

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 13th April 2022**

The House met at 9.30 a.m.

*[The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) in the Chair]*

PRAYERS**QUORUM**

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, we are not properly constituted. Therefore, I order the Quorum Bell to be rung for 10 minutes.

(The Quorum Bell was rung)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I order that the Quorum Bell be rung for a further five minutes.

(The Quorum Bell was rung)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Members. We can now begin business.

PAPER LAID

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon Mwathi, do you have a Paper?

Hon. Peter Mwathi (Limuru, JP): Yes, please.

Hon. Temporary Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Administration and National Security on its consideration of the National Disaster Risk Management Bill (National Assembly Bill No. 28 of 2021).

I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Okay, let us go to the next Order.

We have a Question by the Member for Nairobi County, Hon. Passaris.

QUESTIONS AND STATEMENTS

ORDINARY QUESTION

Question 107/2022

OWNERSHIP OF PARCELS OF LAND AT
DEEP SEA AREAS IN WESTLANDS

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. The Question is directed to the Cabinet Secretary for Lands and Physical Planning through the Departmental Committee on Lands:

- (i) Could the Cabinet Secretary state the current ownership of parcels of land, *Land Reference Nos.* 209/9945, 209/9946, 209/9947, 209/9948, 209/9949 and 209/11975 located at Deep Sea Area, Westlands Sub-County in Nairobi County, as there is an ongoing dispute where the current occupants are facing eminent evictions?
- (ii) Could the Cabinet Secretary explain the historical aspects of the said parcels of land with regard to change of ownership from the original to the current owner and occupants, and whether payment of the land rent and rates were being submitted to the Government as required by law?
- (iii) Could the Cabinet Secretary provide details of the disputed parcels of land, state when and the manner in which they were acquired, and indicate whether there has been any interest in them by private developers within the last 5 years?

Thank you, Hon. Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Passaris the Question I have before me is different from what you read. Are you reading what is on the Order Paper?

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Yes, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): So part (i) was okay; can you read part (ii)?

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Could the Cabinet Secretary explain the historical aspects of the said parcels of land with regard to change of ownership...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Is that your part (ii)?

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Then you have a different Order Paper.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Temporary Deputy Speaker, I got it from the Table Office this morning

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Is that your Question?

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Sorry.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Is that your authentic Question?

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Yesterday, they said they had taken it... If the correct one is here, I can read it.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes, could you pick an Order Paper... The Clerk-at-the-Table will give you the Order Paper I have.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Do I start from the beginning?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes, for the record, just have a go at it again.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Temporary Deputy Speaker, the Question is directed to the Cabinet Secretary for Lands and Physical Planning:

- (i) Could the Cabinet Secretary state the current ownership of parcels, Land Reference Nos.209/9945, 209/9946, 209/9947, 209/9948, 209/9949 and 209/11975 located at Deep Sea Area in Westlands Sub-County in Nairobi County, where there is ownership dispute and the current occupants are facing eminent evictions?
- (ii) Could the Cabinet Secretary state the manner in which the land was acquired and disclose the names of any persons laying claim to it, including private developers who may have indicated an interest in developing the said land within the last five years?
- (iii) Could the Cabinet Secretary detail the history of the said parcels of land, including original ownerships, any changes in ownership and clarify whether the land rent and rates have been remitted to the Government in accordance with the law?

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Okay, that is fine. Clerks-at-the-Table, you need to find out why we have two different texts in the Order Paper. Hon. Passaris, your Question will be replied to before the Departmental Committee on Lands.

Next Order. Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move the following Procedural Motion...

(Hon. Patrick Makau raised his hand)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): There is a Member raising his hand; I am sorry I cannot tell who it is. Oh, is that the Member for Mavoko? Leader of Majority, let us listen to him.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, I have a matter of concern on the Question that Hon. Esther Passaris has raised. So many Questions about land ownership and demolitions have come to this House. Demolitions continue despite the President and the National Security Council saying there will be no more demolitions unless a serious consensus has been reached to determine the actual owner of those parcels.

I think this House has the right to summon the Cabinet Secretary for Lands and Physical Planning and the Cabinet Secretary for Interior and Coordination of National Government to clarify to Kenyans when and at what point they should be subjected to demolitions. Issuance of title deeds to private persons or entities has become the norm. I think this House must stamp its authority on such issues. As the Member for Nairobi County, I hear her because I am the Member for Mavoko, which is the bedroom of Nairobi. We also have such cases and people's properties have been destroyed. Demolitions are ongoing despite Members bringing Questions and seeking Statements.

Hon. Temporary Deputy Speaker, how I wish you could make a determination and rule that all Questions relating to demolitions brought to this House must be addressed before the elections. This is because the country is porous and we cannot grow if demolitions are ongoing. I request you to make a ruling on this.

I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Makau, you are right, and how I wish you were speaking to specific Questions. You are supposed to look into anything that is referred to a Committee. Committees have a right to summon Cabinet Secretaries. There are channels of how to even process summonses where Cabinet Secretaries are not responsive. Even beyond that, our Standing Orders provide for sanctioning of members of the Cabinet who do not respond to such issues. I do not know if the Chairperson or Vice-Chairperson of the Departmental Committee on Lands are present, or someone else who can speak to it.

Hon. Makau, you were not specific to say that there was a certain Question which was asked and has not been addressed within a stipulated time. We would then be able to follow up and find out why that is so. Is there anybody from the Departmental Committee on Lands present? Are there any pending issues? Hon. Makau, have you asked any Question that has not been addressed? Do you have any specifics that you can speak to?

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, I raised the issue of the East African Portland Cement Limited land. I brought it to this House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Was it a Question?

Hon. Patrick Makau (Mavoko, WDM-K): I was actually seeking a Statement from the Cabinet Secretary for Lands and Physical Planning and the Cabinet Secretary for Industrialisation, Trade and Enterprise.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): How much time were you given?

Hon. Patrick Makau (Mavoko, WDM-K): We built consensus that the locals in Mavoko were supposed to be consulted and involved in the sale of the East African Portland Cement Limited land. However, houses were demolished and a new title deed was issued to the Ministry of Transport, Infrastructure, Housing and Urban Development. Since November 2020, nothing has been done on that land, yet property worth billions was destroyed. That is why I was seeking clarity.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Did you seek a Statement?

Hon. Patrick Makau (Mavoko, WDM-K): I sought a Statement.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Did the Cabinet Secretary appear to respond?

Hon. Patrick Makau (Mavoko, WDM-K): I sought a Statement, but she never appeared. Naturally, when you bring a Petition to this House, it lapses after 60 days. After it lapsed, I never brought it back. At this moment, I thought it...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Makau, you said you sought a Statement, and now you are talking about a Petition.

Hon. Patrick Makau (Mavoko, WDM-K): Yes, there was a Petition and then a Statement. The then Cabinet Secretary even visited the said land and nothing was done. The hopes of those affected were with this House. I do not know whether the Committee on Implementation is doing anything about those Petitions and Statements.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Who is here from the Departmental Committee on Lands or the Committee on Implementation? Hon. Washiali, do you want to speak to it?

Hon. Benjamin Washiali (Mumias East, JP): Yes; thank you, Hon. Temporary Deputy Speaker. I listened to what Hon. Passaris said, and now what Hon. Patrick Makau has said. Being a ranking Member of this Committee, I pledge to pass these sentiments to the Committee, because I have not seen the Chairperson or the Vice-Chairperson.

I just wanted to add that demolitions are not only associated with land ownership. There are other demolitions associated with environmental issues. Therefore, we need to look at each case independently so that we take note of whatever reason Hon. Passaris raised.

The other aspect that I wish to mention is that the Departmental Committee on Lands has been very pro-active. We have tried as much as we can to solve some of the land issues, even though they are quite a number. As a Committee, we are very committed, and I am sure we will find a solution to this.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): So that we move on, Hon. Washiali, since you are a ranking Member, Hon. Makau has raised a concern which is related to what Hon. Passaris has raised. If the people of Mavoko were subjected to evictions after presenting a Statement or Petition, as Hon. Makau stated, we need to put it into perspective to understand what happened.

Please brief your Chair and let her clarify that particular issue this afternoon. This way, we will ensure that we do not become a talk shop in this House, where Members speak about issues and there is no end to them. Consequently, Kenyans do not get the help they are seeking through their representatives. Hon. Makau has raised a weighty issue. In the afternoon, the Chair of the Departmental Committee on Lands will clarify so that we can make progress.

Hon. Okelo.

Hon. Jared Okelo (Nyando, ODM): Thank you, very much, Hon. Temporary Deputy Speaker. My sister, Hon. Esther Passaris, has raised a pertinent concern on the issue of demolitions. I want to believe that even though that happened, sufficient notice was given. Additionally, this should not turn to be economic sabotage at a time when we do not have fuel. In a few weeks, children will be stuck before reporting to school, yet people are out there demolishing businesses. This needs to be expedited by the Departmental Committee on Lands, and a response given in good time so that we do not engage in a charade at the end of the day.

I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We will have the Chair of the Departmental Committee on Lands give us a Statement on the land issue.

Hon. Members, let us move on. Leader of the Majority Party you have the Floor.

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER 40(3)

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move the following Procedural Motion:

THAT, this House orders that the business appearing as Order Nos. 10, 11, 13 and 14 in the Order Paper be exempted from the provisions of Standing Order

No. 40(3), being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party, or business sponsored by a Committee.

Hon. Temporary Deputy Speaker, the essence of my appeal to the House this morning is that Wednesday Morning is allocated for Private Members' business. Cognisant of the fact that we only have today and tomorrow before we go on recess, and there is some very urgent business to transact, we thought it prudent to dispose of them now, then some in the afternoon and hopefully tomorrow. This is also while bearing in mind that there will be nominations affecting a whole section of this Parliament. Hence, we might have challenges.

So, the earlier we dispose of some of these businesses, the better so people have time to concentrate on their nominations tomorrow. Hence, the appeal is that Members allow us to use part of the morning to transact that business and then revert back to the Private Members' business. So, this is an issue of convenience. We also have been taking some of the Private Members' issues in the afternoons, so it is a give and take.

I want to appeal that you grant this wish so that we can dispose of some matters before us, which are relevant to all of us as we go into the elections. I also note that the Member for Mavoko is leaving us, after having taken our time. I wish he could stay so that we can transact business together.

Hon. Temporary Deputy Speaker, I beg to move and ask the Majority Whip to second.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I rise to oppose this Motion. This is a Procedural Motion. It aims at exempting Motions sponsored by Private Members, yet those sponsored by the Leaders of the Majority and Minority parties or the Government are considered on Tuesday, Wednesday afternoon and Thursday. The only time allocated for Private Members' Motions is Wednesday morning. Currently, there is a backlog of Motions sponsored by Private Members.

We need to discuss Private Members' Bills in this House because the current Government has failed. There are no liquids available in the country - fuel, milk and water are unavailable – and the only available liquid is alcohol. We need an opportunity for Private Members to keep the Government in check, because the Opposition or the Minority side has failed. They are in bed with the Government. Who will keep the Government in check? This will only be done through Bills sponsored by Private Members, otherwise there will be nobody to fight for the common *mwananchi*. There will be nobody to speak on behalf of the hustlers. If Private Members only have an opportunity on Wednesday morning, what are the Leaders of the Majority and Minority parties doing with their Tuesday, Wednesday afternoon and Thursday?

I totally oppose this Motion and urge all Members to oppose it so that Private Members can have their say in this House, now that the Government and the Opposition are in bed with each other. We can have other alternative voices speaking for the voiceless.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Passaris.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Temporary Deputy Speaker, as I sit here, I am disturbed. Is Hon. Sankok trying to tell Kenyans that the only people that actually care about their needs are in the Opposition? At the end of the day, we are all elected leaders,

whether in Opposition, independent or in the Government. We are all leaders representing the people, including himself, as a nominated Member of Parliament.

All of us have the mandate to protect citizens, and that is why our primary role is representation. So, when he stands here and says that the Leader of the Majority Party is in bed with the Opposition, that is not correct. At the end of the day, he works for the Government and we, as the Opposition, are working with the Government because you have failed to support the Government to deliver on its mandate. So, to say that the Leader of the Majority Party is in bed with the Opposition, and that there is no Opposition, are you trying to say that unless you are in the Opposition, then you are not doing anything for the Government?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Passaris, what are you saying about the Motion? Please address the Speaker.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Temporary Deputy Speaker, I rose on a point of order because he said that it is only the Opposition that runs the Government, but at the end of the day, we all do.

Hon. David ole Sankok (Nominated, JP): The work of the Opposition is to keep the Government in check.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You are out of order. Order, Hon. Members! Just contribute to the Motion, Hon. Members.

Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Speaker, I rise to support the Motion. There are times that we must look at the interests of the country. In reality, under the current Constitution, we have Parliament and the presidency. All Members of Parliament are supposed to keep the Government in check, not just the Opposition. The assumption that if you are in the party that the President is in, then you must always side with the Government, is not the case. That is the current constitutional arrangement.

Above the bigger picture happening since yesterday is that this House needs to harmonise its calendar with that of the Independent Electoral and Boundaries Commission (IEBC). I can understand that some Motions are being brought quickly because they are important and should be passed.

We are at a time when Parliament is almost ending, and I think it is important when such Motions come, that we support them. Therefore, I support this one. As I said earlier, the bigger picture is for us to harmonise the calendar of the House with that of IEBC at least during the election year. This is so that by the time we go into party nominations, we are already at *sine die* adjournment and do not have very few Members contributing to very important Motions.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I am sure that the Leader of the Majority Party and the Members of the House Business Committee (HBC) are listening, because that is a valid concern.

Hon. Sophia, you have the microphone.

Hon. (Ms.) Sophia Noor (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Motion. I want to...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Whom do you want to inform? Hon. Whip you can only inform Hon. Sophia, because she is on the Floor.

Hon. Sophia, go on.

Hon. (Ms.) Sophia Noor (Ijara, PDR): Hon. Temporary Deputy Speaker, we, as elected leaders, must look at the times and have the best interests for this country. Hon. Sankok must know the roles and responsibilities of Members of Parliament. We oversee all Executive functions. Today, my brother Hon. Sankok has failed terribly by saying that it is the role of the Opposition to check the Government. It is our work, as Parliamentarians, to check the Government. There are times when the country is more important than individuals. What we are legislating is for the interest of every person.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Sankok, whom do you want to inform?

Hon. David ole Sankok (Nominated, JP): I want to inform my Chair.

Hon. (Ms.) Sophia Noor (Ijara, PDR): I do not need his information. Sit down!

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Sankok, the Member has to accept your information. If she does not...

Hon. Sofia be brief and speak to the Motion.

Hon. (Ms.) Sophia Noor (Ijara, PDR): I will. I want to say that there are times when the country is bigger than our personal interests. Of late, I have seen that we are engaging in double speak, and it is not right. We must retain the glory and respect of this House.

Thank you, Hon. Temporary Deputy Speaker.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Pukose please be brief and speak to the Motion.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Motion. I know that the Private Members' Bills are hurting because this time is allocated to them, but we have very important Bills to dispense, as a House. Therefore, I think the bringing of important Bills is so that we are able to sort out issues for the interest of this country. Notwithstanding our political positions, we should look at these issues, because they will benefit both sides and the *wananchi*.

Hon. Temporary Deputy Speaker, with those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I will give the final Member on this side, then put the Question. I think Hon. Kilonzo has not spoken this morning.

Hon. Charles Kilonzo (Yatta, Independent): Thank you, Hon. Temporary Deputy Speaker. My Committee, the Departmental Committee on Defence and Foreign Relations, has two very important Bills – the Military Veterans Bill and Regional Authorities Bill, which are at a very advanced stage, so that they can be put on the Order Paper. As regards the other Private Members' Bill, I think Members should go back and get re-elected. They can come next year. I am in total support. I caution Hon. Sankok to stop crying every now and then and saying that the Opposition has taken over the Government. What were they doing?

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Members! I go on to put the Question, which is that this House orders that the business appearing as Order Nos. 10, 11, 13 and 14 in the Order Paper be exempted from the provisions of Standing Order

No.43, being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party, or business sponsored by a committee.

(Question proposed)

(Question put and agreed to)

Next Order!

MOTION

THE COMMUNITY HEALTH WORKERS BILL, 2020

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Community Health Workers Bill (National Assembly Bill No. 30 of 2020).

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move the Third Reading.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Speaker, on behalf of the Mover, Hon. Martin Owino, I beg to move that the Community Health Workers Bill, (National Assembly Bill No.30 of 2020), be now read the Third Time.

Let me first of all start by congratulating Hon. Owino for bringing this Bill. I also thank Members for supporting it. This is going to be a historical Bill because for once, we are going to establish a legal framework for the community health worker as part of the workforce in the health sector.

Community health workers in reality have existed from time immemorial. Communities have always had people amongst them who supported those who needed healthcare. However, in the current circumstances, we have the community health workers, a policy and structures in place, but without a legal framework to support them. This is what this Bill is going to do.

It is also historical in that the first Kenyan to bring the issue of community health workers into the health sector, Prof. Miriam Were, is now a Nobel Prize nominee basically on the basis of this work. So, it is an extremely important Bill. I am happy that Members supported the Second Reading. I am, therefore, bringing it for the Third Reading.

With those remarks, I beg to move and call upon Hon. Kutuny to support the Third Reading.

(Hon. (Dr.) James Nyikal spoke off-record)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kutuny is seconding you. You just moved.

Hon. (Dr.) James Nyikal (Seme, ODM): I beg to move and ask Hon. Kutuny to second.

Hon. Joshua Kutuny (Cherangany, JP): Thank you, Hon. Temporary Deputy Speaker. As I

second, I want to appreciate our able Member of the Committee, Hon. Owino. I also want to thank the Members of the Committee for rising to the occasion to ensure that most of the Bills that came to the Committee have been dealt with expeditiously.

This is one of the very fundamental Bills that touches on the key actors in the health sector. Community health workers play an important role in health service delivery. They are the most effective health actors who influence hygienic and behavioural change.

While supervision and support from most of the stakeholders, including Government, has been there and has been robust, enough resources have not been provided to community health workers. Most of them have been doing voluntary work while surviving on stipends, which has inhibited effective service delivery in this sub-sector. The enactment of this Bill will enable us to have a structured way in which community health workers will operate. A time will come when community health workers will have to be supported materially in terms of providing resources.

With those remarks, I second.

(Question proposed)

Hon. Members: Put the Question!

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Having confirmed that we are properly constituted, I go ahead to put the Question.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Next Order.

CONSIDERATION OF REPORT AND THIRD READING

THE ELECTIONS (AMENDMENT) BILL

Hon. Christopher Omulele (Luanda, ODM): Hon. Speaker, I beg to move that a Committee of the whole House has considered the the Elections (Amendment) Bill (National Assembly Bill No.3 of 2022) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Leader of Government Business, move Motion for agreement with the Report.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Angwenyi to second the Motion of agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Jimmy Angwenyi.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Temporary Deputy Speaker, I beg to second.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Members! Order, Chair of the Departmental Committee on Administration and National Security.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move Motion for Third Reading.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the Elections (Amendment) Bill, (National Assembly Bill No.3 of 2022), be now read the Third Time.

I want to take this opportunity to thank the various Members of the Committees who have worked on this Bill. They fast-tracked it to a point where, as a House, we can say we have done what we needed to do to ensure that the impending general elections will be done in accordance with the law as updated based on the court rulings that necessitated the bringing of this Bill to the House. So, the Bill is adding to the confidence aspect in terms of credibility of the elections of this year.

I want to thank each Member who is here for helping in that process. I look forward to our colleagues in the Senate to fast-track this Bill so that we can ultimately have the law in place. It affects all of us.

Hon. Temporary Deputy Speaker, with those words, I beg to move and request Hon. Wangwe to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I do second.

(Question proposed)

Hon. Members: Put the question!

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Soipan Tuya): Next Order.

REPORT AND THIRD READING

THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Chairperson.

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the Whole House has considered the Election Campaign Financing (Amendment) Bill, (National Assembly Bill No.37 of 2021), and approved the same with amendments.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Mover.

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Wangwe to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Temporary Deputy Speaker, I do second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Soipan Tuya): I call upon the Mover to move Third Reading of the Bill.

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Temporary Deputy Speaker, I beg to move that the Election Campaign Financing (Amendment) Bill, (National Assembly Bill No.37 of 2021), be now read the Third Time.

I take this opportunity to thank Members of the Committee and the House for supporting and fast-tracking this Bill. I request that we continue to fast-track it and pass it into law so that it can be assented to and operationalised before we go to the coming elections.

I move and request Hon. Sankok to second.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, we thank all the Members who contributed and supported this Bill. We have taken into consideration the views of those who had a different opinion.

I beg to second.

(Question proposed)

Hon. Members: Put the question!

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Soipan Tuya): Next Order.

BILLS

Second Readings

THE NATIONAL CONSTRUCTION AUTHORITY (AMENDMENT) BILL

(Hon. David Gikaria on 6.4.2022 – Morning Sitting)

(Debate concluded on 6.4.2022 – Morning Sitting)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Next Order.

THE HUDUMA BILL

(Hon. Emmanuel Wangwe on 6.4.2022 – Afternoon Sitting)

(Resumption of Debate interrupted on 6.4.2022 – Afternoon Sitting)

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Some Members, including Hon. Ngunjiri Wambugu and Hon. Nyikal, have already spoke to this Bill. Hon. Pukose and Hon. Ogutu, do you want to speak to the Bill?

(Hon. (Dr.) Robert Pukose spoke off-record)

Hon. Members, please, pay attention. We are on the Huduma Bill. If you do not wish to speak to it, just take out your card.

Proceed, Hon. Ogutu.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Hon. Temporary Deputy Speaker, I want to contribute to this Bill.

Huduma services are meant to harmonise and synchronise various data systems in this country. But to my disappointment, some institutions still operate in isolation. As we discuss and review the Bill, we should think of a country that will soon have highly synchronised data because ICT is quite advanced in this country. We should not have people spending time moving from one office to another. At the same time, there is a lot of disappointment not only with delays, but also with the confusion that exists in data systems. In totality, I support the Bill.

Thank you.

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Hon. Passaris.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I am sorry, I am not prepared for this Bill, but I support it.

Thank you.

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Are you done, Hon. Passaris? Okay. You can organise yourself if you want to speak again. Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker. I rise to support this important Bill as a member of the Committee that discussed it. What is being proposed is to come up with a population database which will capture information relating to our populace. A number of clauses provide for different things. The Bill proposes issuance of a Huduma card - a card that will contain important information relating to an individual in this country. The card is supposed to capture information contained on our National Identity cards, National Hospital Insurance Fund (NHIF) cards and National Social Security Fund (NSSF) cards. Once you get this card, you will use it to access almost all services, including NHIF, National Transport and Safety Authority (NTSA) and other important information.

Hon. Temporary Deputy Speaker, in countries where these kinds of cards have been managed properly, they add value in service provision. Our Huduma card, which has been proposed, is very good. As a Committee, we need to create awareness. We need to give more information to Kenyans on what this card is supposed to do. I see a lot of doubts. Any time we interact with stakeholders, a number of doubts are raised. There are those who feel that the introduction of this card brings some discrimination. For example, we have refugees in this country. Even as you propose to issue a refugee card, how will non-Kenyans access it?

There are some State Departments like Immigration which strongly believe that the way the Bill is structured currently, is likely to do away with it. These are some of the challenges that we went through. Even as we move forward with this Bill, we will address some of the issues which are contentious during the Committee of the whole House. If we get this card, it will be very good for this country.

There is the question of whether this card will only contain data on an individual or it will be used for other purposes. Once we access it, we will have a central deposit of the data. To what extent will other departments access it? As an individual, all my information will be there. If only NHIF requires my information, will they access all the information in the card just as much as Kenya Revenue Authority (KRA)? I imagine that NHIF requires some specific information on me as opposed to what KRA expects from me. This division is very important. Information on an individual is very important. There must be security of that information, so that it is not accessed by every Tom, Dick and Harry. This card should ensure that there are levels where people will not access information which is not important for their use. The information that is not important for their use should not be accessible to such institutions.

The other issue being raised is that of our children. There is a proposal that when a child gets to age six, he or she should get a Huduma card. We will consider that proposal together with our Constitution, which is very clear. Unless you hit the age of 18, you might not make decisions because you are categorised as a child. Is there a situation where my child needs a Huduma card? Is it possible that the child will walk to an office and be assisted using that card and the guardian is not part of that whole process? When you are under 18, you need a guardian because you are not expected to make independent decisions. These are important things we must discuss.

There was also another proposal on this card. When you get it immediately you hit 18 years, you are registered with KRA as a taxpayer. These are important issues. If I have hit 18 years, does it mean that I should automatically start declaring my taxes even when I am not working? That is the implication. These are some of the important issues in this Bill, which should be considered. When all is said and done, it is a very important Bill which will streamline the way we manage our population data. You have heard of Anglo-leasing in Kenya. It needed to come up with an Integrated Population Management System or Data. That is what the Huduma Bill is trying to do. The introduction of the Huduma Number was not done properly. There are misgivings. People think that it will be misused for other purposes. When it comes to information, people are very careful in this country. There is the idea of people being threatened with Income Tax demands even when they do not owe KRA anything. These are the things that worry Kenyans.

As we debate this important Bill, there must also be a very clear strategy on how to create awareness amongst Kenyans, so that they can do away with the fears that they have as a result of this Bill. The State Departments which fear that they might be done away with as a result of this Bill should be assured that when it becomes an Act of Parliament, they will still operate. However, there can be a kind of administrative changes in structure. The Bill proposes a Director-General to manage this data. The State Departments of Immigration Services, National Registration Bureau

and Civil Registration Services will now work under this Director-General. This causes a bit of issues. If someone heads the State Department of Immigration Services as the Director-General and then he gets another Director-General above him, does it then mean that there will be a conflict? The Principal Secretary (PS) assured the Committee that it will be the same way things work now. The Directors of Immigration Services, Civil Registration Services and the National Registration Bureau report to the PS. The Bill proposes that they will be reporting to a Director-General who is above them and then the Director-General will be reporting to the PS.

Hon. Temporary Deputy Speaker, the other issue which came up is the PS having a lot of powers when it comes to the way this Bill will be handled. We raised it with the PS for the Ministry of Interior and Coordination of National Government, Mr. Kibicho. Even as we deal with this Bill, we know that when so much power is vested in an individual, it can be a problem. He might misuse it. These are contentious issues. Since we are in the Second Reading, we will raise them. We will change one or two things in the Committee of the whole House.

I am sure that those who have looked at the Report of the Committee saw that a number of these issues were raised. Even the stakeholders who are in human rights raised some issues which were addressed. Their fears are documented. As we debate this important Bill, the issues which are not clear should be clarified by both the Committee and those other stakeholders, so that we have a law which will serve all Kenyans without some feeling that they are being discriminated against. That is very important.

With those many remarks, I support this important Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I stand to support this important Bill, which seeks to provide a primary law on civil registration and legal identity management by establishing the National Integrated Identity Management System (NIIMS). It also provides for the enrolment into the system; assign the Huduma number and issuance of legal identity documents.

I looked at the objectives of this Bill. It will consolidate the law on civil registration and legal identity management. It will also establish a digital national population database to be a primary source of foundational and functional data for an individual resident. It will provide mechanisms for registration of births, deaths and recognition of vital events of a resident. It will facilitate the assigning of the Huduma number and issuance of legal identity documents. It will also promote integrity, confidentiality and security of personal data under the NIIMS database.

This Bill has a lot of things that it seeks to do. We have the registration of births and others. It will redeploy public officers who serve in entities such as the National Registration Bureau, State Department of Civil Registration Services, the State Department of Immigration Services and the Integrated Population Registration Services to carry out the functions of their respective offices within the National Integrated Identity Management System (NIIMS).

Apparently, the Huduma Number was rolled out before the enactment of this Bill into law. As Members of Parliament, we should ask ourselves some questions because the Huduma Number came with a lot of suspicions in this country. We even had the President launching the Huduma Number, but it was done in a very haphazard way. As Kenyans, we must be asking ourselves whether we lost some money in the process. I think at the end of the day, once this Bill becomes law, we will need to look back and ask what happened to the Huduma Numbers that people were to receive. This is a very nice programme because it brings everything, including services within the Public Service to Huduma. During the Committee of the whole House, we need to ask ourselves

what happens to those in the private sector. We are talking of civil servants within the Public Service. What happens to services within the private sector? We should be able to cater for that.

The way I see it, Huduma Number is going to replace the National Identity Cards. If it is going to replace the National Identity cards, then we should be able to roll it out. There are many people who have not received their Huduma numbers. The programme should be rolled out to the villages in a continuous process where people will continue to be issued with Huduma numbers. When Huduma number was rolled out in a haphazard way, people were given timelines. That was wrong. To date, some of us do not know where our Huduma cards are. We registered in Parliament. They have not been brought back here. When you try to search for it, it is sent somewhere else. When you go to the village to ask for Huduma card, nobody knows where it is. So, it is very important that, as we go through this Bill, we are able to amend it in such a way that the rollout that had been done in a haphazard way is complimented and the process is continuous.

The law says there will be Huduma cards for those who are six years and below, for those who are 18 years and above and for refugees as well. So, we have about four classes of Huduma cards.

This has to be done in a proper way. It has to be a continuous process. It has to be accessible to all Kenyans so that, at the end of the day, everybody feels included.

This law gives the Principal Secretary unfettered powers to deny one a card or take them out of the database. Those powers must be checked.

The Bill says there should be no disposal of any body. When somebody dies and their bodies are found, the authorities should be notified so that the cause of death is established and documented.

This is a very good Bill. It does not need to be rushed. The Committee and the Members need to have a serious look at it so that we can have something credible and for posterity for all Kenyans.

I support.

(Hon. Peter Mwangi applauded)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Chair of the Departmental Committee on Administration and National Security is very excited with your support for the Bill.

Hon. Passaris.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I registered as a citizen. I tried to follow up quite a number of times, including with the CEO in charge, but I still have not been able to get my card. When I think of the system and the structures, I feel that Huduma Number still has a lot of work to do in sensitising members. If as a Member of Parliament, I registered to get a Huduma card by trying to beat the deadline and I have not been told where my card is and where to collect it, then there are quite a number of citizens out there who have no idea where their cards are.

(The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya) left the Chair)

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

When it comes to the intent of the Government in terms of getting a social card for all of us, there is still not enough information on what exactly this card does and provides. Will it synchronise all the cards? It is still not 100 per cent clear. I believe the Government has a good intent in trying to ensure that we have one card as opposed to many cards in our wallets, like it is in the United States of America (USA). So, information on your medical card, identity card and driving licence will all be in one card. If such a social card is well invested in, it could also enable us to reduce road carnage in the country. When you have a social card and you have criminal offence and it is registered on the card in terms of traffic offences, the Government will be in a position to ensure that we rid ourselves of drivers who should not be on our roads. When you lose your identity card or driving licence in fire, for instance, recapturing those details becomes very difficult. Many people find it very difficult. They have no documentation to get their documents replaced, from birth certificate to driving licences to academic certificates and other properties that you have. So, having a social card that captures everything about a person is a good thing. Of course, there is also the concern that this data, if not well protected, can be misused. So, the system that the Government will put in place should ensure that there is no fraud and there are minimal chances for anyone to hack the systems. We have seen systems, including systems in governments of very powerful countries like the USA, being hacked. As a country, I believe it is the right time to manage our personal data so that we can have access to information through Huduma cards.

I support the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kaunya Oku, Member for Teso North.

Hon. Oku Kaunya (Teso North, ANC): Thank you, Hon. Temporary Deputy Speaker. I am a member of the Department Committee on Administration and National Security. I am part of the team that came up with the Report on the Huduma Bill. The Bill seeks to provide a centralised data centre – a national database from where every department can draw from. For a long time, we have had a decentralised kind of database. All the departments have different sources of information and, sometimes, it has been difficult to control, especially information that is related to births and citizenship and, more so, in the border areas. There has been a system of ensuring that only Kenyan citizens get registered. A number of times, there have been challenges and these are the gaps that the Bill seeks to cover. There have been challenges in the border areas. For example, there are areas where foreign nationals cross over and get registered as Kenyans. They get Kenyan identification documents like birth certificates, ID cards and others documents.

This Bill seeks to ensure that we have one database from which all departments and institutions can verify whatever information they require about Kenyan nationals who are registered. Overall, the Bill has a very good purpose. There are, of course, a few areas that need to be looked at in terms of amendments. For example, when it comes to service delivery in departments, a department like Immigration provides services both to Kenyan nationals and foreign nationals. Foreign nationals seek visas when they come to Kenya. The Bill specifically deals with a national databank. It is important to ensure that this department and others that more or less have security data-related issues, like passports and visas, are put in such a manner that they benefit from this data, but not necessarily being amalgamated. There should be clarity in that area. Some amendments by the Committee and other Members will have to address the service departments.

There is also registration of foreigners, which needs to be brought out very clearly because, when we are dealing with citizens, we should also clearly see how to work on the data of foreign nationals. For example, when we were dealing with the Refugee Bill, we recall that in a place like

Garissa, where we have the Dadaab Refugee Camp, there was double registration. There were Kenyans who were registered as refugees and there were the genuine refugees themselves. This was for various reasons. We must find a way of ensuring that the data of foreign nationals or Kenyans who are illegally registered as foreign nationals have clarity.

We hope that this Bill will help us to make that clarity so that even where we receive refugees, we do not have a case where a Kenyan will come out to be registered as a refugee because already in the national databank, he would have been registered from the very beginning and it will be picked up. The system should detect a Kenyan and block him from being registered as a refugee. Likewise, a foreign national crossing into Kenya and seeking to be identified as a Kenyan should be detected by a computer before he or she registers. That will help us manage our data.

I support the Bill with the amendments that will be introduced. This is a very important Bill for this country. We have not had such a Bill before.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Garane Hire, Member for Lagdera.

Hon. Mohamed Hire (Lagdera, KANU): Thank you, Hon. Temporary Deputy Speaker.

At the outset, I oppose this Bill. As much as the Bill suggests extensive amendments to the Registration of Persons Act, there are inherent dangers and risks in it. The first risk is that of exclusion. The Bill does not sufficiently address concerns of exclusion repeatedly raised by the civil society and the public. There are thousands of Kenyans who have no birth certificates and identity cards. There is no clear indication as to how those people will get those documents. With the Huduma Card, one has to have an identity card or a birth certificate. Kenyans who do not have those documents run a risk of being excluded.

There are thousands of Kenyans who do manual labour and when they are taken for biometrics, they cannot be captured. This Bill does not say how those people will be captured. Street families and street children are Kenyans who run the risk of being excluded from the Huduma Card.

The Huduma Card will be the basis of accessing health services, banking and education, among others services. If people do not have the Huduma Cards, there is no framework in this Bill that caters for them. There are no ways of having those people access services. Imagine one is a sick person without a Huduma Card and he or she wants to access health services. He or she will not be able to. This is not addressed. That is an inherent flaw and it must be addressed before the Bill becomes law. This was supposed to be done in a systematic manner. The Huduma Bill has been done from backwards. We just organised a mass registration exercise across the country without, first of all, seeing how many people do not have birth certificates, how many do not have identity cards and how many do not have the necessary documentation for them to get a Huduma Card. So, we started from the top instead of doing it from the bottom. That is why we are saying before it is effected, it must have a transition period of, at least, between three and five years so that all the issues and gaps can be addressed.

As we are aware, because this thing was hurriedly done, there was no sufficient public participation. We needed to have enough public participation for Kenyans in remote areas and in far-flung areas like the border areas to ensure that everybody understood what the Huduma Card is all about. Remember the High Court Order of, I think, 2020. It clearly said that all these gaps must be addressed. They have not been addressed as the Huduma Bill is going on. Laws are made for posterity. We do not want to have a situation where this Bill becomes law and thousands or

millions of Kenyans out there risk exclusion and access. If that happens, such people will have many issues.

This Bill needs to be withdrawn in its entirety from Parliament so that we go back to the drawing board and address the inherent risks. Denying one Kenyan the right of access or inclusion is denying the whole world as far as I am concerned. That is because the right of one individual is very important. We need to address these issues before this Bill becomes law. Of course, I know it will come to the Committee of the whole House where we have the opportunity to make amendments to it. I will propose many amendments regarding this Bill.

I have read the Bill and those are the inherent gaps and risks that must be addressed before it becomes law.

Therefore, I oppose it.

(Several Members spoke off-record)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Member, just relax. Hon. Hire has a right to oppose and he has rightly done so. There is nothing out of order.

Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity.

At the outset, I support this Bill. I welcome my colleague and fellow pastoralist, Hon. Hire, to assist us in supporting this Bill. That is because for a long time, our pastoralists have been marginalised and sometimes have even been referred to as *shiftas* in their own country. This Bill will sort out these issues. Once we have this central registration in place... Colleagues, please, soften your hearts, so that we can bring amendments at the Committee of the whole House that will help cure historical injustices within pastoralist regions.

Currently, I only know of three people who have Huduma Numbers, namely, President Uhuru Kenyatta, Her Excellency Margaret Kenyatta and the Majority Whip, Hon. Emmanuel Wangwe. I have not received mine yet.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, I also have mine and many of my constituents have them too.

Hon. David ole Sankok (Nominated, JP): Now you are four of you. I do not know why I did not get one. I request the Members to help me acquire one.

(Hon. Jude Njomo spoke off record)

Hon. Temporary Deputy Speaker, protect me from Hon. Jude Njomo. He should know that I am a man who cannot be intimidated by sideshows and professional heckling.

These cards will assist us to deal with forgery. At the moment, you can forge a birth certificate, an Identification Card (ID) or even someone else's Identification Card. However, the Huduma Number codes can easily be scanned for authenticity. We will have dealt with the issue of forgery.

Hon. Temporary Deputy Speaker, if you see my wallet, you might think I have a lot of money, but it is only carrying cards like my driving licence, ID, health insurance card and many others that I cannot tell you about for the benefit of my own security. If this Huduma Bill can reduce them into one card, then it will be easier for us to carry it around and to access services. The Huduma Card is synonymous with Huduma Centre. Initially, we would apply for IDs, birth

certificates, driving licences and certificates of good conduct in different places. For one to get 10 documents, they had to go to different centres. With Huduma Centres, now we have a one-stop shop to access all these documents. Huduma cards will serve all these purposes.

The world is moving towards digitisation. One does not have to carry all these cards around. They need to be consolidated into one card. This will also reduce crime because if you break a traffic rule and your card is scanned, the card will indicate how many times you have done that. There will be a central system where we can access all the information of an individual.

Some people are complaining that some departments in the ministries will be done away with. If that is true, so be it. At the moment, our wage bill is over the roof. We are even planning to reduce it. If this Huduma Bill will do away with some departments, then it will reduce the wage bill that we are struggling with.

Hon. Members, when we come to the Committee of the whole House, we should make sure that human rights, especially the confidentiality of this information, is guarded. There should be enough checks and balances to ensure that the information we voluntarily give to the Government is safeguarded for the interest of each of us and for the security of the country. If this information falls in wrong hands, it can be used to cripple our economy. We have heard of *wash wash* criminals who can withdraw money from your account without your knowledge. They even use digital platforms for their conmanship. We should ensure that this information is safely guarded to avoid such issues.

Hon. Temporary Deputy Speaker, it is also true that children under the age of six years will have Huduma Numbers. Let us make sure that this does not contravene our Constitution. These are the only areas I had doubt on.

All in all, I urge the Members of this House to support this Bill, because this is a very important card. Globally, Kenya is not an island. In America, they use only one card. Every system is digitised to an extent that you can use your card to do shopping and access all the services in America. We should move towards that direction so that even investors can have confidence coming to this country. We will be doing disservice to our country when we ask them to acquire many cards yet where they come from, they only have one card.

Lastly, I want to congratulate the Leader of Majority for bringing this Bill and the Departmental Committee on Administration and National Security led by Hon. Mwathi, who is a competent Chairperson. When we were de-whipped, they made the right thing to appoint Hon. Mwathi to that Committee. He was once my Chairman in the Departmental Committee on Labour and Social Welfare and he is a man of means. He is also known as *muthuri wa muthegi* which means that he has been recognised as a leader by the Kikuyu elders.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Paul Mwirigi, the Member for Igembe South.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you very much, Hon. Temporary Deputy Speaker. I rise to support the *Huduma* Bill. It has come at the right time. Whenever you go shopping or to the hospital, you are supposed to carry many documents in order for you to access services.

Hon. Temporary Deputy Speaker, the Huduma Namba will help us have one card that can help us access all the required services. You can use it, for example, to access your bank accounts, health services or for driving.

So, it is a good Bill which we all need to support as it will reduce crimes. This one card identifies you from your origin, background and upbringing. In case any crime is committed, the

card can identify what you have gone through. This service will help our citizens to live and conduct their businesses well. It will help us identify ourselves and help our farmers to get services. When, for example, the Government has some subsidy for commodities which need to be brought to the farmers, the Huduma service will help the Government identify certain farmers. This will ease the bulkiness of documents. This Namba will help Kenyans get services easily.

With those few remarks, I thank the Leader of the Majority Party for bringing it up and urge all the Members to support this Bill, so that we can ease the burden of the cost of living for the Kenyan citizens.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Koyi Waluke, Member for Sirisia.

Hon. John Waluke (Sirisia, JP): Thank you, Hon. Temporary Deputy Speaker for giving me a chance to contribute to this Bill. This Bill will make a lot of difference in terms of security and accountability. We have had many challenges in this country at times caused by foreigners. In Africa, it is only in Kenya where people walk in and out without restriction and caution. We have been to other places where security is paramount. In Kenya, you can come in without a visa and get it at the airport. In other countries, you will look for a visa for many months. We, the Members of Parliament, at times find it difficult to get visas to go to other countries. So, the Huduma Number will make a very big change.

Many of us have talked about birth registration and passports. It is not difficult to get a passport in Kenya because it is your right. However, those from border counties like myself know that there are people with bad intentions who are not Kenyans. The Member here has opposed this Bill because of birth registration and the fact that they do not get ID cards. For one to get an ID card, you must prove that, indeed, you are a Kenyan especially when coming from border counties. You cannot just be given an ID card.

Pastoralists have bad intentions because nobody has been allowed to move with animals all over. They move with animals from Garissa to Machakos or Athi River. That is not possible because everybody comes from somewhere. When they come from Garissa, they will have passed through Mwingi and many other counties. So, this thing should not make them feel that because they are pastoralists, then the country should perceive them differently from other Kenyans. They are Kenyans just like us. Hon. Sankok, for instance, comes from Narok. He can walk to Bomet County. However, he cannot move all the way with his animals from Narok to Garissa. That makes others feel oppressed.

Hon. Temporary Deputy Speaker, Hon. Sankok has no point of order. The challenges we are facing in this country...

Hon. David ole Sankok (Nominated, JP): On a point of order.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Waluke, just hold on. What is out of order, Hon. Sankok?

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, the Huduma Number is supposed to be for human beings. However, the Member is bringing in the issue of cows. Does it mean that our cows should also have Huduma Numbers? If that is what it is, then I will have to consult with Hon. Mwathi so that I can withdraw my support. Our cows can never be given Huduma Numbers. They can move anywhere there is water and pasture.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Waluke, proceed.

Hon. John Waluke (Sirisia, JP): Hon. Temporary Deputy Speaker, you know cows are herded by human beings. They cannot move on their own from Garissa to Athi River. There must be someone walking them around.

So, this Bill is very important. In terms of immigration and borders, restrictions must continue because we must safeguard our country. As I said earlier, people have been taking Kenya for granted and that is why we have been seeing all these *Al-Shabaab*. People just walk freely into our country. Remember many Kenyans have lost their lives due to porous border points. So, the Huduma Number will help in security. We want to live safely. We do not want to be killed like the Garissa University students and other Kenyans who have lost their lives and their loved ones. The security of this country should be properly checked. I appreciate the Committee for coming up with the Huduma Bill. I urge all of us to support the Bill. It will save this country from many things.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. (Dr.) Otiende, Member for Rarieda.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. There is not much to say.

First, this Bill brings centralisation of personal information. It is the way to go. It is the way to avoid situations where one has to deal with many pieces of identification of all sorts. If we go this way, even the idea of registration of voters in future will be made much simpler.

Secondly, it brings legitimacy to the idea of citizenship - legitimacy in the sense that part of the problem we sometimes suffer is people who sneak into this country and find their way into having documents of identification, including passports. If we go this way, we will trace and track people from day one.

Thirdly, it will also help us in improving taxation and accountability in payments. We live in a country where some of the richest people do not pay taxes. They sneak through the crevices in the laws of taxation and identification.

There are those who wanted to dissuade people from this Bill by trying to link it to the elections. This Bill and having the Huduma Card has nothing to do with elections, rigging or otherwise. It is only those who are starting to fear the outcome of the elections that would want to tie this to the elections.

Lastly, I sympathise with my brother, Hon. Sankok. Obviously, he does not have the Huduma Card. I tell him that my entire family and I have it. He was *tangatangaring* when we were applying. He could not settle to apply. Now, let the Bill come and he will settle and get it in time.

(Laughter)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nangabo Janet, Member for Trans Nzoia.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Asante sana, Mhe. Naibu Spika wa Muda, kwa kunipa nafasi hii kuchangia Mswada huu wa kuwa na Huduma Card. Namshukuru Mwenyekiti wa Kamati ya Utawala na Usalama wa Taifa katika Bunge hili.

Ni kweli vile wenzangu wamechangia. Imekuwa vigumu sana. Hata leo asubuhi nimepigwiwa simu na mtoto wangu kutoka Australia kwamba anataka cheti cha kuzaliwa. Tungelikuwa na kadi kama hii, mtoto hangepiga simu na kusema anataka kadi ya kuzaliwa. Tukiwa na kadi hii, itakuwa inabeba kila kitu. Naona mwishowe hii kadi itakuwa inabeba kila kitu. Naona hiyo kadi itakuja kusaidia watoto wetu iwapo wamefika kidato fulani. Mtu atajua huyo mtoto amesoma kutoka kidato fulani na akafika mahali fulani, ameenda kutoka shule ya msingi hadi shule ya upili, na hata chuo kikuu. Hili ni jambo la maana sana.

Hapo awali, tukiwa wafanyakazi katika idara wakati tulitaka kulipwa mshahara, walikuwa wanaleta *payroll* wakitumia kalamu kuangalia jina lako. Unaona mahali tumefika. Benki zetu zinaweza kutuwekea hizo pesa. Iwapo tutakuwa na hiyo Huduma Card, itarahisisha kila kitu na hivyo tutakuwa kama nchi nyingine.

Mhe. Waluke amesema wale tuko kwa mipaka zetu tutafaidika. Ni kweli, hata ukija mahali panaitwa Suam kule Trans Nzoia, tuna ndugu zetu wanaotoka Uganda. Hata wakati huu tunapopiga kura, wenzetu wanaenda mpaka nchi za ng'ambo kuangalia wapigaji kura waje katika nchi yetu ya Kenya. Tukiwa na hiyo Huduma Card ya kusema huyu au yule ni ndugu au jirani yetu na anakaa upande huu, itatuwezesha kupata viongozi sahihi wanaoweza kusaidia nchi hii na wale wanaweza kusaidia watu wetu walio mpakani. Itakuwa ni rahisi mno. Hata wakisema huko Mhe. Sankok anatoka, hao ni watu walikuwa na utamaduni wao wa kuuza bidhaa zao. Wao ni wanabiashara. Mimi huona watu kutoka nchi za ng'ambo wakija mpaka huko Maasaini kufanya biashara na wao. Iwapo mtu ana hiyo kadi yake, inakuwa rahisi kujua mtu huyo anatoka wapi na anafanya nini.

Namshukuru Mwenyekiti wa Kamati ya Utawala na Usalama wa Taifa katika Bunge hili na nikushukuru wewe. Nakutakia heri na fanaka hata wakati tunapotafuta kura. Asante, Mhe. Naibu Spika wa Muda.

(Applause)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Thank you, Hon. Janet Nangabo. The goodwill is appreciated. It is necessary and it is at the right time. Thank you so much. Hon. Osotsi Godfrey, Nominated Member.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to also say something on this Bill. I have quite a lot to say about this, but I want to summarise it in two minutes.

This Bill is long overdue. If implemented, this Bill is going to ensure inter-operability of the foundational and functional systems in Government. Foundational systems are basically general registration systems for identity cards, birth certificates, death certificates and even refugee registration. The functional systems are for specific services like immigration, passports and all that. So, it is going to ensure linkage of these systems and make it easy for the Government not to have duplication of data. We have seen many cases of duplication of identity cards and even birth certificates. This will be a thing of the past.

Most importantly, this system is going to promote digital economy. We will, as a country, save a lot. For example, you know we are spending too much money on elections. The Kenyan general election is one of the most expensive in the world. With this system in place, we will not keep on recreating voter registers. Possibly, it will be easy to ensure our elections are 100 per cent digital. It is a system that is long overdue. I fully support it.

I have reservations on how the risks around the systems are going to be managed, particularly the people who are in control of the systems. This is an issue that we need to look at as a country. Even the Computer Misuse and Cyber Crime Act remains largely unimplemented. The Data Protection Act remains largely unimplemented. As I have always said, especially when I was making my presentation for the Bill which I am sponsoring, the ICT Practitioners Bill, a lot of effort and priority needs to be put on issues of ethics around the profession. If we do not address that issue, we will be creating systems that are going to expose this country and can even lead to State capture. I urge this House to expedite the processing of the ICT Practitioners Bill into law,

so that we can prepare the ground for a proper digital economy and have it easy for the systems to be passed.

For those few remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Kiai Githiaka, Member for Mukurweini.

Hon. Anthony Kiai (Mukurweini, JP): Hon. Temporary Deputy Speaker, I thank you for the opportunity.

I support the Bill. The Bill intends to make it easier and bring together all the documents that relate to citizens and non-citizens of this country. As it has already been said, you already have the foundational and functional systems, and both of them are not connected. The foundational ones are like the general identification documents like the ID cards and birth certificates while the other functional ones like the Huduma Number cards.

Hon. Temporary Deputy Speaker, perhaps you have more cards in your wallet than the cash you have. That is why we want to collapse all these documents into one document called the Huduma Number. It will streamline the legitimacy of citizenship and make sure that we know who was born here, who has a refugee card and who has which document.

If you look at Section 7 of this Act, it talks of different kinds of *Huduma* cards, the minors, adults, foreign nationals and refugees.

The enrolment into the National Integrated Identity Management System (NIIMS), a system that is going to operate the *Huduma* Number, is going to take place at birth. Once you are born, we are then able to tell who was born where, who is operating from where and it brings into mind the 1984 George Orwell's *Big Brother* novel whereby wherever you go, the big brother is watching.

It will also make the issue of security easy because the Government will categorise citizens, foreigners and refugees. On top of that, it will also streamline the voter registration. Every other five years, we have a voter registration taking place. Once you are registered at the majority age of 18, it means you do not have to register for voter registration. So, it is a very good Bill.

Hon. Jude Njomo (Kiambu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just hold on, Member for Mukurweini, and my friend, Hon. Jude Njomo, the Member for Kiambu, what is out of order?

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Temporary Deputy Speaker. I stand on a point of order under Standing Order No.95 and judging from what has been going on in this House, there is a general agreement that Members agreed that this is a very important thing. For the purposes of moving on, may the Mover be called upon to reply?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Jude, that is in order, but let the Member for Mukurweini complete his submissions.

Hon. Anthony Kiai (Mukurweini, JP): I appreciate his sentiments and I need not to add any further issue. It is only that I wish you the very best when you will be campaigning. I wish to see you back in this august House this year.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Thank you, Hon. Kiai. Hon. Members, is it the mood of the House that the Mover be called to reply?

Hon. Members: Yes.

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

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mover.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker. Let me start by thanking the Members for the interest they have shown in this Bill. From the contributions, it is very clear that Members have not only been concerned, but have also gone ahead and actually read through the Bill.

I have been in this House for a very long time and it is very easy to tell when Members are contributing because of social media or what we have heard the other one saying, but also very different when Members have looked through the Bill.

Let me also say thank the Members of the Departmental Committee on Administration and National Security. When we committed this Bill to them, I was very conscious of the fact that this Bill had attracted a lot of interests in terms of the various stakeholders who felt that they were attached by it. It also attracted a lot of intra-fighting and interests within the Government by people who felt that perhaps their jobs were threatened by the Bill and the typical fears that come with any change or any proposed change. However, the Committee has harmonised all these things through a series of stakeholders' engagement. At least, we have brought down those temperatures. It is thanks to the Committee which managed to steer and spearhead that process.

After listening to Members, I have heard their concerns. One of the concerns which Hon. Mwambire, I do not know whether he is still around, raised, was that some people would be left out of this system. One of the things to note is that we may be looking at the entire system from the prism of what we know of the ID card. However, the design of the Huduma Number is that that number would be assigned to a person at birth. So, you do not need an ID to get a Huduma Number because it would be a unique reference number at birth. So, every one born in Kenya would be assigned it and nobody needs to fear that because they do not have an ID, they will not get it.

We must also remember that our 2010 Constitution was very clear that any child under the age of 18 found in Kenya is deemed to be a Kenyan citizen and is registrable. Much as we started the initial registration with children up to six years, the number is supposed to go at birth. So, nobody needs to feel threatened that with the Huduma Number, they will be left out. In fact, we should all be celebrating that with the coming of the Huduma Number because every Kenyan will be registered and included.

The other issue is that Kenya is a signatory and a firm believer of the UN. If Members know - target No.16.9, until this matter was brought out by the Chairman - of the Sustainable Development Goals, calls for all the UN member States including our country to provide legal identity for all including birth registration by the Year 2030. We are, however, far beyond that. The Huduma Bill which aims at consolidating our registration systems, numbers and everything else, will go a long way towards achieving that as a specific provision in aspirational SDGs.

I want to persuade Members that I heard of the issue of public participation and it would not be with respect to this Bill. There has been extensive participation and it is all documented. I have not seen the exact number of stakeholders appearing in the public participation, but the reference to public participation was in terms of the roll-out of the initial Huduma Number which was also important because important lessons were learnt. Some of those have informed the formulation of this law in terms of knowing where the gaps were. This means that the courts have also helped in terms of saying there is a gap. This law is perhaps the most modern in terms of addressing the shortcomings that were experienced at the roll out which you can think of as a person in terms of the challenges that have gone to court and the rulings from the court which have all been addressed.

By the time we pass this law, we can ensure that there is an integrated national identity management system which cannot be challenged. It will be an example to other countries within East Africa and the world. We do not have to keep bringing experts from Estonia, Sweden or Finland which have this kind of system. We hope that Kenya will provide experts to go around the world to demonstrate what an integrated identity management system is all about.

I really thank everyone. I look forward to our processing the few amendments proposed by the Committee and any other amendments that Members may propose. Before we go on recess tomorrow, we should have this Bill in place. We need to allay the fears, as Hon. (Dr.) Otiende mentioned, of those who thought Huduma Number is about the election. There is no connection. Elections, as we are concerned, are about your ID card. And we did pass the Elections (Amendment) Bill today, which includes a valid Kenyan passport as a document for election. That is what we need to worry about for now. In future, when the Huduma Card becomes the new ID card, there will be adequate time for everybody above 18 years to register as a voter. It will be the reference document for voting. Nobody needs to worry that they will be left out. Indeed, people should be happy that everyone will be included. That is not exactly the situation now, because you are registered only when you turn 18 years. With the Huduma Card, people will be registered at birth. When you get to school, your national education management information system (NEMIS) will be linked to your Huduma Number. So, it will be a unique number from birth. We need not to worry. I want to persuade those who had fears to reread the Bill and see that there is no issue.

One more worry that some Members mentioned is that we are doing away with the Department of Immigration Services. There is the Kenya Citizenship and Immigration Act (No. 12 of 2011), and it is not being repealed anywhere. There may be some reorganisation of departments in terms of registration, but the functions of the Director of Immigration Services remain intact. Hence we do not need to worry about some of the issues that may have circulated. Those are fears that were unfounded and have been addressed adequately by the Committee and in the other amendments that will be moved.

Hon. Temporary Deputy Speaker, with those remarks, I thank you for your leadership on this matter. I thank our technical staff who have been engaged in this process so far. I also thank all of us for being part of the history making process.

I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. I direct that the Question be put when the matter is next set out on the Order Paper for consideration. Let us move to the next business of the day.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Christopher Omulele) in the Chair]*

THE COFFEE BILL

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, we are now in the Committee of the whole House to consider the Coffee Bill (Senate Bill No.22 of 2020). We shall resume consideration from Clause 46. We had partly dealt with it last week, I presume.

Clause 46

The Temporary Deputy Speaker (Hon. Soipan Tuya): The Chairman.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman, for the opportunity to pursue the amendment.

I beg to move:

THAT, Clause 46 of the Bill be deleted and substituted therefor with the following new clause—

Coffee trading.

46. (1) Kenyan coffee shall be offered for sale through—

(a) auction in the Exchange; or

(b) direct sales.

(2) All direct coffee sales shall be subject to price competition at the Exchange whereby the direct sale price shall serve as the reserve price.

(3) Where the coffee referred to in subsection (2) fetches a higher price at the Exchange than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the Exchange.

(5) A buyer, a roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at an exchange in accordance with this Act and any other laws governing trade in an exchange.

(6) A holder of a miller's marketing licence commits an offence if he or she participates by himself or herself or by his or her agent in the buying of coffee.

The amendment substantially retains what is contained in the clause, but seeks to enrich it by providing more details on direct coffee sales on the Coffee Exchange. The amendment proposes deletion of Clause 46(1)(c), which provides for such other method as the Cabinet Secretary may prescribe.

(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 46 as amended agreed to)

(Clause 47 agreed to)

Clause 48

The Temporary Deputy Speaker (Hon. Soipan Tuya): The Chairman.

Hon. Silas Tiren (Moiben, JP): I beg to move:

THAT, the Bill be amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

Application as coffee exchange.
Cap. 485A.

48. (1) A person shall not carry on the business of a coffee exchange unless the person has applied for approval and has been licensed as a Coffee Exchange by the Authority in accordance with the Capital Markets Act.

No. 17 of 2015.

(2) The Exchange shall be a body corporate, registered under the Companies Act.

(3) The functions of the Exchange shall be to—

(a) manage the auction floor, the central sample room and the information registry;

(b) maintain records relating to coffee sales, coffee samples and sweepings;

(c) avail sales catalogues to interested parties in accordance with the Capital Markets Act; and

(d) carry out such other function as the Cabinet Secretary for the time being responsible for matters relating to finance may prescribe.

(4) The funds of the Exchange shall consist of—

(a) auction levy;

(b) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;

(c) government grants and donations made to the Exchange;

(d) any interest from fixed deposits;

(e) monies from a source approved by the Exchange; and

(f) sample fee.

The proposed amendment clarifies that the Cabinet Secretary responsible for matters relating to finance will make regulations governing operations of the Exchange. Further, the proposed deletion of Clause 4 arose from comments received from stakeholders opposed to the direct settlement system. Lastly, the amendment seeks to provide for sources of funds for the Exchange.

Thank you, Hon. Temporary Deputy 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 48 as amended agreed to)

(Clauses 49, 50, 51, 52 and 53 agreed to)

Clause 54

The Temporary Deputy Speaker (Hon. Soipan Tuya): The Chairman.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman.

I beg to move:

THAT, Clause 54 of the Bill be amended by—

(a) numbering the existing provision as sub-clause (1);

(b) inserting the following sub-clauses immediately after sub-clause (1)—

(2) In this section, “anti-competitive conduct” means any act, conduct, practice or behaviour by the Exchange organiser or any other licensee operating at the Exchange, individually or in concert with others that directly or indirectly impedes, frustrates, undermines or reduces competition at the Exchange.

(3) For the purpose of subsection (2), “anti-competitive conduct” includes but is not limited to margin squeeze, market sharing, transfer pricing, abuse of dominance, preferential contracts that give advantageous terms to affiliates and partners relative to competitors, imposition of unfair purchase or selling conditions or other, predatory practices, application of dissimilar conditions to equivalent transactions with other trading parties and other conduct that undermine competitive operations of the Exchange.

(4) The Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of this section.”

The clause provides for prohibition against anti-competitive practice. The proposed amendment seeks to enrich the provision by defining what constitutes anti-competitive conduct. It also provides that the Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for implementation of the section.

(Question of the amendment proposed)

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

(Clause 54 as amended agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok.

Hon. Silas Tiren (Moiben, JP): He is interrupting me. He needs to be dealt with.

(Laughter)

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairman, when you say that we should vote either Ayes or Noe, he is not saying “Ayes”. He is the one who is moving the amendments. I am the only one who is saying it.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok is very useful to you, Hon. Chairman. Do not fight him.

(Laughter)

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): He is being good to you.

(Clauses 55, 56 and 57 agreed to)

Clause 58

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. Hon. Sankok is a problem in this Bill. I hope he is supporting it now. I thank him. He should continue supporting this important Bill.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 58 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f) respectively.

The proposed amendment seeks to provide for money which is appropriated by the National Assembly as one of the sources of funds for the board.

(Question of the amendment proposed)

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

(Clause 58 as amended agreed to)

(Clauses 59, 60, 61 and 62 agreed)

Clause 63

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 63 and substituting therefor the following new Clause—

Financial Year of the Board.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

63. The financial year of the Board shall be the period of twelve months ending on the 30th June of every year. The proposed amendment seeks to clarify the financial year of the board.

(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 63 as amended agreed to)

(Clauses 64, 65 and 66 agreed to)

Clause 67

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 67 of the Bill be amended—

(a) in sub-clause (1)

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

“(f) one person nominated by the umbrella body of estate coffee growers;”

(b) by deleting sub-clause (3) and substituting therefor the following new sub clause—

“(3) A person is qualified for appointment as Chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognised in Kenya.”

Clause 67 of the Bill provides the membership of the Coffee Research Institute. The proposed amendment to sub clause 1(f) provides clarity on the nominating body. Further, the proposed amendment to sub clause (3) enhances the qualification for appointment of a person as the Chairperson of the Board from a degree to a master’s degree. This will enhance the effectiveness of the Institute.

Thank you, Hon. Temporary Deputy 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 67 as amended agreed to)

(Clauses 68 and 69 agreed to)

Clause 70

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 70 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (e)—

“(ea) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;”

The proposed amendment arose during consideration of Clause 38(1)(d) of the Bill, which provides for one of the functions of the Coffee Research Institute as to issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export.

It rightly places the function in Clause 70, which provides comprehensively the function of the Institute.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Do you have something to say, Hon. Sankok?

Hon. David ole Sankok (Nominated, JP): Yes, Hon. Temporary Deputy Chairman. I support this amendment which is very important. A Coffee Research Institute should produce coffee seeds and seedlings for multiplication not only for our local market, but also for the international market.

I support this amendment.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Nangabo.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Hon. Temporary Deputy Chairman, I concur with this amendment because it is straightforward.

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

(Clause 70 as amended agreed to)

(Clauses 71, 72 and 73 agreed to)

Clause 74

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 74 of the Bill be amended in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds a master’s degree in agriculture or crops science from a university recognised in Kenya.”

Clause 74(3) provides the qualification of a person to be appointed as the Chief Executive Officer (CEO) of the Coffee Research Institute. The proposed amendment enhances the education qualification from a degree to a Master's Degree in Agriculture or Crops Science from a university which is recognised in Kenya. This will enhance the Institute's effectiveness.

(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 74 as amended agreed to)

(Clauses 75, 76, 77, 78 and 79 agreed to)

Clause 80

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 80 of the Bill be amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

The proposed amendment provides money which is appropriated by the National Assembly as one of the sources of funds for the Coffee Research Institute.

(Question of the amendment proposed)

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

(Clause 80 as amended agreed to)

(Clauses 81, 82 and 83 agreed to)

Clause 84

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 84 of the Bill be amended in sub-clause (1) by deleting paragraph

(a) and substituting therefor the following new paragraph—

“(a) a statement showing in detail the assets and liabilities of the Institute;”

The justification is, the financial Statements are prepared in accordance with the international public sector accounting standards. The term balance sheet is no longer used in accounting, hence the proposed amendment.

(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 84 as amended agreed to)

Clause 85

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 85 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “balance sheet and such other statements of accounts” and substituting therefor the words “statements of account”;
- (b) in sub-clause (2) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;
- (c) in sub-clause (3) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;

The justification is, financial statements are prepared in accordance with international public sector accounting standards. The term balance sheet is no longer in use in accounting, hence the proposed amendment. 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 85 as amended agreed to)

(Clauses 86, 87, 88, 89, 90 and 91 agreed to)

Clause 92

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Bill be amended by deleting Clause 92 and substituting the following new Clause—

General
penalty.

92. (1) A person who commits an offence under this Act for which no penalty is provided shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or a fine not exceeding twice the value of the coffee or coffee products or, to imprisonment for a term not exceeding six months, or to both.

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person's licence.

The justification is, in the Bill, the proposed general penalty had provided for offenses for both the individual and the body corporate. Further, penalty was not punitive. The proposed amendment has provided for a higher penalty for deterrence and proposes to provide for offenses relating to the body corporate in a separate clause proposed in New Clause 92 A.

Thank you, Hon. Temporary Deputy Chair.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chair, he has said, Clause 92.

The Temporary Deputy Chairman (Hon. Christopher Omulele): He mentioned Clause 92 A, but we are dealing with Clause 92. Clause 92 A is a New Clause which we shall deal with.

Hon. David ole Sankok (Nominated, JP): Even though I was about to leave. I am very attentive.

The Temporary Deputy Chairman (Hon. Christopher Omulele): So, just deal with Clause 92 only. Hon. Rahim, Member for North Imenti, do you wish to say something to this?

Hon. Rahim Dawood (North Imenti, JP): Yes, Hon. Temporary Deputy Chair. I want to know the justification of the Chairman increasing the fine from Kshs 20,000 to Kshs 500,000. What is the justification of such a big increase from what is in the Bill and what he is proposing?

Hon. Silas Tiren (Moiben, JP): I had clearly explained, for it to be more punitive. Maybe you were not concentrating. I said in the justification of the Bill be proposed in the general penalty had both provided for offenses by the individual and the body corporate.

Further, the penalty was not punitive. It is very clear. The proposed amendment has provided for a higher penalty for deterrence and proposes to provide for offenses related to the body corporate in a separate clause proposed in the New Clause 92 A. I think it was not punitive enough.

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 92 as amended agreed to)

(Clause 93 agreed to)

Clause 94

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting Clause 94 and substituting therefor the following new Part—

PART XIA- PROVISIONS ON DELEGATED LEGISLATION

Regulations. **94.** (1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—
prescribing anything that may be prescribed under this Act; and
generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations to provide for—
the regulation of the processing, importation and exportation of coffee and coffee products;
the forms to be used in the application for registration, licensing, permits, contracts and related activities;
the process of application for registration, licensing and related activities;
any fee or levy which may be charged for anything done under this Act;
the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
the process of nomination of members to the Board
the conditions for the issuance of certificates, licenses and permits under this Act;
the trade, storage, bulking, packing and roasting of coffee;
the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;

value addition of coffee exports and imports;
the grading and classification of coffee;
the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers; and
anything required to be prescribed under this Act;

(3) For the purposes of Article 94(6) of the Constitution—

Cap. 2
No. 23 of 2013

- (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
- (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

The justification is, the proposed amendment seeks to align the provision of Standing Order No. 118 of the National Assembly Standing Orders, which requires the provision of delegate powers be in a separate and distinct part of the Bill under the title provisions on delegate powers.

It further includes value addition of coffee exports and imports as one of the aspects to be provided for in the regulations.

Thank you, Hon. Temporary Deputy Chair.

(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 94 as amended agreed to)

(Clause 95 agreed to)

Clause 96

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Bill be amended by deleting Clause 96 and substituting therefor the following new Clause—

Transfer of assets and liabilities. 96. 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 and the Coffee Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Institute, respectively, subject to any existing interests, liabilities, charges, obligations and trusts affecting that property.

The justification is, the proposed amendment seeks to provide clarity on the transfer of assets and liabilities.

Thank you, Hon. Temporary Deputy Chair.

(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 96 as amended agreed to)

(Clauses 97, 98, 99, 100 and 101 agreed to)

Clause 102

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Bill be amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential
amendments.

No. 16 of 2013.

102. The Crops Act is amended —

- (a) in section 14(1) by deleting paragraph (a); and
- (b) in Part 1 of the First Schedule by deleting the expression
“Coffee.....Coffee a
spp.”

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 102—

Consequential
amendments.
No. 12 of 1997.

102A. The Co-operative Societies Act is amended —

- (a) in section 43—
 - (i) by numbering the existing provision as subsection (1);
 - (ii) by inserting the following new subsection—
“(2) Despite subsection (1), a coffee cooperative society shall not lend to farmers on interest.”
- (b) In section 44—
 - (i) by numbering the existing provision as subsection (1);
 - (ii) by inserting the following new subsections—
“(2) The interest rate on borrowing by factory management against growers’ assets held in trust by coffee co-operative societies shall be capped at five per cent per annum.

(3) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.”

The justification is, the proposed amendment seeks to provide clarity on the proposed amendments specifically under subclause 1(b).

(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 102 as amended agreed to)

New Clause 6A

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Speaker, I beg to move for the Second Time that Clause 6 of the Bill be amended by inserting the following new Paragraphs immediately after paragraph as it is on the order paper.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Chair, in this part, you will be calling for Second Reading.

For example, that the New Clause 6A be now read a Second Time, then you give your reasons for that.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 6—

Authority to raise
or borrow
money.

6A. The Cabinet Secretary may, after consultation with the Cabinet Secretary responsible for finance, authorize the Board to raise or borrow such sums of money to finance its operations as it may think fit and the Board may secure the repayment of such sums.

The justification is that the proposed amendment seeks to ensure the Boards’ operations cannot be hindered for lack of funds. Further, the involvement of both the Cabinet Secretary for the time being responsible for the Finance and the Cabinet Secretary for the time being responsible for Agriculture provide necessary safeguards in the authorisation to raise or borrow money.

Thank you.

(Question of the new clause proposed)

(New clause read the First Time)

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

(Question, that the new clause be read

a Second Time, put and agreed to)

(The new clause was read a Second Time)

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

New Clause 17A

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 17—

Corporation Secretary.

17A. (1) There shall be a Corporation Secretary who shall be the Secretary to the Board.

(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Board.

The justification is that the proposed amendment seeks to provide for Cooperation Secretary who will handle the boards' operations. Further to the Mwongozo Code of Governance provides for it.

Thank you.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Hon. Dawood Rahim, Member for North Imenti.

Hon. Dawood Rahim (North Imenti, JP): Sorry, Hon. Temporary Deputy Chairman. I wanted to comment on the other one but I did not catch your eye.

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

(The new clause was read a Second Time)

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

New Clause 26A

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

Licenses
issued by
county
governments

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 26—

26A. (1) The following licences shall be issued by the respective county government—

(a) pulping station licence authorizing the holder to operate a pulping station and may undertake hulling;

(b) coffee nursery certificate;

(c) warehouse licence;

(d) parchment permit from the county of origin; and

(e) clean coffee movement permit from the county of origin.

(2) A person intending to carry out any of the activities listed in Section 26A shall apply for and obtain a licence or permit from the respective county government in which the operation is undertaken.

(3) An applicant for a licence or permit under subsection (1) shall submit an application in the prescribed form together with the prescribed fees to the respective county executive committee member for consideration.

(4) The county executive committee member shall consider the application and may issue to the applicant a licence in accordance with the respective county legislation.

The justification is that the proposed new Clause 26A, New Clause 26B, new Clause 26C, New Clause 26D and New Clause 26E seek to provide clearly for the licencing issue by county governments, registration by the Board which was missing in the Bill. Registration by the county governments, registration by the cooperative societies which was missing in the Bill. Prohibition of certain acts without a licence. The proposed new clauses envisage the regulatory part of the Bill.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 26B

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after New Clause 26A

Registration

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

by the Board.

26B. (1) The Board shall register warehouse men, coffee buyers, commercial coffee millers, grower millers, independent cupping laboratories, coffee roasters, coffee liqueurs, processed coffee importers, clean coffee importers, marketing agents, coffee bags suppliers, and certification companies.

(2) The Board shall issue a certificate of registration upon registration of the applicants.

(3) The Board shall not charge any fee for the registration of an applicant under subsection (1).

(4) Registration of the players under this section shall only be done once.

(5) The Board shall maintain a register of all registered players and share the register with the respective county government.

(6) All registered players shall complete and submit to the Board annual returns as shall be specified in regulations under this Act.

(7) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

I had combined the justification for A, B, C, D and E. I do not know whether I should read it again.

The Temporary Deputy Chairman (Hon. Christopher Omulele): What you need to do is to say that you are moving it for Second Reading of New Clause 26B and that you are provided the reason.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): I see interest from the Hon. Dawood.

Hon. Rahim Dawood (Imenti North, JP): Hon. Temporary Deputy Chairman, I draw the attention of the Chair of the Committee to where it says that, “the Board shall register warehousemen”. It should be gender sensitive as well. I do not know if the Chair of the Committee will further amend it to read, “warehousemen or warehousewomen”.

It is in new Clause 26B(i). “the Board shall register warehouse man, coffee buyers,” It is the first line. That is what you have moved, I believe.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair, do you have a comment to that?

Hon. Gabriel Kago (Githunguri, JP): Thank you, Hon. Chair. I agree with the Hon. Member for Imenti North that the warehousemen should not be the term to use. We have warehouse person.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman, I have got it. It should be, “warehouse person” and not “warehousemen”. It should be open to both genders. So, we should amend it to cover both.

I further amend it and it has been supported by a Member.

The Temporary Deputy Chairman (Hon. Christopher Omulele): What do you want it to be?

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I further amend so that it reads, “the Board shall register warehouse persons.”

The Temporary Deputy Chairman (Hon. Christopher Omulele): So, you have moved it in an amended form.

Hon. Silas Tiren (Moiben, JP): Yes. I have moved it in an amended form.

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

*(The new clause was read a Second Time)
(Question, that the new clause be
added to the Bill, put and agreed to)*

New Clause 26C

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after New Clause 26B

Registration
by the county
government.

26C. (1) A person shall not carry out the business of a pulping station, coffee nursery operator, parchment movement from one county to another, warehouse or clean coffee movement from one county to another unless such person is registered by the respective county government in which the business is undertaken.

(2) A county government shall not charge any fees for the registration of an applicant under subsection (1).

(3) Each county government shall keep and maintain the register under subsection (1) for statistical purposes.

(4) A register under subsection (3) shall include—

(a) the name of the pulping station operator, coffee nursery operator, warehouse, parchment mover or clean coffee mover;

(b) the location, size and parcel number of the land on which the business is located; and

(c) such other information as the Board may prescribe.

(5) Each county government shall submit to the Board a copy of the register under subsection (3).

The justification is as I had explained earlier.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 26D

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after New Clause 26C

Registration
by cooperative
societies.

26D. (1) A smallholder coffee grower shall have the freedom to register with the co-operative society, association or company to which he or she delivers coffee.

(2) The directors of a coffee co-operative shall serve for a maximum period of two three-year terms.

(3) In electing directors under this section, a co-operative society shall ensure that not more than two thirds of the members are of one gender and that nominees for the Board meet the requirements of Chapter Six of the Constitution.

No. 12 of
1997.

(4) Notwithstanding the provisions of any other law, every coffee factory may, by resolution of its members in the Annual General Meeting, apply for registration as a co-operative society under the Co-operatives Societies Act.

(5) Every producer co-operative society, association or company, coffee plantation and nursery operator shall register with the county government by supplying such particulars as shall be prescribed in Regulations made under this Act.

(6) Where a person starts growing coffee at any time after the commencement of this Act, such person shall, within six months register with—

(a) a co-operative society, association or company in accordance with subsection (1) if such a person is a small scale grower; or

(b) his or her respective county government in accordance with provisions of this Act if such a person is a plantation grower or a co-operative society.

(7) The co-operative society, association, company and the county government shall each maintain a register for the purpose of this section and shall record the particulars supplied in accordance with this section.

(8) The county government shall share the data captured in this section with the Board on an annual basis.

(9) Where a co-operative society, association, company or the county government has reasonable cause to believe that a person whose particulars are recorded has

ceased to be a grower, it may, after giving that person written notice by registered post of its intention to do so, remove the name of such person from the register.

(10) The register referred to in subsection (7) shall be proof that a person is a registered coffee grower and a co-operative society shall furnish the county government with particulars of all registered coffee growers in such manner as the county government may prescribe.

I had given the justification earlier. Thank you.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 26E

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after New Clause 26D

Prohibition
of certain acts
without a
licence.

26E. (1) No person shall buy, sell, mill, warehouse, export or otherwise deal in or transact any business in coffee unless he or she is a holder of a current licence issued by the licensing authority for that purpose.

(2) This section shall not apply to—

(a) any person who purchases coffee for consumption or for planting on his or her land;

(b) any grower who mills coffee produced by such grower.

(3) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(4) Where a person is convicted of an offence under this section, the court may order that any licence issued to such person be suspended for the subsequent coffee year or for such period as the Cabinet Secretary may, by Regulations, prescribe

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

(Question, that the new clause

be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

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

(New Clause 26E added to the Bill)

New Clause 35 (A)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you Hon. Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 35—

Surrender
of licence
or permit

35A. (1) The holder of a licence or permit which is revoked shall immediately surrender it to the Board.

(2) A licence or permit holder may at any time surrender the licence or permit to the Board and the licence or permit shall cease to have effect immediately.

The justification is that the proposed amendment seeks to provide for the circumstance under which the license or a permit may be altered, suspended or revoked. It further seeks to separate the aspects of surrender of license or permits to be provided for in the proposed New clause 35 (A).

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

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

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

(New Clause 35 (A) added to the Bill)

New Clause 42 (A)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

42A. The Board shall promote and register all coffees produced in Kenya in accordance with geographical or regional markers styled as ‘Authentic Mark of Origin.’ Coffee development.

Justification is that the proposed new clauses 42 (A)(B) (C) and (D) seeks to provide for branding and geographical indications in relation to coffee roles of the board and the Cabinet Secretary (CS) on coffee Development and the appointment of millers. This provision enriches the Bill but were missing in the Bill.

I thank you Hon. Deputy Chairman.

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

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

(The new clause was read a Second Time)

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

(New Clause 42 (A) added to the Bill)

New Clause 42 (B)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you Hon. Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

42B. (1) The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that the coffee farmers receive appropriate technologies, credit, farm inputs and marketing support.

(2) The Board shall conduct training programs aimed at strengthening the capacities of county officers in terms of knowledge and skills in coffee production, processing technologies and marketing for different types of coffee.

(3) The Board shall, in consultation with the relevant standards bodies, coffee stakeholders, county governments and research institutions, develop the Kenya Coffee Production Standards and formulate a binding Code of Good Coffee Practice.

(4) Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.

The Justification is as I had read earlier on.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us have Hon. Dawood.

Hon. Rahim Dawood (North Imenti, JP): Thank you Hon. Deputy Chairman. I want to draw the attention to the Chairman of the Committee on Clause 42 (B) 4 where it states thus:

“Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.”

It is not very clear if this agreement will be in tandem with the Coffee Bill itself and whatever regulations there are. So, would it be possible to include “so long as the farmer abides by the regulations?”

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Chairman, do you have anything to say to that.

Hon. Silas Tiren (Moiben, JP): I did not get the question.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Dawood you may repeat it.

Hon. Rahim Dawood (North Imenti, JP): Okay. Hon. Chairman, where it states:

“Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.”

That agreement should be in line with the regulations in place because a farmer can enter into any agreement and the board will be bound by that agreement because, it is possible that such an agreement may not be according to the regulations.

So, the board will be bound by that agreement. That is what I understand unless I am corrected. I thank you Hon. Deputy Chairman

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Member for that point. However, earlier we had also said that when you are doing an agreement, it should be in tandem with what is in the regulations and also with the board so that we do not have people just doing agreements on their own. We had said it has to be approved by the board so that they follow procedure and it becomes a standardised way of doing things so that we do not have people coming up with new ideas.

It is provided for in the Bill. I thank you.

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

(The new clause was read a Second Time)

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

(New Clause 42 (B) added to the Bill)

New Clause 46 (C)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you Hon. Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

42 (C) (1) The primary processing of coffee shall be carried out at a pulping station or by a grower's co-operative society or other association of growers under a pulping station licence.

(2) The pulping station license may include authority to undertake hulling of own parchment or buni.

(3) The huller shall be registered with the county government and such registration information shared with the Board.

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

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

(The new clause was read a Second Time)

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

(New Clause 46 C added to the Bill)

New Clause 46 (D)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you Hon. Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 42—

42D. (1) Coffee milling shall only be conducted at premises that are specified under the licence issued by the Board.

(2) Every coffee factory shall, by resolution of its members in Annual General Meeting, designate a registered miller for its parchment coffee.

(3) The manager of every coffee factory shall, within two months of the end of the crop year, call a meeting of out-growers to choose the registered miller referred to in subsection (2) from amongst at least three millers invited to make representations to the out-growers.

(4) The county executive committee member responsible for coffee shall attend or designate a representative to attend the meeting referred to subsection (3).

(5) Each registered miller participating in the meeting to choose a miller shall make all disclosures necessary to enable farmers make an informed decision.

(6) A miller shall be a bailee of all parchment received for milling and shall be responsible for any loss or damage to the coffee in his or her custody.

(7) The milling losses allowable under this section shall be capped at nineteen percent of coffee milled.

(8) The Cabinet Secretary may, by Regulations and upon submission of empirical evidence, vary the milling losses allowable under subsection (7).

(9) Every resolution made under this section shall, within fourteen days, be filed with the Board and copied to the relevant department of the county government and to the Commissioner of Co-operatives.

(10) Any person involved in the management of a coffee factory who contravenes the provisions of this section commits an offence.

(11) For the better carrying out of the provisions of this section, the Cabinet Secretary may by regulations, prescribe the manner for the appointment and remuneration of millers and for composition and attendance at the annual general meetings at which such millers are appointed.

I thank you Hon. Deputy Chairman.

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Dawood, you have an interest in this?

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Deputy Chairman. Clause 42 (D) (7) States thus:

“The milling losses allowable under this section shall be capped at nineteen percent of coffee milled.”

Hon. Deputy Chairman, 19 per cent of the coffee milled is a big amount. Can we have the justification as to how they came up with that 19 per cent. This is a huge amount. In the normal industry practice, it will be between 5 and 10 per cent, but not more than that.

However, if we can get justification from the Committee chairman, I will consider that.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Deputy Chairman, I support this Clause 42 (D) especially when it comes to (2) which states thus:

“Every coffee factory shall, by resolution of its members in Annual General Meeting, designate a registered miller for its parchment coffee.”

So, this one will give farmers a leeway to choose which miller they will use, one that will give them the best services and that is very nice.

However, when we go to what Hon. Dawood has said on losses, these millers will be taking all the profits. So, why should they share their losses with farmers and yet they cannot share their profits with farmers? We have to share the losses because these are milling losses and not planting losses. Even farmers have problems with planting losses, harvesting losses, losses when wild animals attack their farms, and drought losses. But we do not share those losses with millers. I do not need this there. If it is there, to be fair to farmers, it should not be more than five per cent.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Silas Tiren (Moiben, JP): It is something we deliberated at length. You need to really appreciate how coffee processing is done. It is something we deliberated on seriously because the process of dealing with coffee is very long. There are percentages that are removed at each process. That is why we zeroed in at that. It is not something we came up with. We visited some cooperatives and it was arrived at that. It is also good to really appreciate what was done to arrive at that. We as a Committee really deliberated on that area. We can still do consultations. I believe we did a good job on that part. Thank you.

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

(The new clause was read a Second Time)

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

(New Clause 46 (D) added to the Bill)

New Clause 54A

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover, you can give justification as you are moving. That is what we have been doing for all the sections. But, we will be calling them one at a time and then you can indicate that you have already given your justification. You have given justification for all of them, but we shall be moving them one by one. Then, you can say “as I have already given justification”.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 54—

Classification of
coffee.

54A. (1) Where a miller draws a sample of coffee for the purpose of grading the coffee, the miller shall within seven days of such grading notify the grower to whom the coffee belongs of the classification of the coffee.

(2) Any grower who is aggrieved by classification of his or her coffee under subsection (1) may, within fourteen days of the notification, appeal against such classification to the Board.

The justification is that the proposed New Clause 54A provides for matters that have not been provided for in the Bill. Clause 54A seeks to provide for the procedure and appeals on the classification of coffee, the role of the Cabinet Secretary and the board in the promotion of coffee, prohibition on coffee millers and marketing agents lending to farmers with interest. It safeguards on loans against growers’ assets.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

(New Clause 54A added to the Bill)

New Clause 54B

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after New Clause 54A—

Promotion of
coffee.

54B. (1) The Cabinet Secretary shall in accordance with regulations made under this Act and in consultation with the Board, put in place programmes for the establishment of special economic zones in the coffee sub-sector.

(2) The Board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee.

(3) A county government in the coffee growing areas may, separately or in unison with the Board, support coffee growers' participation in local and international coffee promotion and marketing events.

The justification is as I had read earlier.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): I support this one. It is very important, especially when you come to New Clause 54B (3) which says that a county government in the coffee growing areas may, separately or in unison with the board, support coffee growers' participation in local and international coffee promotion and marketing events. This will empower our farmers to even search for markets outside the country and know what is happening internationally. This is, therefore, for them to incorporate, it in whatever they are doing in the production of coffee. This is a very good amendment. We have to support it.

Even New Clause 54B(2) which says the board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee is very important. We support.

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

(The new clause was read a Second Time)

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

(New Clause 54B added to the Bill)

New Clause 54C

Hon. Silas Tiren (Moiben, JP): I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after New Clause 54B—

No lending by millers
and marketing agents.

54C. (1) A coffee miller and a marketing agent shall not lend to farmers on interest.

(2) A miller or marketing agent who contravenes the provision of subsection (1) commits an offence.

(3) Any miller or marketing agent convicted of an offence under subsection (2) shall have his or her licence revoked or suspended for such duration as the Cabinet Secretary may, by regulations, determine.

The justification is as I had read earlier.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Hon. Dawood.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Temporary Deputy Chairman. The New Clause 54C(1) which says:

“A coffee miller and a marketing agent shall not lend to farmers on interest”

should be removed. It should say that they shall lend to farmers on interest-free terms.

So, they should not lend on interest at all.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair, what do you have to say to that?

Hon. Silas Tiren (Moiben, JP): What we had actually suggested, if I may go back to when we discussed in Committee, is that for them to lend to farmers, it has to be approved by the board. They should not be allowed to lend to farmers unless it has been approved and minuted by an AGM. They should not lend directly. It should be from an AGM.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Sankok, do you want to add something to this?

(Hon. David ole Sankok nodded in the negative)

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

(The new clause was read a Second Time)

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

(New Clause 54C added to the Bill)

New Clause 54D

Hon. Silas Tiren (Moiben, JP): I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after New Clause 54C—

Loans against
growers'
assets.

54D. (1) The interest rate on borrowing by factory management against growers' assets held in trust by the coffee factories and coffee co-operative societies shall be capped at five per cent per annum.

(2) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.

(3) Any factory or society that contravenes the provisions of subsection (1) commits an offence and any loans borrowed in contravention of this provision shall be statutorily converted into personal loans of the officials of the offending factory or society.

(4) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from banks or any government established funds against their deliveries of cherry, parchment and clean coffee.

The justification is as I had read earlier.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

(New Clause 54D added to the Bill)

New Clause 58A

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Bill be amended by inserting the following new clause immediately after

Clause 58—

Coffee Stabilization
Fund.

58A. (1) There is established a Fund to be known as the Coffee Stabilization Fund which shall be managed by the Board.

(2) The Fund shall consist of—
monies appropriated by the National Assembly;
monies from any source approved by the Board;
grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—
income and price stabilization; and
any investments that further the objective of stabilizing the prices paid to farmers.

The justification is that the proposed New Clause 58A seeks to provide for the Coffee Stabilisation Fund. The Fund will help coffee farmers in income and price stabilisation, especially during years when coffee prices are plummeted.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

(New Clause 54D added to the Bill)

New Clause 87A

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 87—

Conflict of
laws.

87A. If any conflict arises between the provisions of this Act and any other Act with respect to the regulation of coffee, the provisions of this Act shall prevail.

The justification is that the proposed New Clause 87A provides clarity in the case there is conflict between the provisions of the Act and any other Act.
Thank you.

(Question of the New Clause proposed)

(New Clause read the First Time)

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

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New Clause 87A added to the Bill)

New Clause 91A

The Temporary Deputy Chairman (Hon. Christopher Omulele): Mover.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 91—

Offences and penalties.

91A. (1) A person commits an offence if the person—

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act.

(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or canceled for such a period as the Board may decide.

The justifications are that the Bill had not met the provisions for a number of important offences which would have the effect of enabling the Board run effectively. The amendment, therefore, provides for these offences.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the New Clause proposed)

(Hon. Rahim Dawood rose on a point of order)

Hon. Rahim Dawood (North Imenti, JP): Hon. Temporary Deputy Chairman, it should be New Clause 92A and not New Clause 91. New Clause 92A is the one talking about the penalties. New Clause 91A is dissemination of market information. So, I do not know if it was wrongly put there.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair, this is what you will do. Because the reasons you gave are actually for New Clause 92A which is good enough, give us the justification for New Clause 91A so that we make progress.

You have done well.

(Loud consultations)

Hon. Silas Tiren (Moiben, JP): Let me just repeat it. Maybe, I made a mistake. In New Clause 91A, the Bill had not made a provision for a number of important offences which would have been the effect---

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair, you are absolutely right. It is Hon. Dawood who is looking at the offences. New Clause 92A is penalty, but New Clause 91A is providing for the offence.

(New Clause read the First Time)

*(Question, that the New Clause
be read a Second Time, proposed)*

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

(The New Clause was read a Second Time)

*(Question, that the New Clause be added
to the Bill, put and agreed to)*

(New Clause 91A added to the Bill)

New Clause 92A

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 92 and substituting the following new Clause—

General
penalty.

92. (1) A person who commits an offence under this Act for which no penalty is provided shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or a fine not exceeding twice the value of the coffee or coffee products or, to imprisonment for a term not exceeding six months, or to both.

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person's licence.

The justifications for New Clause 92A is that it provides for offences relating to the body corporates. Clause 92A of the Bill provides for it but the amendment seeks to provide for it separately.

Thank you.

(New Clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

(New Clause 92A added to the Bill)

New clause 102A

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 102—

Consequential amendments.
No. 12 of 1997.

102A. The Co-operative Societies Act is amended —

(a) in section 43—

(i) by numbering the existing provision as subsection (1);

(ii) by inserting the following new subsection—

(2) Despite subsection (1), a coffee cooperative society shall not lend to farmers on interest.”

(b) in section 44—

(i) by numbering the existing provision as subsection (1);

(ii) by inserting the following new subsections—

(2) The interest rate on borrowing by factory management against growers' assets held in trust by coffee co-operative societies shall be capped at five per cent per annum.

(3) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect."

(The new clause was read the First Time)

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move that the new clause 102A be read a Second Time. The proposed consequential amendments to the Cooperative Societies Act seek to align the Act to the Bill's proposed new clauses 54C and 54D.

Thank you.

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

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

(New clause 102A added to the Bill)

(First Schedule agreed to)

Second Schedule

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairman, move the amendment.

Hon. Silas Tiren (Moiben, JP): I beg to move:

THAT, the Bill be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE (s. 11, s. 23, s. 26, s. 26A, s.27, s. 28, s. 32, s.67)

LICENCE, PERMIT OR CERTIFICATE

Type of Licence/Permit or Certificate	Issuing Authority
Coffee buyer's licence	Board
Independent cupping laboratory licence	Board
Warehouseman's licence	Board
Coffee liqueur's licence	Board
Processed coffee import permit	Board
Clean coffee movement permit for exports	Board
Commercial coffee miller's licence	Board
Coffee roaster's licence	Board
Grower miller's licence	Board

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Marketing agent licence	Board
Coffee nursery certificate	County government
Warehouse licence	County government
Pulping station licence	County government
Parchment permit from the county of origin	County government
Clean coffee movement permit from the county of origin	County government
Coffee exchange licence	Capital Markets Authority
Broker's licence	Capital Markets Authority

(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)

(Second Schedule as amended agreed to)

Clause 2

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairman, you have a proposed amendment to the clause.

Hon. Silas Tiren (Moiben, JP): I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) by inserting the following definitions in their proper alphabetical sequence—

“auction levy” means such fee per sixty-kilogram bag of coffee sold at the Exchange as shall be determined by the Cabinet Secretary responsible for matters relating to finance payable by coffee growers to the Exchange;

No. 17 of 1989.

“Authority” means the Capital Markets Authority established by the Capital Markets Authority Act;

“buni” means coffee dried in the fruit or cherry but does not include hulled buni, also referred to as clean coffee, heavy buni or light buni;

“coffee plantation” means any large area of land or group of contiguous areas of land under the same management on which coffee is grown and produced for sale;

“co-operative society” means a co-operative society registered under the Co-operative Societies Act, Cap. 490;

“Fund” means the Coffee Stabilization Fund established under section 58A;

“grower miller” means a grower who mills own parchment or buni or its members' coffee and includes an individual farmer, co-operative society, union, association, estate or any other legal entity;

“large scale coffee grower” means a person cultivating coffee in a parcel of land above fifty acres;

“medium scale coffee grower” means a person cultivating coffee in a parcel of land of between ten and fifty acres;

“small scale coffee grower” means a grower cultivating coffee in a parcel of land of less than ten acres;

“secondary market” means a post-auction transaction of clean coffee between a licensed buyer or roaster and any other party for the purpose of local sale or export;

“secondary processing” means parchment de-husking, polishing, grading and packaging of clean coffee beans;

“smallholder” means a grower cultivating coffee in a small parcel or in small parcels of land and who does not possess his or her own pulping station;

(b) by deleting the definition “direct settlement system”;

(c) by amending the definition “estate” by deleting the word “five” appearing immediately after the words “not being less than” and substituting therefor the word “ten”

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

*(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 2 as amended agree to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, we have concluded consideration of the Bill. I now invite the mover to move reporting.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Coffee Bill (Senate Bill No. 22 of 2020) and its approval thereof with amendments.

Thank you.

(Question put and agreed to)

(The House resumed)

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

REPORT

THE COFFEE BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, order. The Leader of the Majority Party will help us with the process.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to report that the Committee of the Whole House has considered the Coffee Bill (Senate Bill No. 22 of 2020) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Tiren, Chairman of the Committee.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the House do agree with the Committee on the said report. I request Hon. Nangabo to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nangabo.

Hon. Silas Tiren (Moiben, JP): I also request Hon. Nangabo to second the Motion for agreement with the Report on the Committee of the whole House.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nangabo.

Hon. (Ms.) Janet Nangabo (Trans Nzoia (CWR), JP): Hon. Temporary Deputy Speaker, I second.

(Question proposed)

Hon. Members: Put the Question.

(Laughter)

The Temporary Deputy Speaker (Hon. Christopher Omulele): I would love to do that, but let us follow the procedure. I direct that the next steps in regard to this business will be undertaken, when the matter will be set down on the Order Paper again.

(Putting of the Question deferred)

I thank you Members for the diligence that you have shown in sitting in the Chamber at this difficult time. We have completed this task. I am grateful that we have been together in it.

Thank you very much.

ADJOURNMENT

Hon. Members, the time being 1.05 p.m., this House stands adjourned until today, Wednesday, 13th April 2022 at 2.30 p.m.

The House rose at 1.05 p.m.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*