pain because people are suffering in the villages. They use this money to pay goons. They draw this money and some from their own source revenue to pay goons to attend functions and clap for them. What kind of silly attitude is this? It is just too bad.

However, I beg to support the Motion. I hope they will be arrested someday.
Thank you very much, Hon. Deputy Speaker.

(Several Members spoke off the record)

(Laughter)

Hon Gabriel Tongoyo (Narok West, UDA): On a point of information, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Narok West, what is your point of information?

(Hon. Gabriel Tongoyo spoke off the record)

Hon Gabriel Tongoyo (Narok West, UDA): Hon. Deputy Speaker, Whip of the Majority Party has spoken very eloquently on how these governors show opulence and travelling in convoys.

Hon. Deputy Speaker: You are on a point of information. Give us the information.

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Hon Gabriel Tongoyo (Narok West, UDA): He has said that some governors travel in a convoy of about 50 or 60 vehicles. I want to inform you that there was a video going around on the Governor of Narok County travelling in a convoy of about 700 cars. He was using public money to go and open a project being funded by African Medical and Research Foundation (AMREF). These are our governors.

(Laughter)

(Several Members spoke off the record)

Hon. Deputy Speaker: Hon. Jematiah Sergon.

(Loud consultations)

Hon. Jematiah Sergon (Baringo County, UDA) Thank you very much, Hon. Deputy Speaker. At the outset, I support this Report of the Mediation Committee on the Division of Revenue (Amendment) Bill. It took time for the two Houses to conclude it. It will give counties a reprieve at these trying and hard economic times.

I sit in the Budget and Appropriations Committee. I am aware that in June this year, we were unable to pass our Finance Bill. That has brought out a lot of deficits, specifically in management of money that goes to the counties. The drafters of the Constitution had a lot of hope, but they did not have proper information on how we should elect our governors. The money is not a problem. Today, we have agreed—through the Division of Revenue (Amendment) Bill—that Ksh377 billion will be disbursed to the counties. I pray that we will collect and disburse it within good time, so that counties can render services.

Just like most of the Members have said, we got it wrong at the outset on the mode of electing our governors who are the managers of counties. It was not good for the Constitution to subject governors to elections. This means it is the competition versus the resources that someone has. So, we are unable to get quality governors to govern and help the counties, specifically the far-flung ones. If you ask me, governors should be appointees. They should be appointed and they do not have to come from the locality. They should have proper careers to manage resources.

Today, we are grappling with the level of incompetence of governors. Most of the first governors tried to put in place structures to enable the counties to function. Subsequently, the second and third ones have a lot of imbalances. It is because we subject them to elections. To be a governor in Kenya today, no one uses less than Ksh50 million to campaign. We are crying here today because we do not have money. We are complaining about the services that the governors do not render to the people. This is because of the way we established these counties.

The counties in this country are too many; 47 counties. They are too many that sometimes you wonder whether we need villages. The counties were established on tribal basis like Kisii County and Turkana County. This gives way for proper corruption to thrive. If I am a governor and everyone within the locality is from my tribe, I will employ probably a relative. The people who helped me to campaign will be at the forefront to make sure that they are employed. Most of them are not always qualified. So, we created small dynasties that embezzle the resources of the people.

More so, through the Constitution, it was very wrong for us to devolve health and basic education functions. This is day-to-day life survival. A week ago, we had an event in Baringo County and there was nothing in Baringo County Referral Hospital. You cannot even find a shelf of drugs. The doctors are always on strike. There is a problem. Most of these counties do not have any revenue. When they collect own source revenue, it is very little. If it is there, the

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wage bill is bloated. Every governor comes in and he puts 100 people on the payroll. Most of them are ghost workers. At the end of the day, we are just supervising incompetence, corruption and lack of services in the counties.

Even if you are the best President in this country, as long as we still have these counties behaving this way and electing these governors in the same way... Once you are a governor today, for you to be re-elected, you use probably three times the amount of money you used before. When you are elected a governor, the first thing you will do is to save to come back. This impedes service delivery in the counties. As I support the disbursement of money to the counties, I reiterate that money is not a problem, but it is its management. One of the ways is by investing in industrialization in order to generate more income and provide better services, specifically in health and agriculture. It was very unfortunate for us to devolve agriculture and education. If you are very keen in Kenya today, compared to most of us who went to school a long time ago, there is a distinct comparison of a child who is between class one and class four in the village. They are not able to read. The illiteracy level is very high because of the poor quality of education. The Early Childhood Development teachers who teach these children are from the village and probably not paid well. This impedes the quality that we give to our children yet it is the foundation of our nation.

As we devolve these funds, we must reflect on how to manage the resources allocated to the counties and help governors understand that the society is now devolved. What happens in the county automatically reflects everywhere in the country.

Thank you, Madam Speaker.

Hon. Deputy Speaker: Hon. Caroli Omondi, Member for Suba South.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Deputy Speaker. I am very thrilled by the passion I am witnessing amongst Members on this particular issue. All the bad habits we see in the counties have actually been transplanted from the national Government. We are doing an introspection of ourselves as a country. While I support devolution and I am happy to see that at least an additional Ksh7 billion is being disbursed to them, let us just take some examples so that you understand where I am coming from.

Recently, I was made aware of a county where the speaker of a county assembly was removed from office. They pretended that he had lost the confidence of the Members of the County Assembly. The reality was that he did not have the necessary academic qualifications to hold the job of a speaker. I am sure that in this House and in the Parliamentary Service Commission, we have similar cases. There is nothing new that the governors or lower cadre people are doing in the counties that we are not doing up here. Cronyism is very common. In the counties, people employ their relatives and their friends. It happens in the national Government and here.

On tribalism, the Constitution requires that in every county, 30 per cent should be non-residents of that area. How many of us have tried to hold our governors accountable for that? At least I am happy to report that my constituency manager is a man from Kisii Land.

Another issue is inflated cost of projects. We are buying our information management software for our health sector at Ksh104 billion, something that can be developed by university students. It is the same thing in the counties. There is no difference.

On procurement, we are not following our procurement laws at the national level. So, they are copying us. They are doing the same thing everybody is doing.

Regarding the absence of accountability, I was once at an event when someone very senior whispered to me, "You see all these governors in front of us? If it were not for some intervention, they would all have been charged." There were six governors right in front of us, and I was shocked. Governors amuse me whenever I meet them. Apart from what the Majority Whip has said, they also work with cheer gangs. I am told there is a budget called hospitality and public participation in most of our counties. That is where money is taken to finance

cheering squads and to finance goons. So, a governor walks into a funeral and the tent is almost brought down and the coffin is almost knocked down. You wonder where these people went to school. What is their upbringing? They sit on the chairs, knock out everybody and they have no respect. It is saddening, but it is the same. Some of us do that as leaders.

On theft, I have on record where a former governor established a revenue collection system for Eastern Province, but the funds were actually being collected in Suba; these so-called online M-Pesa pay bills. Governors do that. They set a revenue collection system, money is paid in their counties but the discounting is done elsewhere and the money is remitted to them. This is just a reflection of who we are as a country.

Hon. Deputy Speaker, let me go to more substantive issues. While I support this, if you look at the report, we are using 2020/2021 audited accounts. In other words, we are three years behind. Article 232 of the Constitution is very clear that it should be the revenue of each financial year. Even though we have the flexibility under Article 203 (3), it should be the last audited accounts. When you are disbursing money to counties three years behind the last financial year, you are basically starving them of money because revenues are projected to continuously grow, so you are not giving them the realistic revenue they should get. I think there is a problem and we need to look at it. I once talked about this here. Members of the Budget and Appropriations Committee should figure out what we need to do to have recent audited accounts. If not for that year, it should be for the last year. It should not be three years behind because the figures are different.

On delayed disbursements, according to Article 203 (j) of the Constitution, we are supposed to enable county governments to discharge their functions efficiently and effectively. We are not giving the money on time. In other words, how can they plan and implement their projects on time?

There is some work we need to do there as the National Assembly.

On Own Source Revenue, most governors will be very proud to announce that they have raised a billion. They will be very proud to announce they have increased their Own Source Revenue, but no one ever tells you what that money did. They never tell you. As Parliament, we need to come up with a system where we incentivize improved collection of revenues, and also create accountability as to how that revenue is utilized.

Hon. David Kiplagat (Soy, UDA): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Kiplagat? It better be a genuine one.

Hon. David Kiplagat (Soy, UDA): Yes, it is a genuine one. This is a House of records and the Hon. Member who is contributing is a senior lawyer. I wish he could have seen the report that what we are giving to counties is around 24 per cent, which is above the stipulated 15 per cent. Therefore, alleging that a three-year delay in the audited accounts results in giving them less is out of order.

Hon. Deputy Speaker: So, it is a point of information. You may proceed. You are properly informed.

Hon. Caroli Omondi (Suba South, ODM): It is simple mathematics. Your 24 per cent includes 15 per cent, but the 15 per cent from three years ago is not the same as the 15 per cent today. It's as simple as that. This misinformation will ultimately be passed on to the county government. The 15 per cent from three years ago, when revenues were around Ksh2 trillion, is not the same as the 15 per cent today, when revenues are Ksh2.9 trillion. So, even if it is 24 per cent, you still have not given them their fair share. That is what I was trying to say.

The Chairman of the Budget and Appropriations Committee talked about having realistic revenue targets. Let us be frank. If you wanted to have realistic revenue targets in our budget-making process, you would have a crisis. The debt obligations and the other statutory obligations, more or less match the revenue. In other words, you will not have any number

showing that we have a development component of our budget. So, you have to stretch the revenues to factor in perceived development, whether it is illusion or not. But it has to be there. That is the reality.

If you want to remove the stretched revenue targets, you will have a budget that the revenues purely match standard obligations — debt service and other recurrent expenditure of the Government. I do not think that is politically tolerable. That is why we must have aspirational revenue targets so that we can accommodate development. This is the reality we face as a country, and the only way to address it is by tackling corruption and conducting proper audits of our debt schemes to distinguish between real and fake debts.

There is a lot of work that needs to be done. If you reduce our revenue projections, you will have a budget that matches debt and statutory obligations. But, I do not think that will be politically tenable.

The other point I want to raise is that, it is time this House did two things. One, we start making our budget, both at national and county levels and capture them at constituency level so, that in every budget, we show what has been allocated to every constituency for roads, water or health. Then, a spreadsheet which is a high-level summary, is attached to that budget. Therefore, every Member can raise a piece of paper and show what the budget for that year is doing in their constituency. I will propose an amendment to our laws so that future budgets have a summary by constituency and not county. Our country is run on the basis of the 290 constituencies.

The budget will clearly demonstrate what has been allocated in all the sectors, including donor funded projects in the country. It is time Parliament commissioned a study on the true impact of devolution. What has it done in terms of resource utilisation and impact on the people? This is because we are walking blind and lack knowledge. Some countries have received Ksh150 billion over the last ten years. Where has it gone? As a House, we need to commission an independent study that will open our eyes so that we can analyse the changes we need to make on devolution especially, the health sector like the lady from Baringo has said.

Why should doctors be unemployed in a country that does not meet the threshold of doctor to patient ratio? In Kenya, doctors are unemployed and people are not getting medical services. Finally, we should also interrogate the Equalisation Fund. It is a 20-year fund but we have a problem. Not all those who are eligible for equalisation support are receiving it, even within intra-counties. We need to look at this because the time remaining is quite short.

Thank you, Hon. Deputy Speaker. With those many remarks, I support.

Hon. Deputy Speaker: Thank you. Member for Buuri.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Deputy Speaker. From the outset, I join my colleagues in supporting this Report. Just like my colleagues have said, it is high time we understood the difference between the national Government and county governments. Why do I say so? On a daily basis, I see the Senate which is supposed to oversee activities of the counties having absconded that responsibility in totality. They are now trying to oversee the national Government.

Almost every day, they summon Cabinet Secretaries and Principal Secretaries to answer questions that they are not supposed to answer. Sometimes, this causes a lot of confusion. I am the Vice-Chairperson of the Departmental Committee on Housing, Urban Planning and Public Works. We get conditional grants that are appropriated by the National Assembly but spent by the counties. When it comes to oversight, the National Assembly cannot oversee counties, and yet conditional grants are misused by county governments. At the moment, no governor is being bashed left, right and centre on SHA and SHIF.

Hon. Deputy Speaker, health services are devolved and the money allocated for it has already been channeled. However, when you go to the dispensaries, there are no drugs. Some

dispensaries and health centres are not even operating. Level II to Level IV hospitals are supposed to be managed by counties. Where does this money go to because we hear the county governments asking for more money? Before the Senators try to oversee the National Government, they need to tell us how the money that has been appropriated to the counties by this National Assembly have been spent. The same story goes to the agricultural sector. It is only the President and the national Government who seem to be answering the questions on food security yet the governors have been allocated a lot of money meant for agriculture.

Let everybody take responsibility of the money allocated to them. What the national Government is trying to do in relation to health, agriculture and services like water, education and basic education is a complementary responsibility. I want to thank His Excellency, the President for not taking a back seat in terms of health services, education and agriculture. They all need to work together. The biggest budget for the counties is on recurrent expenditures and on employment, and this is ballooning on a yearly basis. When a new governor comes in, they come with their own demands. We really need to challenge our governors and counties. There is a lot of talk that we are generating a lot of revenue at the counties. Honestly, I can only...

Hon. (Dr) Rachael Nyamai (Kitui South, JP): On a point of order, Hon. Deputy Speaker.

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

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Speaker.

I did not want to interfere with the nice contribution by the senior Member. However, after listening to Members from both Coalitions, I want to stand on Standing Order 95 that the Mover be called to reply because both sides seem to be agreeing bearing in mind that this is a mediated version.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, but I will allow Hon. Mugambi to just finish his contribution then we can have the Mover to reply.

Hon. Mugambi Rindikiri (Buuri, UDA): I thank you, Hon. Deputy Speaker. This is an emotive issue. We are agreeing to the mediated version that the county governments should not coerce this National Assembly and the national Government to agree to other sidekicks as they claim with the issue of NG-CDF. Now, they have come to the sector of fuel.

I had a tele-conversation with the young people in my Constituency the day before yesterday, and they are asking what is happening with the road, education, agricultural and water sectors? All they need are services. However, I keep telling them that that can only be delivered to them through allocation of adequate revenue. I am impressing on them that there is money under the national Government, and that there is money that the governors are given so that they can spend on such issues. In as much as you are saying that the President should react to this, the President cannot take responsibility 100 per cent. It is also the responsibility of the governors on the ground to do developments based on their allocations. The only money that can be seen to be working on our roads is the one from the KeRRA loans of about 10 to 22 per cent. They cannot even manage that allocation. They cannot even produce evidence of performance in every constituency. I agree with Hon. Wakili who has just spoken. We need to come up with the budget on a constituency basis. We also need to carry out civic education, so that people can know the responsibilities of the national Government and those of the county governments.

It is very sickening. We need to take a step back and start asking questions. I encourage Kenyans to continue asking questions. They should not only question the national Government, but they should also start questioning their governors because they are a problem in this country.

Thank you, Hon. Deputy Speaker.

(Question, that the Mover be called upon to reply, put and agreed to)

Hon. Deputy Speaker: You may now proceed, Hon. Oundo, on behalf of the Chairperson.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Deputy Speaker. I rise on behalf of the Chairperson to reply. I take this opportunity to thank our colleagues who have taken time to comment on this amendment Bill. I will pick out a few salient issues in the mediated version of the Bill that need to be very clear.

First, is a general concern that the funds going to the counties are not being prudently and properly utilised. I hope it has been made clear to the Commission on Revenue Allocation (CRA), the Office of the Controller of Budget, the Office of the Auditor-General, and the Ethics and Anti-Corruption Commission (EACC) that devolution needs to work.

The issue of delayed disbursements also keeps featuring. However, that cannot off-set the lack of accountability and imprudent use of funds.

With those many remarks, I beg to reply.

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

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Deputy Speaker. I rise under Standing Order 53(1) which states:

“53.(1) When a motion has been moved and if necessary seconded, the Speaker shall propose the question thereon in the same terms as the motion, and debate may then take place upon that question.”

Thank you, Hon. Deputy Speaker.

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

Hon. David Kiplagat (Soy, UDA): Hon. Deputy Speaker, the senior Member, Hon. Melly, has come a bit late because we are through with debate. It is now time to put the Question and yet, he is quoting provisions on proposing the Question. He is completely out of order.

Hon. Deputy Speaker: Hon. Melly, did you want to propose that we defer the putting of the Question? Proceed.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Deputy Speaker. The Member for Soy did not hear what I said. I rose under Standing Order 53(3) requesting you to defer the putting of the Question.

Hon. Deputy Speaker: Thank you. I think it is obvious that we will put the Question at a later time.

(Putting of the Question deferred)

Let us move to the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

IN THE COMMITTEE

[The Temporary Chairlady (Hon. (Dr) Rachael Nyamai) in the Chair]

THE COFFEE BILL

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(Senate Bill No.10 of 2023)

(Resumption of consideration interrupted on 14.11.2024)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Members. We are in the Committee of the whole House to consider the Coffee Bill (Senate Bill No.10 of 2023). As you may be aware, we went up to Clause 10. We are, therefore, starting from Clause 11.

Clause 11

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 11 of the Bill be amended—

(a) in subclause (1)—

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

“(e) collect, collate and maintain a data base to ensure ease of access to information on the coffee industry;”

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

“(f) conduct national and international coffee market intelligence and surveys to facilitate market access and inform promotional and branding strategies including the application of the Kenya Coffee Mark of Origin;”

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

“(p) source for and market Kenyan coffee internationally;”

(iv) by inserting the following new paragraph immediately after paragraph (p)—

“(pa) adopt marketing strategies that leverage digital platforms to reach broader audience and boost coffee sales;”

(b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The Board shall, in the performance of its functions under this Act, consult and collaborate with the relevant licensing authority and other industry players”.

Hon. Temporary Chairlady, this amendment seeks to take care of several issues, including providing for ease of access to information collected and collated and maintained by the Board. It also seeks to ensure that research is used for market penetration and not just for branding. The amendment is also introducing digital market platform as a mode of marketing and broaden the consultation to all the licensing authorities involved.

You realise that the Bill, as it were before, did not consider the options available in the digital space. Therefore, we are introducing that digital marketing. The final thing the Committee proposed to introduce is to ensure that stakeholders in the coffee sector are engaged in consultation.

I submit.

(Question of the amendment proposed)

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

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we have an amendment by Hon. (Dr) Oundo.

(Proposed amendment by Hon. (Dr) Ojiambo Oundo dropped)

(Clause 11 as amended agreed to)

Clause 12

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman of the Departmental Committee on Agriculture and Livestock.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 12 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclauses—

“(2) The Board of directors may co-opt persons whose knowledge and skills are necessary for resolution of any pertinent matter under consideration by the committee or the Board for performance of its function and exercise of its powers under this Act.

(3) Notwithstanding subclause (2), the Board shall not co-opt more than five (5) persons at any particular time.”

We are proposing this amendment because we need to ensure that the persons co-opted in the sub-committees of the Board are quantified in terms of numbers for a specific period of time. We must also ensure that they are dispensed with upon exhaustion of the issue at hand.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman. Anyone who wants to contribute to this, please go to the intervention button. I do not see any interest in this.

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

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

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

Clause 14

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There is an amendment by the Chairman. You may proceed, Hon. Mutunga.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I beg to move:

THAT, the Bill be amended by deleting Clause 14 and substituting therefor the following new clause—

“14. The members of the Board of Directors shall be paid such remuneration as the Salaries and Remuneration Commission shall determine”.

Remuneration of
the board of
directors.

The reason is that the initial proposal in the Bill was that the Cabinet Secretary in consultation with the Salaries and Remuneration Commission (SRC) determine salaries. However, you know that there is a commission which does that work. We are bestowing the power to determine salaries to the SRC.

(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 14 as amended agreed to)

Clause 15

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman of the Departmental Committee on Agriculture and Livestock, Hon. Mutunga. Proceed.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I beg to move:

THAT, Clause 15 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

- “(2) A person is qualified for appointment under subsection (1) if the person—
- (a) holds a post graduate degree in agriculture, business, law or any other relevant field from a university recognized in Kenya;
 - (b) has at least ten years’ knowledge and experience from a relevant field;
 - (a) has at least five years’ experience in a senior management position; and
 - (b) meets the requirements of Chapter Six of the Constitution”.

The Committee decided that a minimum of a master’s degree be the qualifying credentials for the CEO. Very many Kenyans have gone to school. You do not have to stick to a first degree.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Yes, Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, JP): I really do not object. Other than adding a master’s degree, we should avoid mentioning fields in future. A person qualified with a master’s degree even in engineering can still qualify. This is discriminating against other professions. We have

done that before. It is not good to limit. You have not travelled far enough. That is just my comment on this.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. You said that you do not oppose. I give the chance to Hon. Melly, the Member for Tinderet. Chair, make the comments brief.

Hon. Julius Melly (Tinderet, UDA): We deliberated the proposal by the Hon. Chair of the Committee in the 12th Parliament. It is more than being specific with fields. Management in coffee and running an institution has to have a bias in agriculture to make sure that the sector grows well. This amendment is quite in order. It will not be good in the running of the coffee sector if we do not make it specific.

Thank you.

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

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

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18, 19, 20, 21 and 22 agreed to)

Clause 23

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I beg to move:

THAT, Clause 23 of the Bill be amended—

(a) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A county government may impose levies and fees as may be necessary for the registration and issuance of licences in accordance with the respective county legislation and such standards as may be prescribed by the Cabinet Secretary under this Act.”

(b) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) The Cabinet Secretary shall, in consultation with the Board and the respective county government, prescribe standards and guidelines for the setting of levies and fees by the county government under subsection (2).”

We are aligning the consultations to be with county governments and not County Executive Committee Members. We would like the national Government to deal with county governments directly.

(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 23 as amended agreed to)

Clause 24

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mutunga, move your amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 24 of the Bill be amended by—

- (a) re-numbering the existing provision as subclause (1); and
- (b) inserting the following new subclause immediately after subclause (1)—
“(2) The Cabinet Secretary shall, in consultation with the Board and county governments prescribe standards and guidelines to be adhered to while enacting specific county legislations.”

Hon. Temporary Chairlady, the committee took the decision in order to improve on the uniformity of legislation in the coffee growing county governments.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Dorothy Ikiara.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Chairlady. I support this amendment because it is important that there is uniformity in the registrations for ease of governance.

Thank you, Hon. Temporary Chairlady.

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

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

(Clause 24 as amended agreed to)

Clause 25

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mutunga, move your amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 25 of the Bill be amended—

- (a) in subclause (2), deleting the words “county executive committee member” and substituting therefor the words “county government.”
- (b) by inserting the following new subclause immediately after subclause (3)—
“(4) A county government shall maintain the necessary statistical information with respect to the coffee sector and avail such information to the Board where necessary for proper planning.”

The reason for the amendment is that we need to provide for consultations at the national level with county governments. As I said earlier, we have amended the entire Bill to

ensure that county governments consult the national Government instead of Members of the County Executive Members.

(Question of the amendment proposed)

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

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

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we have an amendment within the same clause by Hon. Oundo. Please proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 25 of the Bill be amended—

(a) In sub-clause (2), by deleting the words “county executive committee member” and substituting therefor the words “county government.”

(b) By inserting the following new sub-clause immediately after sub-clause (3)—

“(4) A county government shall maintain the necessary statistical information with respect to the coffee sector and avail such information to the Board where necessary for proper planning.”

Hon. Temporary Chairlady, as the Chairman has put it, instead of using County Executive Committee Member, we should use the licensing authority which is the county government as provided for in Clause 2. This is so as we remove the discretion of having the County Executive Member making that decision. That is an amendment to sub-clause 3.

Thank you.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, do I give you the first opportunity on this? Hon Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): I support that amendment. I believe that now that the Chairman’s amendment had already been carried, then it means that Hon. Oundo is basically in agreement with it.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, that amendment is agreeable because there are three licensing authorities. The county governments, the Board and the Capital Markets Authorities (CMA). Even if we say it is a licensing authority, it is synonymous.

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

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

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

(Clause 25 as amended agreed to)

Clause 26

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 26 of Bill be amended—

(a) By deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) promoting production and productivity;”

(b) By deleting sub-clause (2) and substituting therefor the following new Sub-clause—

“(2) A county government shall regularly share the necessary statistical information with respect to the coffee sector with the Board and such information shall form the basis for proper planning by the Board.

Hon. Temporary Chairlady, the import of the proposed amendment is to ensure that the county government gives statistical information to the Board so that the Board becomes the custodian of all the information.

(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 26 as amended agreed to)

Clause 27

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 27 of the Bill be amended in subclause (8) by inserting the word “annually” immediately after the expression “subsection (6)”.

The import of this amendment is to ensure that county governments submit copies of registers to the Board annually.

(Question of the amendment proposed)

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

(Clause 27 as amended agreed to)

Clause 28

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, Departmental Committee on Agriculture and Livestock.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 28 of the Bill be amended—

- (a) in subclause (2) by deleting paragraph (a);
- (b) by deleting subclause 4;
- (c) by deleting subclause 5;
- (d) by deleting subclause 6; and,
- (e) by deleting subclause 7.

The import of this amendment is that we need to ensure that licences or permits are not granted unconditionally. We are prescribing conditions. Granting licences should be within the existing laws. We also want to ensure that we delete administrative provisions that can be contained in the regulations.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I know this is pre-empting debate, but we are currently debating the County Governments (Revenue Raising Process) Bill in this House. I hope we will find a way to marry the two.

Secondly, we passed the County Governments Licensing (Uniform Procedures) Act that will come into operation on 28th December 2024. I suppose we will find a mechanism of realigning this particular licensing procedure to those two particular Acts once they come into operation.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Oundo. Hon. Wamuchomba.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Hon. Temporary Chairlady, I need to get clarification from the Chairman of the Committee so that we do not override an issue of concern. When we are talking about permits, there is a clause I had read - sorry, I do not have my notes with me - which indicated that county governments will be asking for permits for warehousing and at the same time asking for the permits for pulpers. In a situation where a pulper owns a warehouse, we need to be clear so that the pulper does not pay for permit and for a warehousing permit in the same compound. Chairman of the Committee, I would want you to guide us.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Melly, let me give you a chance before the Chairman.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Chairlady. If you look at the sub-clauses the Chairman is amending, he is denying county governments their own dues. Agriculture is a devolved function. We are deleting sub-clause 4 yet the county government officer has also been given permission to inspect warehouses and issue licenses or permits to growers. All these amendments are trying to deny county governments their role. I wanted the Chairman to tell us how else a county government can make sure its roles are carried out if you are denying it the roles by deleting all the subclauses under Clause 28.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I would like to refer Members to the Second Schedule of the Bill. It is explicitly clear on which licences, permits or certificates would be levied by which organisation. Warehouse licence, coffee nursery certificates, pulping station licence, grower-miller licence, coffee roaster licence, parchment permit from the county of origin, and clean coffee movement permit from the county government of origin will be levied by county governments. We have delineated what is supposed to be where. The Capital Markets Authority will issue two licences. The rest will be issued by the Board. We have not choked county governments. We are only making sure that we do not over-prescribe licences, levies and fees.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Member for Gichugu. Make it short for the convenience of the House.

Hon. Gichimu Githinji (Gichugu, UDA): Hon. Temporary Chairlady, there is no way licences can be given unconditionally. Some conditions have to be met for every licence. This is general licencing. So, deleting that is proper and I support it, so that there are, at least, some conditions to be met for any single licence to be given.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, based on the explanation given by the Chair and what appears in the Second Schedule, I will go ahead and put the Question.

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

(Clause 28 as amended agreed to)

(Clause 29 agreed to)

Clause 30

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mutunga.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Chairlady, I beg to move:

THAT, Clause 30 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

Cap.485A

“(2) A person shall not conduct the business of a coffee exchange, agent or offer brokerage services at the exchange unless that person is licensed by the Authority in accordance with the provisions of the Capital Markets Act”.

The import of this amendment is to add the agent as one of those that will conduct the business of a coffee exchange.

(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 30 as amended agreed to)

(Clause 31 agreed to)

Clause 32

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Chairlady, I beg to move:

THAT, Clause 32 of the Bill be amended by deleting the word “monthly” and substituting therefor the word “quarterly”.

The import of this amendment is to increase the submission time of returns from one month to one quarter. One month is too short and cumbersome.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo, I know you have an amendment, but let me finalise this. Proceed, Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Chairlady, whatever the Chair has proposed is the same with my proposed amendment. So, there is no need of moving my amendment. I support his amendment.

(Proposed amendment by Hon. (Dr) Ojiambo Oundo withdrawn)

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

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

(Clause 32 as amended agreed to)

Clause 33

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, proceed.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Chairlady, I beg to move:

THAT, Clause 33 of the Bill be amended in subclause (5), by deleting the words “county executive committee member” and substituting therefor the words “county government”.

We are only changing the terminology from “county executive committee member” to “county government”.

(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 33 as amended agreed to)

(Clauses 34, 35 and 36 agreed to)

Clause 37

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 37 of the Bill be amended—

- (a) in subclause (1), by deleting the words “county executive committee member” and substituting therefor the words “county government”.
- (b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The board shall submit to the respective county government a report on the registered and licensed dealers and other service providers within the respective county at the end of each month or within such timelines as may be agreed upon with the respective county government.”

We are improving the order of various items so that we can bring in the institute.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, we are in Clause 37 not Clause 38.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Okay. The idea is to change the terms from county executive committee member to county government in both cases.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman.

(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 37 as amended agreed to)

Clause 38

The Temporary Chairlady (Hon. Rachael Nyamai): Chairman, there is no amendment.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended—

- (a) by moving Part IX - COFFEE RESEARCH AND TRAINING INSTITUTE OF KENYA (Clauses 69 to 84) to appear immediately after Clause 38; and,
- (b) by moving Part X-FINANCIAL PROVISIONS OF THE INSTITUTE (Clauses 85 to 91) to appear immediately after the following new Part VA - COFFEE RESEARCH AND TRAINING INSTITUTE OF KENYA.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, let me first propose the Question. Sorry, there is no amendment. I want you to pronounce yourself on the rearrangement of Part IX and Part X.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you, Hon. Temporary Chairlady. The Committee brought forward Part XI and Part X, which are dealing with the Coffee Research and Training Institute for purposes of enhancing the flow.

Hon. Temporary Chairlady (Hon. Rachael Nyamai): Thank you very much.

(Clause 38 agreed to)

Clause 39

Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 39 of the Bill be amended—

(a) by deleting subclause (1);

(b) in subclause (2), by deleting the words “county executive member” and substituting therefor the words “county government”.

The essence of this amendment is to delete the functions that fall under the Institute and market its functions under subclause (2), so as to ensure that the Bill, being a national legislation, emphasises on the county government and not county executive member. We are aligning the national Government with the county government instead of county executive member.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you.

(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 39 as amended agreed to)

Clause 40

Hon. Temporary Chairlady (Hon. Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 40 of the Bill be amended in subclause (1) by inserting the words “and licensed” immediately after the words “been registered”.

The import of this amendment is that registration alone is not sufficient. So, we need to do registration and licensing of imports.

(Question of the amendment proposed)

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

(Clause 40 as amended agreed to)

(Clause 41 agreed to)

Clause 42

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 42 of the Bill be amended—

(a) in subclause (3), by deleting the words “county executive committee member” and substituting therefore the words “county government”.

(b) in subclause (4), by deleting the words “county executive committee member” and substituting therefore the words “county government”.

The import of this amendment is to substitute the word “county executive committee member” with the words “county government”.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Members who are interested in this amendment can press the intervention button. I do not see any interest in this amendment.

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

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

(Clause 42 as amended agreed to)

Clause 43

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 43 of the Bill be amended—

(a) in subclause (4), by deleting the words “county executive committee member” appearing in paragraph (b) and substituting therefor the words “county government”.

(b) in subclause (5), by deleting the words “county executive committee member” and substituting therefor the words “county government”.

The Committee interchanged the names “county executive committee member” with the name “county government”.

(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 43 as amended agreed to)

Clause 44

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 44 and substituting therefor the following new clause—

“44. The processing of coffee shall be carried out at designated, standard approved facilities in accordance with established and approved Coffee Standards and Industry Code of Practice.” Requirements relating to coffee processing.

The amendment specifies that the standards being applied are coffee standards. We are replacing national standards with established and approved coffee standards. Since the national standards conform to the international standard we do not have to use the words “national standards”.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Member for Tinderet, you can start.

Hon. Julius Melly (Tinderet, UDA): Hon. Temporary Chairlady, I support what the Chairman has said.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. Hon. Wamuchomba. Please, give her the microphone.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Hon. Temporary Chairlady, this was a contentious issue. I am happy because the Chairperson has included or inserted the words “international standard”. So, I support the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much.

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 44 as amended agreed to)

Clause 45

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

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Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 45 of the Bill be amended in subclause (3) by deleting the word “comprehensive” appearing in paragraph (b).

We removed the words “comprehensive insurance” because we do not talk about it when insuring crops or crops products.

(Question of the amendment proposed)

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

(Clause 45 as amended agreed to)

(Clause 46 agreed to)

Clause 47

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 47 of the Bill be amended by deleting sub-clause (2).

The idea is that Clause 47 is exactly like Clause 45.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Please, repeat the justification for the amendment on record.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I said that Clause 47 is a repetition of Clause 45.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Is that the reason you are deleting the clause, Chairman? Are you deleting the whole clause or sub clause (2)?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): As per the Order Paper, it is sub clause (2).

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. Hon. Chairman, before I go to you Hon. Chepkonga, let me propose the Question.

(Question of the amendment proposed)

You may go ahead, Chairman.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Chairlady. I wish to support the Chairman of the Departmental Committee on Agriculture and Livestock Development. It is true that Clause 47(2) is a reproduction of 45(3). So, he is correct.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, if you delete subsection (2), what happens with the way subsection 1 reads? Because it says that every contract for milling of coffee shall be in writing and shall contain such information as may be prescribed. Where? Why do you also not remove the words “as may be prescribed”? Who will prescribe?

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman. The purpose of this deletion is that it was reproducing an earlier clause. Now what do you say about this, so that we can put the Question?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): There is nothing materially wrong with having it as prescribed.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Chairlady, when you say “as prescribed”, the reason we make a substantive law is so that it can allow the regulatory Authority to make regulations. So, it will prescribe. Those regulations will have to come to this House for approval.

Hon. Julius Sunkuli (Kilgoris, KANU): I know that the regulations will come before us. Can you, therefore, to be certain, just say, “as it may be prescribed by the cabinet secretary in the regulations”? At least, make it readable. Do not leave it hanging.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Will we be over-legislating?

Hon. Member: Yes!

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

(Clause 47 as amended agreed to)

Clause 48

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I beg to move:

THAT, the Bill be amended by deleting Clause 48.

The reason is that we have introduced a New Clause 45A to improve its flow.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you.

(Question of the amendment proposed)

Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): I would request the Chairman to explain again why he is deleting the whole of Clause 48.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, please, give the justification to the House.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I would like to refer the Members to a New Clause 45A, which will be moved later after we are done with the amendment. Clause 45A is exactly like Clause 48. We have brought it forward for purposes of enhancing the rule of law.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You are assuring the House that the New Clause 45A will take care of this deletion?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): It is exactly the same as Clause 48.

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

(Clause 48 deleted)

Clause 49

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 49 of the Bill be amended in subclause (1), by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) such other methods as the cabinet secretary in consultation with the relevant licensing authority may prescribe”.

We need to ensure that consultations with all the relevant licensing authorities take place with the Board. We are opening it up for all licensing authorities to enable them to have consultations with the Board.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Dorothy Ikiara, Nominated Member.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Chairlady. I strongly support this amendment by the Chairman that it should be in consultation with all the relevant licensing authorities, and not just the Board and counties.

(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 49 as amended agreed to)

Clause 50

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 50 of the Bill be amended in subclause (6) by deleting the word “monthly” and substituting therefor the word “quarterly”.

This is basically moving from monthly to quarterly because requiring a typical coffee grower to submit returns to the Board on a monthly basis is onerous, cumbersome and unnecessarily too expensive. As we have already made amendments on Clause 32, we only need to be consistent from monthly to quarterly.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I agree with Hon. Oundo's amendment. I think it makes a lot of sense.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much.

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

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

(Clause 50 as amended agreed to)

(Clauses 51 and 52 agreed to)

Clause 53

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 53 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) A grower or a broker appointed by a grower shall, in consultation with an exchange, prepare a sales catalogue for coffee destined for sale at exchange in a licensed warehouse in accordance with the Act”.

The coffee that is catalogued is on offer for sale. Any coffee that is not on offer for sale does not need to be catalogued.

(Question of the amendment proposed)

(An Hon. Member spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I can not see your interest in the list of requests. Hon. Samwel Chepkonga, Member for Ainabkoi, please, proceed.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Chairlady.

I support the amendment, but I have a problem with the words “an exchange”. The Chairman needs to explain. It does not make sense to me on the words, “A grower or a broker appointed by a grower shall in consultation with an exchange...” If you go to the interpretation section, there is no definition of what an exchange is. I want to assume that you mean the...

(Hon. (Dr) John K. Mutunga spoke off the record)

Yes, it is sold at the exchange, but you have not defined what the exchange is. There is no term like “exchange” in the definitions. Hon. Chairman, you may need to consider defining those terms.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, what is your comment on that? Before the Chairman responds, let us have Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, I just want to ride on Hon. Chepkonga’s comments and say that after we pass the Bill, we may have to revisit the definitions. That is one of the contentious issues. The terms “prescribed form” and “the relevant authorities” have not been set out in the definitions. Some things are very loose. Hon. Chairman, while we support you, you have to propose further amendments to make those definitions clearer.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I would like the Members to go to the definitions where an “exchange” is defined as a company incorporated under the Companies Act and licensed by the Capital Markets Authority as an exchange for trading in clean coffee. That is the only definition. The coffee

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that goes through the exchange is the one that we need to catalogue. We want to encourage direct sales. The coffee that goes through direct sales does not need to be catalogued.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. I would like to confirm that that definition is given, Hon. Chepkonga. With that explanation, I will now put the Question.

*(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 53 as amended agreed to)

Clause 54

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 54 of the Bill be amended—

(a) in subclause (2) by deleting the words “county executive committee member” and substituting therefor the words “county government”; and,

(b) in subclause (5) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) insure all coffee in the warehouse or under their custody against fire, theft and other insurable risks;”

We have just replaced the words “county executive committee member” with the words “county government”.

The Committee has also provided for clarity on some of the sentences. That has to do with subclause (5)(a) which clarifies that we should insure all coffee in the warehouse or under their custody against fire, theft and other insurable risks. In other words, we leave out the word “custody” in this particular case because we do not want to include any coffee that is not necessarily in the warehouse.

(Question of the amendment proposed)

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, I would like to support the amendment and also remind the Chairman that the other thing that he is amending is that he is deleting the words “his or her” and replacing them with the word “their”. That is the other amendment to that clause.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You agree with him.

*(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 54 as amended agreed to)

(Clauses 55 and 56 agreed to)

Clause 57

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 57 of the Bill be amended—

(a) in subclause (1), by inserting the words “of quality analysis” immediately after the word “certificate” appearing in paragraph (a); and,

(b) in subclause (3), by inserting the word “analysis” immediately after the words “certificate of quality” appearing in paragraph (b).

The import of this amendment is to specify that the certificate that one should possess is the certificate of quality analysis.

(Question of the amendment proposed)

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

(Clause 57 as amended agreed to)

(Clauses 58 and 59 agreed to)

Clause 60

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended in Clause 60—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

“(1) The Board, in collaboration with the respective licensing authority shall, enforce of coffee industry standards along the value chain for purposes of quality assurance.”

(b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The board, in consultation with the Kenya Institute of Curriculum Development established under the Kenya Institute of Curriculum Development Act and accredited universities may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.

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(c) by deleting subclause (5) and substituting therefor the following new subclause—

“(5) The Board shall, in collaboration with the respective county governments establish cupping centres in the counties for purposes of conducting coffee quality analysis and capacity building.”

(d) by deleting subclause (7) and substituting therefore the following new subclause—

“(7) The Board may sample coffee at any stage of the value chain to ascertain permissible maximum residual pesticide levels for compliance with set national and international standards”.

(e) in subclause (8) by deleting the words “county executive committee member” and substituting therefor the words “county government”.

(f) by deleting subclause (9) and substituting therefor the following new subclause

“(9) The Board shall in collaboration with the licensing authorities and other relevant bodies conduct periodic surveillance on the application of pesticide to ensure compliance with set standards and best practices.”

The import of this amendment is to ensure that the Board collaborates with the licensing authorities in the enforcement of industry standards for quality assurance. It also provides for the Board to develop a curriculum for coffee liquorers, in consultation with the Kenya Institute of Curriculum Development, which is the body mandated to develop curricula for institutions of higher learning in the country, together with accredited universities.

The proposed amendment also seeks to put emphasis to the county governments and not the county executive committees to ensure that sampling is carried out for the purpose of ascertaining the maximum permissible residual pesticide levels to confirm compliance with the set standards, and not just to ascertain the pesticide residual level. The pesticide residual level is not the same as the maximum residual level. The idea is to determine the maximum residual level, which is the allowable level that should remain. That is what the Bill has prescribed.

Additionally, we are providing for the Board to undertake compliance and surveillance in collaboration with the licensing authorities.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman.

(Question of the amendment proposed)

Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): Hon. Temporary Chairlady, this is one of the most progressive amendments by the Chairman. Liquoring, as we speak right now, depends on the whims of individuals. There is no specific method. That is why, at times, some coffee is said to be of high quality, but when you ask the liquorer how he determines the quality, he says it is because he has seen it right.

On the issue of residuals, the Departmental Committee on Agriculture and Livestock and the Chairman are trying to promote coffee, fairness and ensure that there is quality in the testing and analysis of coffee.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Member for Ainabkoi, Hon. Samwel Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Chairlady. I join Hon. Melly in agreeing that this is, indeed, a very progressive amendment. I have been in the coffee industry, and it has never been quantified how coffee is tested. When I take my coffee to the miller in Eldoret, and it is tested after it has been crushed, I ask them: “So, how do you know which grade this is?” They tell me they know the grade out of experience. There is no law; we have been subjected to some arbitrary testing. At least, we now have a law with clear guidelines and criteria for testers to follow.

I attended the last International Coffee Conference with the Chairman, which was held in Illinois, where Obama comes from, and we found professional testers guided by standards like the ones the Chairman is proposing.

Hon. Chairman, you are very progressive. Thank you very much.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Members. I will give the microphone to the Member for Gichugu as the last speaker on this.

Hon. Gichimu Githinji (Gichugu, UDA): This is a space where coffee farmers have been short-changed for a long time. Requiring adherence to international standards will also require cooperative societies to have qualified representatives for the purposes of testing, so that farmers can get value for their coffee. Previously, it was left to the miller and marketer to decide the quality of coffee the farmer will be paid for. This is a very important amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you.

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

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

(Clause 60 as amended agreed to)

Clause 61

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I beg to move:

THAT, Clause 61 of the Bill be amended in—

(a) in subclause (1) by deleting the words “county executive committee member” and substituting therefor the words “county government”; and,

(b) in subclause (2) by deleting the words “county executive committee member” and substituting therefor the words “county government”.

The essence of this amendment is to change the words from “county executive committee member” to “county government”.

(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 61 as amended agreed to)

(Clauses 62 and 63 agreed to)

Clause 64

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I beg to move:

THAT, Clause 64 of the Bill be amended—

(a) by deleting the marginal note and substituting therefor the following new marginal note—

- “Coffee development and marketing levy”;
- (b) in subclause (1) by deleting the words “two per centum” and substituting therefor the words “two and a half per centum”;
- (c) by deleting subclause (2) and substituting therefor the following new subclause—
- “(2) The levy imposed under subsection (1) shall be apportioned as follows—
- (a) thirty-five per centum to the Institute;
 - (b) twenty per centum to the board for regulatory purposes;
 - (c) fifteen per centum to the board for marketing purposes; and,
 - (d) ten per centum to the counties growing areas on pro-rata basis as a conditional grant for coffee development.”

The essence of this amendment is to, first of all, alter the per centum of the levy from two to two and a half per cent. It will also change from Coffee Development to Coffee Development and Marketing. That is to emphasise on marketing. We have not been selling our coffee to the specialty market effectively because we have not marketed it. We have put specific emphasis on marketing coffee. That is why we have increased the levy by 0.5 per cent and, therefore, revised the formula of sharing the levy.

We have revised the formula from what came from the Senate to what we have. What we have increases the amount of money apportioned to the marketing board to 15 per cent instead of 10 per cent. I believe this is one of the issues that might come for mediation. From what came from the Senate, the percentage of money to go to county governments or growing areas on a pro rata basis is 25 per cent. We have put 10 per cent in that respect because, in this country, we believe that we have not properly done research on coffee and marketing coffee as a product.

(Question of the amendment proposed)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Dorothy.

Hon. Dorothy Muthoni (Nominated, UDA): I strongly support this amendment because the marketing aspect is very key to our coffee farmers.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I seek the attention of Hon. Chairman of the Committee. Could the Member of Parliament for Tinderet allow him to listen?

Hon. Chair, you probably need to come out a bit clearer especially on the pro-rata basis in (d). I believe it should be the purpose of the Coffee Board to expand the area under coffee production. As you have put it, there is literally none for coffee development. It means that counties that do not grow coffee and probably have ecological zones that allow coffee growing will never manage to expand acreage under coffee. For example, Busia County is very good for coffee growing. We have not been able to expand acreage under coffee since we have had no support.

I do not know if you can agree to move it in some kind of an amended form to have a provision for coffee development, so that we can increase the counties growing coffee based on scientific research on the ability to grow coffee.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We could hear the Chair, and then see whether we still need to react.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, we have put 10 per centum to counties growing coffee on a pro-rata basis. Pro-rata means that the more coffee you grow, the more support you get. The 10 per cent will be apportioned to crop development in those counties. This is expansion of the new areas. Coffee, as a crop, has been developed in this country. Right now, we may need to open up more areas

but we realised we can expand by 10 per cent which will be sufficient. Opening up new areas in totally new counties is an issue that we may probably need to debate upon.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): Hon. Temporary Chairlady, I beseech the Chairperson that this levy is supposed to promote coffee growing, development and more importantly to incentivise new areas to grow coffee. The 12 per cent for coffee development is the money that we levy the crop. Thirty-five per cent is for the institute, 20 per cent is for the Board and almost 15 per cent to the Board for marketing purposes. So, the Board is taking almost 40 per cent. This is upside down. Other crops like tea and sugar give farmers a more prominent role especially in this levy. Building of roads and educating cooperative farmers should have a higher per centum than what is provided here. I want to ask the Chairperson that we re-look at this.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Okay. Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. My concern is on this 10 per centum that is proposed in the amendment. The Chairperson has rightly pointed out that this might have to be one of the issues that go for mediation. I would like him to reconsider it. I believe this grant was going to help in development especially in coffee growing areas. The Senate in its wisdom passed it to be at 25 per cent, which the Chairperson considers a high figure. The Chairperson could consider meeting the Senate proposal half way and probably reduce it to about 15 per cent or thereabout rather than lowering it to 10 per cent. This is a conditional grant that can do a lot for coffee farmers in coffee growing counties.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chepkonga. You can make the comments brief.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much Hon. Temporary Chairlady. As far as I am concerned, the per centum is the 2 per cent that has been deducted. So, Members should not assume that it is a lot of money. It is a minimal amount of money.

Secondly, when we talk about coffee growing areas, there is no county that has been barred from attempting to grow coffee. For instance, Uasin Gishu County has not been a coffee growing area, but because of attempts to grow it, we have now become a coffee growing area. Nothing will prevent Hon. Oundo from growing coffee. He can come to my farm and I introduce him to coffee farming. I can give him some seedlings for free, so that he can become a coffee farmer and his county becomes a coffee growing county even if he will have only three seedlings.

So, I support the amendment by the Chairperson.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The last comment, Hon. Members, will be from Hon. Wamuchomba, and then we will put the Question.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, as you comment, please, bear in mind that it is 10 per cent of the 2 per cent.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Yes, we understand it is 10 per cent of the 2 per cent. But I have a problem with any money going to the county. I want to cite an example of tea farmers because they have gone through the pain that we are just about to expose coffee farmers to. When cess money used to go to the tea factories in the name of repairing roads, farmers used to maintain their own roads. But when that money was diverted back to the counties, the cess roads were neglected and right now farmers are struggling because counties pick the money, but they do not make roads. If we agree that we are going to give counties money that is supposed to be for farmers in any way, the counties will never give back that money to the farmers. So, for me, any other remission is okay, but not that one for the counties.

They have already collected enough levies through pulping licensing, permits, warehousing and any other activity, but when it comes to the revenues of the farmers, I have an objection.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, you will be the last one.

(Hon. David Kiplagat spoke off the record)

Is it burning? Is your card in? Yes, your card is in. Hon. David Kiplagat, the Member for Soy, please proceed.

Hon. David Kiplagat (Soy, UDA): I have been following the proceedings as a member of the Departmental Committee on Agriculture and Livestock. We passed the Tea Bill and the Sugar Bill and are now dealing with the Coffee Bill. When we were dealing with the Sugar Bill, the issue of the quantum of money going to counties was such a big debate. The Whip of the Majority Party, I should be heard in silence.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Proceed. You are being heard very well. You now have half a minute.

Hon. David Kiplagat (Soy, UDA): This issue went for mediation. It is important that whenever we allocate money to counties, we understand very well what the money will do. I propose that we do what we did with the Sugar Bill. Instead of 10 per cent going to counties, we can ring-fence it at the Coffee Board of Kenya to use it to develop those areas, whether infrastructure or any other development. We retain it like we did with the Sugar Bill, and then the percentum can go up.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, you will be the last one on this.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Is there somebody else?

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You have already commented, Hon. Wamuchomba.

(Loud consultations)

Members, we need to bear in mind that this is a Committee of the whole House. Should I give the Chairperson the opportunity? Thank you very much, Members.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you very much, Hon. Temporary Chairlady. One, the reason we are saying that 5 per cent should go to CRTI is because we want it to develop technologies, innovations, and management practices for coffee, as well as new varieties for new areas, so that we can open up Kenya for coffee farming.

Two, the money designated for county governments is 10 per centum, to be allocated to counties growing coffee on a pro-rata basis as a conditional grant for coffee development. This money will be domiciled at the Board, and it will be the discretion of the Board to give a conditional grant. Even if a county does not grow coffee but has the potential, the Board can open up that county for coffee growing. This is a conditional grant by the Board, not to be given to governors. Even if it means killing this provision, we better kill it. If you give this money to governors, they will not do the work or improve the situation.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. With the explanation by the Chairperson, I now put the Question.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Let me explain the last two things. The 20 per cent allocation to the Board is for regulatory purposes. We need the Board to comb the entire area, map, and zone Kenya, develop regulations for each region based on coffee varieties suitable in those areas and challenges peculiar and specific to them, and

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oversee them. The final allocation is specifically for the international marketing of coffee. We have not marketed our coffee enough.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Chairperson.

*Question, that 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 64 as amended agreed to)

(Clauses 65 and 66 agreed to)

Clause 67

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairperson, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 67 of the Bill be amended in sub-clause (3) by deleting the words “the National Assembly and Senate” and substituting therefor the word “Parliament”.

In this particular clause, we have basically removed reference to the Senate and National Assembly and left Parliament.

(Question of the amendment proposed)

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

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

(Clause 67 as amended agreed to)

(Clauses 68, 69 and 70 agreed to)

Clause 71

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended in Clause 71 subclause (1) by deleting the words “a bank account” and substituting therefor the words “bank accounts” in paragraph (c).

We are increasing the number of accounts. The Bill proposes only one account, but the Coffee Training and Research Institute should have more than one account. So, we are creating flexibility.

(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 71 as amended agreed to)

Clause 72

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 72 of the Bill be amended—

(a) in subclause (1)—

(i) by deleting paragraph (d) and substituting therefore the following new paragraph—

“(d) the Director General of Kenya Agricultural and Livestock Research Organization”

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

“(g) the chief executive officer of the Board appointed in accordance with section 15”;

(iii) by inserting the following new paragraphs immediately after paragraph (g)—

“(ga) one person representing the county governments;

(gb) one person representing coffee traders nominated by the apex body representing coffee traders.”

(b) in subclause (3) by deleting the word “three” and substituting therefor the word “five”.

(c) by inserting the following new subclause immediately after subclause (3)—

“(4) In making appointments under subsection (1), the appointing authority shall take into consideration the principle of gender balance.”

We have changed the name from KALRI to KALRO because the Kenya Agricultural and Livestock Research Organisation Act of 2013 recognises KALRO as an Organisation instead of an Institute. We have also provided for the constitution of Council Members who will be the Board Members of the Coffee Research and Training Institute.

(Question of the amendment proposed)

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

(Question, that the words to be inserted in

place thereof be inserted, put and agreed to)

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Oundo, you also have an amendment.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended in Clause 72 by inserting the following new subclause immediately after subclause (3)—

“(4)A person is qualified for appointment under section (1)(e) and (f) if that person holds a post-secondary education certificate.

The Members appointed through Farmers Association and the rest need to at least hold a post-secondary education certificate. They will be joining the Board of the research and training institute. For them to understand their mandate and contribute positively, there are some basic minimum education qualifications I am calling for. The Bill, as it is, only prescribes qualifications for the Chairman and has left the rest of the members without any minimum education qualifications. That is why I am asking the House to approve that we set some minimum education standards, that is, post-secondary education certificates.

Thank you.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The first chance goes to Hon. Rindikiri before we give the Chairman an opportunity.

Hon. Mugambi Rindikiri (Buuri, UDA): This is a very important amendment by Prof. Oundo. One of the biggest problems we are experiencing right now in this sector is when unqualified people get to the office, and they are supposed to deliberate very sensitive matters. They represent very many farmers, and they must articulate issues at a high level and explain details. As a result, we need to have some minimum qualifications. I ask the Chairman to consider this favourably.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Moses Kirima.

Hon. Moses Kirima (Central Imenti, UDA): I share my colleague's sentiments. I wanted to add my sentiments about the county, but the matter has been deliberated and passed.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much.

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

(Clause 72 as amended agreed to)

Clause 73

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 73 and substituting therefor the following new clause—

Term of **73.** The persons appointed under section 72 (1) (a), (e), (f), (g), (ga), (gb) appointment. and (h) shall serve for a term of four years renewable for one further term.

The essence of this amendment is to include representation from county governments and coffee traders.

(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 73 as amended agreed to)

Clause 74

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 74 of the Bill be amended in paragraph (f) by deleting the word “his” and substituting therefor the word “the”.

This amendment corrects a grammatical error.

(Question of the amendment proposed)

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

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

(Clause 74 as amended agreed to)

Clause 75

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended in Clause 75—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) The Institute shall—

(a) develop appropriate systems to promote balanced, diversified and sustainable coffee development and to optimise coffee production through adaptive and investigative research;

(b) prioritise areas for, and co-ordinate, coffee research including research in coffee diseases and new coffee varieties;

- (c) facilitate the use of improved production technology and establish adequate feedback systems from agricultural producers in order to achieve and maintain national self-sufficiency and export capacities in agricultural products;
 - (d) advise the national and county governments on the resource requirements for coffee research;
 - (e) develop curriculum and offer training on research, innovations and technology; and
 - (f) disseminate, in collaboration with the Board, the Kenya Agricultural and Livestock Research Organisation established under the Kenya Agricultural and Livestock Research Organisation Act and other organisations, knowledge, information and application of research findings in relation to coffee.
- (b) in subclause (2)—
- (i) by deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology options to improve coffee production and productivity and provide answers to foreseeable problems facing coffee;
 - (ii) by deleting paragraph (m) and substituting therefor the following new paragraph—
 - (m) provide a climate-resilient coffee crop and coffee that is resistant to diseases and pests.

This amendment improves the clarity and arrangement of paragraphs.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, there is no interest in this amendment.

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

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

(Clause 75 as amended agreed to)

Clause 76

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 76 and substituting therefor the following new clause—

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Power to co-opt. 76. The Council of the Institute may co-opt persons whose knowledge and skills are necessary for resolution of any pertinent matter under its consideration for performance of its function and exercise of its powers under this Act.”

The idea is to improve the numbers for co-option. This Clause provides for the co-option of non-members into sub-committees of the Council. We need to limit the numbers and duration.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Samwel Chepkonga, Member for Ainabkoi.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Chairlady. I have just listened to my good friend, Chairman of the Departmental Committee on Agriculture and Livestock. He has said that the proposal intends to cap the number of those who will be co-opted. I do not see it in the amendment. That is my concern, unless he tells me where it is. As it is, you can co-opt as many as you wish. That is an issue of concern unless he wants to move a further amendment, which is that you cannot co-opt more than three persons. You had the intention of providing it, but you did not do it. Maybe, you can move a further amendment.

(Hon. Cynthia Muge spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I am trying to trace you, but I cannot see you anywhere. Hon. Muge, please proceed.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Chairlady. I am a little bit confused because my copy of the document has a cap. It says the Council of the Institute may co-opt two persons with knowledge and skills. I thought that was already a capping. I do not know what the Chairman is amending in this matter.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, please give justification and guide the House.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I apologise for saying we limited the number of persons who can be co-opted. We removed the limit. I will tell you the reason.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You removed the limit?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): This is research on training institutes generating technologies, innovations, and management practices. You might get two people who are not proficient in technology and development. They cannot advise you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Therefore, you are co-opting persons whose knowledge and skills are necessary for that particular activity.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Yes.

(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 76 as amended agreed to)

(Clause 77 agreed to)

Clause 78

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mutunga, move your amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 78 and substituting therefor the following new clause—

Remuneration of members of the council of the Institute.	78. The members of the Council of the Institute shall be paid such remuneration as the Salaries and Remuneration Commission shall determine.
---	---

Hon. Temporary Chairlady, the import of the proposed amendment is to ensure that allowances, which are part of remunerations, are stated or determined by the Salaries and Remuneration Commission (SRC).

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Chairman.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Do we have interest? Hon. Cynthia, please insert your intervention card. It is not easy to see you from where you are. You may now proceed.

Hon. Cynthia Muge (Nandi County, UDA): Hon. Temporary Chairlady, I am a bit confused because Clause 78 gives the Salaries and Remuneration Commission (SRC) powers to determine allowances. But again, I see the amendments being moved. I do not understand exactly what is being amended. It already allows the SRC to determine how much they are going to get in allowances.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. (Prof.) Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, what we have in the Bill that came from the Senate was that the membership of the Council will be paid a certain allowance "as the Cabinet Secretary shall..." The amendment removes the Cabinet Secretary because he plays no role under the Constitution in setting the remuneration and allowances. I just wanted to put that on record. Even if I do not sit in the Departmental Committee on Agriculture and Livestock, that is my reading. That is the constitutional provision of the SRC.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, is that the justification?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): We know that allowances are also remunerations. Therefore, there is no need to say allowances and remunerations. We just call them remunerations. Therefore, we deleted the words.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you Chairman.

*(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 78 as amended agreed to)

Clause 79

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mutunga, move your amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 79 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause—

“(3)A person is qualified for appointment under subsection (1) if the person—

- (a) is a citizen of Kenya;
- (b) holds a Doctor of Philosophy or its equivalent in a relevant field from a university recognised in Kenya;
- (c) has at least ten years’ experience and knowledge in management;
- (d) has at least five years’ experience in a position of senior management; and
- (e) meets the requirements of Chapter Six of the Constitution.”

Hon. Temporary Chairlady, the import of the proposed amendment is to align it with the Mwongozo Code of Conduct, good governance and introduce the requirement that the CEO must be a PhD holder. This is a research and knowledge generation institution.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Chairlady. I agree with the Chairman on the issue of the Mwongozo Code of Conduct, but the CEO need not be a PhD holder. It has been known and seen that a number of very competent first-degree holders are very good CEOs in the banking sector.

A number of our university professors have displayed an inability to manage. Yes, experience is there, but it is not right to require that an individual be a CEO if he holds a PhD. I propose that the Chairman looks into it. Hon. Oundo, you do not need to...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Members. Let us give Hon. Melly time to finish. Have you finished, Hon. Melly?

Hon. Julius Melly (Tinderet, UDA): Yes.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Okay. Hon. Samwel Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Chairlady. I support the proposed amendment by the Chairman. When you are doing research, you philosophise. If you have not studied to the point of permanent head damage, it is very difficult to understand some things called research. We do research; I have done research at my Masters level, but I have not gone in-depth. I was the company secretary for the Kenya Planters Cooperative Union (KPCU). My Chairman for KPCU, the late Mr Abraham Mwangi, was the Chairman of the Coffee Research Institute. They employed Doctor of Philosophy (PhD) holders. It has been a tradition of the Coffee Research Institute to employ PhD holders. What we have just done is to codify the practice that it has been known for. It is a very complex process.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. You have made your point very well on the justification for a PhD. The last one will be Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, I support the amendment.

Picking up from the last point and looking at Kenya Medical Research Institute (KEMRI), Kenya Institute for Public Policy Research and Analysis (KIPPRA) and the rest, most of the employees are PhD holders.

If you have a CEO who is less educated than his employees, it will not work. For a research institute, let us maintain this particular amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Let me go to this side. Who was saying that he wanted to speak for the youth? Hon. Karemba?

Hon. Muchangi Karemba (Runyenjes, UDA): It is me. I am equally a youth, Hon. Temporary Chairlady.

(Loud consultations)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Members, if we move faster, it will be better for all of us.

Hon. Muchangi Karemba (Runyenjes, UDA): Hon. Temporary Chairlady, the kind of research we are talking about is not mere enquiries. This position of CEO is a very serious position that requires a properly educated person. The fish starts rotting from the head. It is better we have a properly qualified person who will ensure that the institution is led properly and the research is properly conducted.

I support the amendment by the Chairman. Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mwenje, kindly have a minute because the matter is straightforward.

Hon. Mark Mwenje (Embakasi West, JP): Hon. Temporary Chairlady, I want to oppose this provision extremely. Let us just do a quick roll call. Where will the counties that grow coffee get people with PhDs? Will Muranga and Kiambu, for example, get anyone? You are going to get somebody from outside your county who is going to fill any vacant position. We must, therefore, oppose this provision. This is not a university that requires a Vice-Chancellor who is a professor. That is not the case. *Hapana!*

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Mwenje. The Sabina 'Maitoo' Chege.

Hon. Sabina Chege (Nominated, Jubilee): Thank you, Hon. Temporary Chairlady.

I agree with Hon. Mwenje, although I want to inform him that we have several PhD holders from Murang'a. That is not a reason for us not to have a person holding a PhD. But for equity, we can say a PhD can be an added advantage, so we leave it, probably, at the masters level. If you have a PhD, it is an added advantage. This is so that we open it up. This is not a job that is reserved for a few clique who will create their own position.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, to make progress, I will give the Chairman the last opportunity and thereafter put the Question. Chairman.

Before you proceed, I will give Hon. Gladys Boss an opportunity.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you, Hon. Temporary Chairlady, for giving me a chance. It is good for people to know the statistics of this country. According to research by the Kenya National Bureau of Statistics (KNBS) that I checked two years ago, they had published that only 596,000 people in Kenya had undergraduate degrees. So, do not assume that everybody in Kenya is highly educated. The PhD holders are even less.

I want you to goggle from the KNBS as you make your proposal. I do not believe that you can set such high standard and expect to get people who are experienced and passionate. The late President Mugabe had seven degrees, but he sunk Zimbabwe. So, more education does not necessarily translate to...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Chair. Colleagues, I want us to be very realistic. This is a research institute that will be largely populated by people who are fairly educated and experienced in such matters. The Chief Executive Officer is going to be a peer among others. It does not make sense to have senior researchers who are PhD holders and have advanced degrees under somebody with a mere first degree as their head. They will not be doing term papers and assignments; they will be doing research to enhance coffee quality in this country. I submit.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, *Daktari*.
Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Chairlady, we have been in this Parliament long enough to know when clauses are being proposed to give specific or unnamed people jobs.

(Applause)

We have many PhD holders who have no meaning before undergraduate degree holders. The Deputy Speaker here taught me. She is top-class. We know people who are doing far better. In fact, some people spend all their time in universities studying for the job they should do. Because we are not debating at this stage, we should either remove this PhD holding requirement in sub-clause (b) or kill the entire Clause.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, bearing in mind the communication of the Chair on this, and in the interest of time, I will give this opportunity to the Chair before we proceed.

(An Hon. Member spoke off the record)

This is the last one, for real.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Chair, we are discussing reality here. We are talking about a research institute that will come up with innovations.

(Loud consultations)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Members! Let us hear the Chair.

Chair, please proceed.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Chair, I want to be heard. We gave everybody a chance.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, you seem very interested in this matter. It is important that we hear what the Chair will say. Chair, please explain.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Chair, in any research and training institute, they will never ask for anything less than a PhD for the lowest level qualifications. Ask anywhere...

(Hon. Kaluma spoke off the record.)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Kaluma, please give the Chair a chance.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Kaluma, we gave you a chance to speak. Go back to school, Hon. Kaluma. *Wacha mambo mengi.*

(Hon. Kaluma shouted)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Kaluma! Proceed, Hon. Chair

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Can I finish? I am not here by chance, Hon. Kaluma!

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chair, please address me to make it easier for us to move.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you. When our research and training institute decides to pursue further innovations, technologies, and management practices, it will look for researchers. The minimum requirement will be a PhD because their science is very refined.

Hon. Chair, Hon. Kaluma, is still disrupting me. I am a PhD holder, but I do not want to do research at the Coffee Research and Training Institute. I will never apply for such a job. Go and conduct research at the Coffee Research Institute. I will never apply for such a job. No university in this country or research institution will ask for anything less.

(Hon Peter Kaluma stood along the gangways and spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Kaluma. Please take your seat.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): You were teaching something different! That is the minimum required. That is the reality.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, this is your Bill, so do not address Hon. Kaluma.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, things have changed. Secondly, research is about discourses and international collaborations. When people travel out there, they look at who is presenting a paper. You can easily be ignored, and it has happened many times. It does not matter how much noise you make here if that is not the kind of noise you make out there.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Chairman. I think the House has done justice to this Clause. So, I will now go ahead and put the Question.

(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)

(Several Members stood up in their places)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, you do not have enough numbers.

(Loud consultations)

(Clause 79 as amended agreed to)

(Clauses 80, 81, 82, 83, 84, 85, 86, 87, 88 and 89 agreed to)

Clause 90

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, please stop annoying the Chairman. Hon. Melly, this is your Chairman, so please sit. Please proceed, Hon. Chairman.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 90 of the Bill be amended in subclause (1) by deleting the word "seven" appearing immediately after the words "a period of" and substituting therefor the word "three."

The import of this amendment is to align the Bill with the standard practice for submission of annual reports after a financial year.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I do not see any interest in this. Do you have any interest in contributing? Put your card in the intervention slot.

Hon. Cynthia Muge, Member for Nandi.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Chairlady. I am just wondering what the seven-month reduction serves. I know that it is to conform to the standard practice, but it still gives the Cabinet Secretary leeway to allow for a longer period.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Any other interest? Hon. Moses Kirima, Member for Central Imenti.

Hon. Moses Kirima (Central Imenti, UDA): Hon. Temporary Chairlady, I share my colleague's sentiments that there is no reason for...

(Technical hitch)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Please use your microphone.

Hon. Moses Kirima (Central Imenti, UDA): Hon. Temporary Chairlady, reducing the submission period from seven months to three months is not good because that has been the standard. Even though it is indicated that the amendment is to conform to the standards, each group is guided by its own regulations and code of conduct. So, the period of time should remain at seven months.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I will allow the Chairman to respond to those concerns before we proceed.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, let us first be guided by Hon. Nguchine on which standard is good. Which standard is he talking about?

Secondly, we do not want to encourage redundancy. The more time you give, the more people will relax. Three months is sufficient to produce an annual report.

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

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

(Clause 90 as amended agreed to)

(Clauses 91 and 92 agreed to)

Clause 93

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 93 of the Bill be amended—

- (a) in subclause (1), by deleting the words “county executive committee member” and substituting therefor the words “respective county government”; and,
- (b) in subclause (2), by deleting the words “county executive committee member” and substituting therefor the words “respective county government”.

The essence of this amendment is to align. Instead of using County Executive Committee Members, we propose using county governments.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman.

(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 93 as amended agreed to)

Clause 94

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 94 of the Bill be amended in subclause (2), by deleting the words “three months” and substituting therefor the words “six months” appearing in paragraph (b).

The import of this amendment is to equate the offence with its penalty.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, the justification does not seem clear to the Members.

Hon. (Dr) John Mutunga Kanyuithia: We want to equate the offence with the penalty. Regarding the initial one, I can read Clause 94(2)(b): "In furnishing such information, if a person makes a statement which they know to be false, they commit an offence and shall be liable, on conviction, to a fine not exceeding Ksh50,000." Here, we are proposing Ksh50,000 or imprisonment not exceeding six months. So, we have proposed six months instead of three months.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Let me propose, and then we can hear your opinions, Hon. Members.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Ojiambo Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I have difficulties with this amendment and the original clause because it is about supplying information. Is imprisonment or a fine sufficient to remedy the failure to supply information? If someone declines to give the Board or the institute extremely important information, they are just punished with a paltry Ksh50,000 or a mere six months in jail. The offence has long-term repercussions on the development of the coffee industry. We need to consider it now that we have an opening to do so.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Samwel Chepkonga, use your intervention button. It will be easier for me.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Chairlady. Looking at the original text, which provides for imprisonment of three months, I thought the Chairman was doing better by providing six months, which is more of a deterrent as opposed to three months. A three-month sentence is not much of a deterrent, but if you provide for six months, it becomes more serious, as you will be locked in for six months.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Julius Ole Sunkuli, Member for Kilgoris.

Hon. Julius Sunkuli (Kilgoris, JP): Thank you very much, Hon. Temporary Chairlady. From my experience as a magistrate, if you provide a fine of Ksh50,000 or a sentence of six months, those two do not match each other. You ought to have increased both the amount of money and time. Obviously, they will pay the fine and this thing will serve no purpose. I am sure it is still not a deterrent at all if you decide to spread Ksh50,000 to six months.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I am just trying to see the interventions. I do not see much. Hon. Kaluma, I can hear your voice. You can proceed. That microphone seems to have a problem. You may have to move to another one.

Hon. Peter Kaluma (Homa Bay Town, ODM): So that we may not delay, failure to give information is what we call a misdemeanour in law. It is not a serious offence. It is not a felony. It is not the kind of offence whose punishment should go beyond three months. It is a failure to give information. On that account, I believe the Chair would agree. I see Hon. Gichimu agrees that the punishment of Ksh50,000 and three months is the remit of a misdemeanour, not a felony. Therefore, we oppose it. I can see the former Chair of the Departmental Committee on Justice and Legal Affairs and the current Chair of the Committee on Delegated Legislation agree.

That is the nomenclature of various offences in law. These are minor offences. They are not like robbery and things that can cause you to be removed from office. It is a failure to give information. Let us reject this amendment and leave it at three months. It is a misdemeanour.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Gichimu?

Hon. Gichimu Githinji (Gichugu, UDA): This is not a penalty for failure or refusal to give information. It is for furnishing false information, which is a misdemeanour. Looking at the figure of Ksh50,000, it will not match with six months. At the end of it, the magistrate can decide to jail and fine you as well. That can be enough of a deterrent. Let it remain as it is. In matching Ksh50,000 and six months, someone would opt to pay Ksh50,000 and go free. Let it remain as it is per the Bill.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chair? Please make a decision on this. We can give you two minutes to decide. I can give Hon. Sabina Chege a chance as you consult.

*(Hon. (Dr) John Mutunga Kanyuithia
consulted with the legal counsel)*

Hon. Sabina Chege (Nominated, JP): As a Member of the Committee, we were adding the six months to make sure that the penalty is there and it is felt.

However, I also share the members' sentiments. If you say Ksh50,000, I think three months can go along with that. We should add the penalty, maybe to Ksh100,000 or Ksh200,000 if you say six months. We can remain with the original since the lawyers here are advising us that it is not a very serious offence.

I submit, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Chairman, is the consultation over?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Yes, Hon. Temporary Chairlady. Let us now think as a House.

First, the provision concerns if somebody giving such information makes a statement they know to be false. That person is lying or committing an offence. I think the Ksh50,000 provision is low for this case. Is Ksh50,000 too much if you are lying? Do you suggest more than six months?

(Hon. Peter Kaluma spoke off the record)

Hon. Kaluma, I think it is more than six months. You do not lose if it is six months. Okay. Maybe we can take the original. In view of the discussions, I wish to drop the amendment to Clause 94 so that we revert to the original version of the Bill.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We can take the original one. You can take the original? Yes. Chair, you need to be on record that you are dropping this amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I drop.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Having dropped means there is no amendment.

*(Proposed amendment by Hon. (Dr) John
Mutunga Kanyuithia dropped)*

(Clause 94 agreed to)

Clause 95

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

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Clause 95

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady. I beg to move:

THAT, Clause 95 of the Bill be amended in subclause (4)—

(a) by deleting the words “thirty thousand” and substituting therefor the words “fifty thousand”; and

(b) by deleting the words "two years" and substituting therefor the words "six months."

It is the same issue of equating the offence to the penalty. This Clause provides that the penalty of Ksh30,000 be amended to Ksh50,000, and in (b), we reduce it from two years to six months.

(Question of the amendment proposed)

The Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Cynthia Muge, go first.

Hon. Cynthia Muge (Nandi County, UDA): Hon. Temporary Chairlady, in the spirit of standardising the provisions here, and having heard from the legal minds that are present in this House, the Hon. Chairman should consider reducing the six months, which he has reduced from two years to six months, all the way to three months. This is so that they can be in tandem with what has been provided for previously because the offence and the punishment seem to be the same. This will help clients of Hon. Kaluma get three months and not six months, which will completely get them off their jobs.

(Laughter)

The Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The clients of who?

Hon. Cynthia Muge (Nandi County, UDA): The clients of Hon. Kaluma.

The Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The Hon. (Dr) Oundo followed by the Hon. Member for Kilgoris and then close.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, if we read the Clause in its entirety, it is about information acquired during service in the Institute. It says that you can only share that information with the authority of the Council. Research papers and publications are cited based on the standard citation. Would that constitute an offence? Would one require the written consent of the Council to cite that publication in a literature review? That is something that we need to start talking about at that level. This is because this is a published document or research paper. If one is doing a literature review, would they require written consent from the Council to cite? Hon. Temporary Chairlady, guide us so that we know how to proceed on how to vote.

The Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, proceed. Oh no. Hon. Chairman, I had promised to give the Hon. Sunkuli a chance. I am sorry.

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, I take a different view and support. This is because this is about the integrity of the institution, and we are punishing a person who decides to act against the secrecy of the organisation. I think that he even deserves to lose his job.

The Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you are the last one.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I just wanted to say that this is not about the research information or the research product but information about the institution.

Secondly, people hide under Article 35 of the Constitution on the release of information or the right to information, even if this information is held by an institution or a government. We are saying that irrespective of the provisions of Article 35 of the Constitution, any information that is prejudiced should be kept in the institution and not released recklessly. Therefore, I believe those penalties are not sufficient to safeguard the information. Let me refer to the Penal Code. It puts the penalty to two years, not six months because we also need to align with the existing.

The Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman. Maybe you can be assisted by the Hon. Kaluma.

Hon. Kaluma, proceed.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairlady, I am always sympathetic to my friend, the Hon. Chairman of the Departmental Committee on Agriculture. This particular provision creates an offence for protection, essentially, of intellectual property in research of the Institute. I do not know whether the Hon. Chairman agrees. If we agree, Hon. Chairman, there are other civil means and remedies to violations of intellectual property rights. I think we are putting too much weight on criminal penalties without considering that there are too many self-remedies around protection of intellectual property. For that reason only, unless we have empirical evidence confirming that there is need to move from the penalties regime proposed in the Bill, we do not need to amend this provision. There is no empirical information saying that if we move this way, then it will be better. These offences are generally misdemeanours. They are small offences. Proposals in the Bill are already good. We should exclude provisions that exaggerate penalties, which only open space for bribery and corrupt practices, for people to avoid being arrested, instead of addressing the issue.

The Temporary Chairlady (Hon. (Dr) Racheal Nyamai): Thank you. Hon. Chairman, would you like to change your mind?

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I would like to read the provision for the record of the House. Clause 95(1) reads as follows:

Pursuant to Article 24 of the Constitution, the right to access to information under Article 35 of the Constitution shall be limited with respect to information whose disclosure is, in the opinion of the Council, likely to prejudice the integrity of research or of any intellectual property.

Integrity of research is the main issue here. It is about leakage of any information in a research process. Research is not a one-day affair. We are talking about production of new coffee varieties. If you are in the process of producing a new variety and the information is released before the release of the variety itself, you go back to zero. That is important and we need to safeguard it. So the penalty provided in the Bill is not sufficient. That is why the Committee thought we need to enhance the penalty to protect the institution.

*(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 95 as amended agreed to)

(Clause 96 agreed to)

Clause 97

The Temporary Chairlady (Hon. (Dr) Racheal Nyamai): Chairman, you have an amendment

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 97 of the Bill be amended by inserting the words “whichever is higher” immediately after the words “or coffee products or”.

The import of this amendment is to add the word ‘whichever is higher’ to give possibility of a choice.

(Question of the amendment proposed)

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

(Clauses 97 and 98 agreed to)

Clause 99

The Temporary Chairlady (Hon. (Dr) Racheal Nyamai): Chairman, you have an amendment.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 99 of the Bill be amended—

(a) in subclause (1)—

(i) by deleting the words “Council of County Governors” appearing in the opening statement and substituting therefore the words “licensing authorities”; and

(ii) by deleting paragraph (a).

(b) in subclause (2) by inserting the following new paragraphs immediately after paragraph (1)—

(m) qualifications for appointment and powers of inspectors; and

(n) co-option of expert members to the Board.

The import of this amendment is to include the licencing authority, in consultation with the Cabinet Secretary, in making regulations. It is also to limit the delegated powers to the scope of Article 94(6) of the Constitution, which stipulates that regulations should be defined and the scope limited to provide for power to make regulations. It is also about qualifications for appointment of inspectors.

(Question of the amendment proposed)

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

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

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

(Clause 99 as amended agreed to)

(Clause 100 agreed to)

Clause 101

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 101 of the Bill be amended—

(a) by deleting the marginal note and substituting therefor the following new marginal note—

“Assets and liabilities”

(b) by renumbering the existing provision as subclause (1);

(c) by inserting the following new subclause immediately after subclause (1)—

“(2) All property, except such property as the Cabinet Secretary may specify in writing, which immediately before the commencement of this Act, was vested in the government for the use of the Coffee Directorate of the Agriculture and Food Authority, shall, on the date of commencement of this Act, vest in the Board subject to all interests, liabilities, charges, obligations and trusts affecting that property.”

The justification is to provide for a transition clause for the assets and liabilities of the Board. This was missing.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Chairman.

(Question of the amendment proposed)

I do not see any interest in this.

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

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

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

(Clause 101 as amended agreed to)

(Clauses 102 and 103 agreed to)

Clause 104

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 104 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “made by the” and substituting therefor the word “Board.”

The essence of this amendment is to correct the wrong referencing to the Authority instead of the Board.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you.

(Question of the amendment proposed)

Hon. Cynthia Muge.

Hon. Cythia Muge (Nandi County, UDA): Hon. Temporary Chairlady, I do not have interest in this.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Not on this one.

(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 104 as amended agreed to)

Clause 105

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 105 of the Bill be amended by inserting the words “and shall undergo a skills audit to determine suitability” immediately after the words “Cabinet Secretary”.

The essence of this amendment is to have a skills audit to determine suitability of the staff in transition from the Authority to the Board.

Thank you.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Do the ones on the intervention have interest in this one? Hon. Julius Ole Sunkuli.

Hon. Julius Sunkuli (Kilgoris, KANU): Thank you, Hon, Temporary Chairlady. This seems to be a very subjective thing. What is suitability test and who determines the skills audit? This is creating something which is hard to test. The same thing is happening with the transition from NHIF to SHIF. Let people transition.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Sabina I will come to you. Hon. Wilberforce Oundo for one minute.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairlady. Respectfully, I request the Chairman to withdraw this amendment. We should borrow from what we did in the Sugar Act because suitability test is very subjective. It is witch hunting and you will punish innocent staff. Let them be subjected to typical annual review and be weeded out. Please, I beg you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Temporary Chairlady. On the contrary, I support the amendment by the Chairman. In some institutions when people are being hired, sometimes they do not have the right people doing the right duties. Even in this House, we continuously have checks and balances because some people present fake papers. It is important to do a suitability test when transition is happening.

When there is transition, let us look at suitability so that we can see who suits in the positions that we have put high qualifications. I support suitability tests.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Majimbo Kalasinga.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much, Hon. Temporary Chairlady. This Clause will be abused very badly and used against whoever you want to eliminate from an institution. Therefore, with a lot of humility, I kindly ask Chairman to drop it. It will be abused by this institution because there is no measuring stick to get what you want to achieve in this matter.

Thank you, Hon. Temporary Chairlady.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. This Clause takes me back. I echo Hon. Kaluma's words. It seems there are predetermined people for some of these positions.

We have somebody with a Doctor of Philosophy (PhD) creating a position he is the only one qualified for. He is seconded by Dr Oundo. They are saying that a person who has been working here has to undergo skills audit. What are we doing here? It is very clear there are people whom you have targeted and you intend to remove and replace them. You will determine which skills they have. It is such a subjective test which is wrong. This House must not legislate in favour of these vested interests right here.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mwenje, you have made your point.

Hon. Cynthia Muge.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Chairlady. Allow me to respectfully disagree with this amendment because we are already dealing with the shift from National Health Insurance Fund (NHIF) to Social Health Authority (SHA) which is chaotic. This process has proved to be vindictive. We cannot subject more Kenyans to this.

Hon. Chairman, we ask you to re-consider your amendment.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Without giving a chance to more Members because you seem to have similar views, can I ask Hon. Chairman to respond?

(Hon (Dr) John Mutunga Kanyuithia spoke off the record)

I will give a chance to Hon. Gichimu and then Hon. Chairman will respond.

Hon. Gichimu Githinji (Gichugu, UDA): I have one comment, Hon. Temporary Chairlady. Since skills audit has not been defined in the amendment, Chairman needs to drop it to avoid the subjective way of approving it.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I declare to Hon. Mwenje, with a lot of respect, that I do not qualify to be a staff of

the Coffee Research and Training Institute of Kenya. I have never studied coffee in my life to the level that I can do research in it. I also do not have anybody in mind who can do it.

Bearing in mind the stakeholders' comments, this is a summary version of what we agreed upon based on their submissions. We are not the ones who brought this amendment, but it is the stakeholders.

Finally, in view of the foregoing, the Committee can drop this amendment.

*(Proposed amendment by
Hon. (Dr) John Mutunga Kanyuithia withdrawn)*

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Members, based on your interests, explanation and comments on this subject, Hon. Chairman has withdrawn the amendment to Clause 105.

(Clause 105 agreed to)

(Clauses 106 and 107 agreed to)

New Clause 45A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 45-

45A. (1) A coffee miller may bulk parchment or *buni* or coffee of the same quality and characteristics in order to attain millable quantities.

Bulking of
coffee.

(2) A coffee miller who bulks coffee shall avail information, in the prescribed form, to an exchange and the direct settlement system provider on the proportions of the bulked coffees for purposes of processing payments.

(3) The Board and the respective county government shall, separately or jointly undertake regular inspections to ensure compliance with this Act by the coffee millers.

(4) A coffee grower may deliver coffee samples not exceeding five hundred grams of parchment or *buni* for independent quality analysis by a laboratory before delivery to a commercial coffee miller.

(5) A laboratory to which a sample is submitted under subsection (4) shall issue to the coffee grower a report on quality compliance in the prescribed form.

(6) A coffee miller shall remit two hundred- and fifty-grams samples for each grade of an out-turn to the Board for quality analysis and assessment of conformity with coffee standards.

(7) A co-operative society or association comprising smallholder growers that intends to obtain milling services shall competitively procure the services of a miller or other service providers to whom the coffee is intended to be delivered for milling.

(8) Any charges imposed for the delivery of services to a coffee grower shall be communicated in the prescribed form to the direct settlement system provider before the sale of coffee for the purpose of settlement after the sale has been conducted.

(The new clause was read a First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I now call upon the mover to move Second Reading of New Clause 45A.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move that the New Clause 45A be now read a Second Time.

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Member for Runyenjes.

Hon. Muchangi Karemba (Runyenjes, UDA): Hon. Temporary Chairlady, I have no comments on this.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I do not see any interest on this.

(Hon. Mark Mwenje spoke off the record)

Please press the intervention button.

Hon. Mark Mwenje (Embakasi West, JP): Hon. Temporary Chairlady, we cannot find this New Clause 45A anywhere. So, we have no idea what it says. With what has been happening here, we are very much afraid of the Chairperson of the Departmental Committee on Agriculture and Livestock Development that he might create another position specifically for himself.

(Laughter)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mwenje, you need to go to the Order Paper. For you to be able to deal with this Bill, you need to have the Order Paper and everything else.

(Loud consultations)

It is self-explanatory. Hon. Members, can I go ahead and put the question?

Hon. Members: Yes!

(Several Hon. Members spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Can I ask the Chairperson?

Hon. Members: Yes.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairperson, please explain the clause.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, when we were discussing Clause 48, I said it had been moved to become the New Clause 45A. It was moved exactly the way it was for purposes of alignment. We have not introduced anything, Hon. Mwenje.

(Several Members spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I now put the question.

(Question, that the new clause be read)

a Second Time, put and agreed to)

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

Hon. Cynthia Muge (Nandi County, UDA): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady: What is out of order, Hon. Cynthia Muge?

Hon. Cynthia Muge (Nandi County, UDA): Hon. Temporary Chairlady, I do not see any other opportune moment to submit my intentions to re-commit Clause 79.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You can give your reason for that for the benefit of the House and those who were not here when that was going on.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Chairlady. Clause 79 is a provision for the qualifications for the CEO for the Institute and there was a sharp divide on the qualification of the CEO. I would like to re-commit it so that Members can have a better opportunity to make a proper decision on this because the decision we had made earlier is not satisfactory to all of us.

(Loud consultations)

So, I kindly request that the same be re-drawn or re-drafted for re-committal.

(The Temporary Chairlady consulted with the Clerks-at-the-Table)

(Loud consultations)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Members. Hon. Cynthia Muge, first of all, I agree with you that there was a sharp divide on those who were for and those who were against the amendment. That I agree with very well and my guidance is that re-committal is done when we go back to the House. We cannot do it at this point in time. There is an opportunity to do that.

Hon. Peter Kaluma (Homa Bay Town, ODM): On a point of order, Hon. Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Kaluma, what is out of Order?

Hon. Peter Kaluma (Homa Bay Town, ODM): I thought the intervention that Hon. Cynthia Muge was seeking was that the Clerks prepare for her the re-committal because we are proceeding towards the end.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Kaluma, Hon. Cynthia Muge would be guided. We have the Mover and we have the Clerks of this Committee here, and I am sure there would be proper consultation by the time we finish. You only need to engage the Mover and the Clerks. You can only start making those arrangements but at this moment in time, I cannot do a re-committal from this position. Hon. Members, we proceed.

(First Schedule agreed to)

Second Schedule

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): This Schedule has an amendment by the Chairman.

Hon. (Dr) John Kanyuithia Mutunga (Tigania West, UDA): I beg to move:

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THAT, the Second Schedule to the Bill be amended by—

(a) deleting in paragraphs 9 and substituting therefor the following new paragraph—

No.	Type of Licence/ Permit or Certificate	Issuing Authority
9.	Warehouse licence	Board in consultation with the county government

(b) deleting paragraph 10 and substituting therefor the following new paragraph—

No.	Type of Licence/ Permit or Certificate	Issuing Authority
10.	Coffee nursery certificates	Board in consultation with the county government

(c) by deleting paragraph 11 and substituting therefor the following new paragraph—

No.	Type of Licence/ Permit or Certificate	Issuing Authority
11.	Pulping station licence	Board in consultation with the county government

(d) by deleting paragraph 13 and substituting therefor the following new paragraph—

No.	Type of Licence/ Permit or Certificate	Issuing Authority
13.	Pulping station licence	County government in consultation with the Board

(e) by insert the following new paragraphs immediately after paragraph 17—

No.	Type of Licence/ Permit or Certificate	Issuing Authority
18.	Coffee Marketing Agents License	Capital Markets Authority
19.	Trading License"	Capital Markets Authority

Hon. Temporary Chairlady, after a lot of debate at the Committee level, we realised that some of the licenses, permits and certificates need to be done in consultation. We, therefore, bestowed the responsibility of issuing to certain institutions but in due consultation with others. This is the case in warehouse licensing. The warehouse is where you keep green coffee or parchment coffee; and we had proposed that instead of the county governments doing this, for purposes of the Board being sure that this coffee is really the grade that they would like to see and for the conditions to remain optimal, it is the Board that should issue that license in consultation with the county government.

When it comes to coffee nursery certificates, we would like the Board to be in-charge of the material that farmers plant because it is the regulatory body. So, we agreed that the Board issues the licenses in consultation with the county government because it will be produced at the county level.

On pulping station for the purposes of keeping the standards, we propose the same. There is confusion there. Pulping license is left to the county government in consultation with the Board.

The second last is that the Coffee Marketing Agent License should be issued by the Capital Markets Authority while the Trading License should be issued by the Capital Markets Authority as opposed to the provisions as they are now whereby, those licenses are supposed to be issued by the Board.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, before I call upon you, I would like to propose the Question.

(Question of the amendment proposed)

Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairlady.

I am getting the direction to which the Chairperson is guiding us to. However, I am afraid that you are opening up something. You are opening up an area where you are saying the issuing authority is the Board in consultation with the county government. Are you trying to create another?

Let me take you to an issue that we have come across while doing public participation which at times gives us problems when you are trying to get something across. What happens if you are consulting and the person you are consulting with disagrees with what the issuing authority decides to do? What if you have a difference of opinion? Do you not think that you will create an avenue for argument such that by the time you issue that license, you have two varying positions? The amendment talks about the county governments issuing licenses in consultation with the Board. Each of them has a specific mandate. Each of them can gazette a different decision. Clarity is required. I can foresee problems, especially on occasions when each of them...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): It is alright, Hon. Mwenje. You have made your point. Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, the end product is exporting coffee, and Kenya's name will be at stake. There are two things that we should not localise. First, we should not localise our standards. Secondly, we should not localise our brand too much. The amendment is very good because it is about policy, as well the roles that both the county governments and the Board will play in terms of implementation. We must find a proper mechanism to achieve our goal, but I support the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairlady, I have a problem with what the Mover may want to achieve in the sense that consultation does not mean concurrence. If we are seeking concurrence, the Mover should think of a word that would secure that. Otherwise, we will have a situation where we are just told that the parties have consulted. That does not necessarily mean concurrence.

Secondly, in the earlier provisions, we deleted the word "Authority" and replaced it with the word "Board". I now see the phrase "Issuing Authority". It is not clear. We should be sure that we are either talking about the Board or the Authority. The definitions of the words "Authority" and "Board" should be made clear in Clause 2..

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Kaluma. Hon. Cynthia Muge.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Chairlady. First, there is an anomaly in the amendment itself because the amendment in (c) on paragraph 11 talks about the pulping station license and the amendment in (d) refers to paragraph 13, which also talks about the pulping station license. The Chairman needs to realign those amendments, so that we can be in tandem.

Secondly, it is glaring that the Authority has been given the mandate to oversee responsibilities that are supposed to be left to the county governments. While I appreciate Hon. Sunkuli's comment on not localising standards, it must also be noted that issues of pulping, warehouses and coffee nursery certificates are currently being handled by the county governments.

As a stakeholder in the coffee industry, I have not had a problem with them so far. We just need to leave those responsibilities to the county governments because that counterchecking will increase bureaucracy, and it will take longer to get those services. Agricultural services, especially those to do with coffee, need a very efficient system where decisions are made almost there and then.

I propose that that function should be left to the county governments.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you will be the last one to speak on this, and then I put the Question. Hon. (Dr) Oundo, do you want to support the amendment?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Because of the health standards in exportation and the local health standards, it would be a misnomer for us to leave the county governments in charge of licensing, warehousing, and ensuring they meet the health standards. It is important that we involve the Board.

Secondly, I want to draw the attention of the Chairman to paragraphs 16, 17, 18 and 19. We have passed amendments to Clause 30, which will create a conflict because Clause 30 talks about the Authority, which I thought was the Board, in accordance with the provisions of the Capital Markets Act Cap. 485A. We need to be very clear on who the issuing authority is. Is it the Board, the Authority, or the Capital Markets Authority?

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you will be the last one to speak on this, and then we put the Question.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, first, we have defined the term “licensing authority” in the definitions immediately after the definition of the term “institute”. The term “licensing authority” means the Board, the county government, or the Capital Markets Authority. Either one of them is a licensing authority. We have used the word licensing authority across the Bill to refer to any of those three.

The other issue is that what Hon. Muge has brought on board in number 13 is supposed to be the coffee roaster’s licence. It is not a pulping station because that is number 11. According to the Bill, number 13 is the roasters' license. If you look at the Bill, there is a Second Schedule which has this information. That is a typographical error, and I do not know whether we have to recommit. We will move a further amendment to this.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You can make the correction and move it in an amended form, because you are already making an amendment. You can amend it further.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, paragraph 13 be amended to read-

‘Coffee roasters licence’ instead of ‘pulping station licence’.

This is the one that we are referring to.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you.

(Question of the amendment proposed)

Hon. Members, can I go ahead and put the Question?

Hon. Members: Yes.

(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)

(Second Schedule as amended agreed to)

Clause 2

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you have an amendment.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended by—

- (a) deleting the definition of “broker” and substituting therefor the following new definition—

“broker” means a person cleared by the exchange and licensed by the Capital Markets Authority, appointed by a grower or an association of growers in accordance with the Capital Markets Act, to offer their coffee on their behalf through the Exchange”;

Cap 485A

- (b) deleting the definition of “clearing and settlement”.

- (c) deleting the definition of “coffee grower” and substituting therefor the following new definition—

“coffee grower” means a person who cultivates coffee in Kenya, and may for purposes of licensing, include a co-operative society, coffee union, association and estate.”

- (d) deleting the definition of “sales catalogue” and substituting therefor the following new definition—

“sales catalogue” means a standard document prepared by a grower or a broker appointed by a grower, in consultation with an exchange, for sale of clean coffee at an exchange”;

- (e) deleting the definition of “secondary processing” and substituting therefor the following new definition—

“secondary processing” means parchment and *buni* de-husking, polishing, grading and may include grinding, and packaging of clean coffee beans”;

- (f) deleting the definition of “small holder” and substituting therefor the following new definition—

“smallholder” means a person cultivating coffee in a small parcel of land or in small parcels of land who does not own a pulping station.”

- (g) inserting the following new definitions in their proper alphabetical sequence—

“Authority” means Capital Markets Authority established under the Capital Markets Act” (Cap.485);

“miller” means a person who is involved in the process of de-husking and possible grading of coffee and includes grading of clean coffee”; and

“roaster” means a person who is in the business or process of turning green coffee into usable coffee products”;

The amendment seeks to delete terms that have been defined but not used in the Bill. It also introduces terms used in the Bill but not defined. It also seeks to cushion the farmers from

brokers, define ‘grower’ in the proper context with respect to processing, and define ‘catalogue’ in the proper context.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you.

(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)

We have another amendment by Hon. Robert Gichimu.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the definition of “buyer” and substituting therefor the following new definition—

buyer means a person or entity licensed by the Board to buy clean coffee at an exchange from a cooperative society, registered grower, coffee union, grower-miller or coffee estate for export, local sale, value addition or import clean coffee for secondary processing in Kenya;

The amendment seeks to expand the meaning of ‘buyer’ because, as defined in the Bill, it only refers to the buyer who buys coffee at the exchange. If you look at the definition of direct sale, it expands the meaning of the buyer. It shows that there is a contractual arrangement between a registered owner, coffee cooperative society, coffee union, coffee grower and coffee estate. So, I am seeking to amend to bring all these parties. The sale of coffee is not only done at the exchange; it can also be done directly.

Clause 47 of the Bill gives instances of coffee trading. Coffee may be offered for sale through auction, direct sale and international exchange. The amendment moved by the Chairman also covers other instances where the sale of coffee can be done. It means that it is an entity when you talk of an incorporated company. Therefore, I am also seeking to define that a buyer is any person or entity. Entity being either a business name, company, or any form that is not in person.

Thank you.

(Question of the further amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I know he might have been overtaken by events. When the Chair stands to respond to Hon. Gichimu, he needs to tell Members and the country that there is a definition of smallholder. It is very subjective and impossible to contextualise. This is because you say that a smallholder means a person cultivating coffee in a small parcel of land. What constitutes a small or big parcel of land? Is Kaluma small or big? It depends on which part of Kaluma you have touched to decide whether he is small or big. Unless we make reference to regulations, we need to be very specific.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Interesting, Hon. Professor and Doctor. I give this opportunity to the Chair to comment on the further amendment by Hon. Gichimu.

(Hon. Peter Kaluma spoke off the record)

What is out of order, Hon. Kaluma? Please give the microphone to Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairlady, Hon. Oundo has mentioned my name in relation to some parts of my body. He says some are small and others big.

(Laughter)

That may be subject to various interpretations. I request that it be expunged.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo, you have heard Hon. Kaluma's comment. For sure you mentioned him and went ahead to make some descriptions. What is your comment?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Yes, I did.

I meant visible parts. Some will look at his ears and say they are big. Other people will say they small. Allow me to withdraw that reference if he feels sufficiently offended and he thinks that he is in danger or trouble because of that comment.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Let us make progress, Hon. Members.

(Several Members spoke off the record)

Let us hear the Chair. It may just make it easier and assist us to make progress. I will come to you, Hon. Mwenje.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): First of all, there is need for us to include direct sales. I agree with Hon. Gichimu that the definition of a buyer is not included. We need to consider his amendment.

On the other issue of smallholders, I would like to read the definition for the House to make a decision. A smallholder is defined as a grower cultivating coffee on a small parcel of land or on small parcels of land, and who does not possess his own pulping station. You can have 50 pieces of land but no pulping station. That means you are a smallholder. We do not consider you to be an estate or a large scale coffee owner as long as you have no pulping station.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Okay Chairman. Hon. Members, the definition exists.

(Loud consultations)

There are more points of order. Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): I wanted to speak before the Chairman because this has been brought back. In the definition and even Clause 62, I noticed that there is reference to imports of clean coffee for these buyers. I wonder why we are legislating on this. Is it in anticipation that we will as a country be importing what we have been referring to as clean coffee? I just want a clarification because this is reappearing consistently here and under Clause 62. Just clarify for a second time please.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, before you comment, let us hear the Member for Kilgoris.

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Temporary Chairlady, the Chairman should consider that this definition of a small holder is not sufficient. First of all, the definition

says that that a small holder is a person who is on small land but the small land is not defined. Even the drafting person did not care to use either a comma or a full stop or something to tell us that if one has a big land but does not own a pulping station, then the person is still a small holder. Is it, “or” or “or and? That part of the definition is a bit messy. He should just consider going to redraft it properly.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Kalasinga.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much Hon. Temporary Chairlady. If a farmer has quarter an acre with pulping station, is he not a small holder? The definition is vague. Does small mean one who has a pulping station even if they have a quarter an acre with 10 stems? We need more clarity.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we have an amendment by the Chairman, which you agreed to. We have a further amendment by Hon. Gichimu which you agreed to but you do not agree on the definition. Hon. Members at this point in time we are focusing on the Chairman’s amendments and Hon. Gichimu’s.

I know Hon. Kaluma will agree with me in this. It will be difficult to bring the definition at this point.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Chairlady you are very right.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The Chairman’s amendment has a definition.

Hon. Peter Kaluma (Homa Bay Town, ODM): What should happen is that there it appears to have an agreement on the proposal by Hon. Gichimu, thus the procedural thing to do is to put the Question and pass it. There is, however, want of agreement on small holder which we initially passed. Maybe we pass Hon. Gichimu’s and we look at what can be done in terms of procedure other than recommittal so that small holder can be more definite.

This small holder definition has two parts which are complete as clauses. The first part of the small holder is that is a grower cultivating coffee in a small parcel of land. That is the first part. How small is small? The other part is, in small parcels of land, who does not possess his own pulping duties. There must be clarity in terms of small. I am saying, Hon. Temporary Chairlady, that you are right. Let us pass Hon. Gichimu’s amendment and think under the Standing Orders how we can go back to define small holder better.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I notice that the words small holder was part of the Chairman’s amendment. Hon. Members, we already passed that amendment. Therefore, I would like to proceed to deal with the amendments by Hon. Gichimu.

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

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

(Clause 2 as further amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we have come to the end of the Coffee Bill. I thank you very much for your support. I now call upon the Mover to report.

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Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Coffee Bill (Senate Bill No.10 of 2023) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

[The Temporary Speaker (Hon. Peter Kaluma) in the Chair]

The Temporary Speaker (Hon. Peter Kaluma): Can the Mover, the Chairperson and Hon. Cynthia Muge approach the Speaker's Chair. The Leader of the Majority Party may also do so.

I am requesting the Leader of the Majority Party and the two Members that are requesting for a recommittal to approach the Speaker's Chair.

MOTION

CONSIDERATION OF REPORT ON THE COFFEE BILL

The Temporary Speaker (Hon. Peter Kaluma): Chairperson of the Committee of the whole House.

Hon (Dr) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Speaker. I beg to report that the Committee of the whole House has considered the Coffee (Senate Bill No.10 of 2023) and approved the same with amendments.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): The Mover.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report. I request Hon. Oundo to second the Motion.

Hon (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mutunga.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Speaker, I beg to move that I be allowed to recommit Clause 8 of the Bill.

The Temporary Speaker (Hon. Peter Kaluma): Who is seconding you?

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Speaker, I beg to move that the Motion be amended by inserting the following words:

Subject to recommittal of Clause 8.

The Temporary Speaker (Hon. Peter Kaluma): Secunder.

Hon (Dr) John Mutunga Kanyuithia (Tigania West, UDA): I request Hon. Gichimu to second.

Hon. Gichimu Githinji (Gichugu, UDA): Hon. Temporary Speaker, I second.

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(Question of the recommittal proposed)

For the convenience of the House, question to the proposal to recommit will be put when the House will next sit in the matter.

(Question on recommittal deferred)

The second recommittal, Hon. Cynthia Muge.

Hon. Cynthia Muge (Nandi, UDA): Thank you, Hon. Temporary Speaker. I beg to move that the Motion be amended by inserting the following words at the end:

Subject to recommittal of Clause 79.

I ask Hon. Majimbo Kalasinga, the Member for Kabuchai to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Majimbo Kalasinga.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Hon. Temporary Speaker, I strongly second.

(Question of the recommittal proposed)

For the convenience of the House, question to the proposal to recommit will be put when the matter will next be scheduled for transacting by the House.

(Question of the recommittal deferred)

Hon. Members, this has been one of the most active Committee of the whole House, going late up to now. I want to thank Members for that commitment. Let me also request the Members seeking recommittal to be in the House tomorrow, so that we can transact the matter.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Members. The time being 8.51 p.m., this House stands adjourned until Wednesday, 27th September 2024 at 9.30 a.m.

House rose at 8.51 p.m.

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