

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 22<sup>nd</sup> November 2018

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Do we have the numbers? Let us start business. Where is the Leader of the Majority Party? He has some Papers to lay.

### PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. The staff of Parliament had hidden those Papers but I found them.

Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Sessional Paper No. 2 of 2018 on the National Ethics and Anti-Corruption Policy from the Office of the Attorney-General and the Department of Justice.

Draft Judicial Code of Conduct and Ethics and the Explanatory Memorandum - (pursuant to Section 47 (3) of the Judicial Service Act, 2011 and Sections 5A and 11(1) of the Statutory Instruments Act, 2013).

**Hon. Speaker:** Leader of the Majority Party, just before you lay them, there must be something wrong with the first one because it talks about the National Ethics and Anti-Corruption Policy from the Office of the Auditor-General and the Department of Justice. Is it the Auditor-General or the Attorney-General?

**Hon. Aden Duale** (Garissa Township, JP): The document reads the Office of the Attorney-General and the Department of Justice on the National Ethics and Anti-Corruption Policy. That is the Paper. It is the staff of Parliament who made a mistake when typing. Next time, they should not make me read something which is incorrect. That is why we need the Parliamentary Service Commission (PSC) Bill.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Labour and Social Welfare, Hon. Wario.

**Hon. Ali Wario** (Bura, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Labour and Social Welfare on:

The 44<sup>th</sup> ARLAC Governing Council Meeting for Ministers Responsible for Labour/Employment/Manpower Issues and High-Level Symposium on Social Dialogue and Tripartism held from 19<sup>th</sup> to 23<sup>rd</sup> February 2018 in Ezulwini, Switzerland; and

The Conference on the Labour Migration Crisis held at the Chatham House in London, United Kingdom from 15<sup>th</sup> to 20<sup>th</sup> October 2018.

**Hon. Speaker:** Once again, Hon. Wario, Ezulwini is in Swaziland not Switzerland.

**Hon. Ali Wario** (Bura, JP): The 44<sup>th</sup> ARLAC Governing Council Meeting for Ministers Responsible for Labour/Employment/Manpower Issues and High-Level Symposium on Social Dialogue and Tripartism held from 19<sup>th</sup> to 23<sup>rd</sup> February 2018 in Ezulwini, Swaziland.

**Hon. Speaker:** Exactly. Let us have the Chairperson of the Departmental Committee on Agriculture and Livestock, Hon. Adan Haji.

**Hon. Ali Adan** (Mandera South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Reports of the Departmental Committee on Agriculture and Livestock on –  
The Coffee Symposium held in Grand Island, Nebraska, USA from 16<sup>th</sup> to 18<sup>th</sup> April 2018;  
Exchange Programme Visit to Turkey from 23<sup>rd</sup> March to 1<sup>st</sup> April 2018; and,  
China International Tea Expo held in Hangzhou, China from 18<sup>th</sup> to 20<sup>th</sup> May 2018.

**Hon. Speaker:** Very well. Let us have the Chairperson of the Departmental Committee on Administration and National Security. This Report was brought to my office earlier today and I approved it. Neither the Chair nor the Vice-Chair of the Departmental Committee on Administration and National Security are present to table the Report. The Report is on a Bill.

Very well. Let us move to the next Order.

### NOTICES OF MOTION

**Hon. Speaker:** Let us have Hon. Haji.

#### REPORT ON THE CHINA INTERNATIONAL TEA EXPO

**Hon. Ali Adan** (Mandera South, JP): Hon. Speaker, I beg to give notices of the following Motions:

THAT, this House notes the Report of the Departmental Committee on Agriculture and Livestock on the China International Tea Expo held in Hangzhou, China from 18<sup>th</sup> to 20<sup>th</sup> May 2018, laid on the Table of the House on Thursday, 22<sup>nd</sup> November 2018.

#### REPORT ON THE EXCHANGE PROGRAMME VISIT TO TURKEY

THAT, this House notes the Report of the Departmental Committee on Agriculture and Livestock on the Exchange Programme Visit to Turkey from 23<sup>rd</sup> March to 1<sup>st</sup> April 2018, laid on the Table of the House on Thursday, 22<sup>nd</sup> November 2018.

#### REPORT ON THE COFFEE SYMPOSIUM HELD IN NEBRASKA

THAT, this House notes the Report of the Departmental Committee on Agriculture and Livestock on the Coffee Symposium held in Grand Island, Nebraska, USA from 16<sup>th</sup> to 18<sup>th</sup> April 2018, laid on the Table of the House on Thursday, 22<sup>nd</sup> November 2018.

**Hon. Speaker:** Let us move to the next Order.

### QUESTIONS

**Hon. Speaker:** The first Question is by the Member for Samburu East, Hon. Jackson Lekumontare.

*Question No.207/2018*

DANGER POSED BY LOW-LYING POWER CABLES ON THE WAMBA - SUSWA TRANSMISSION LINE

**Hon. Jackson Lekumontare** (Samburu East, KANU): Thank you, Hon. Speaker.

I beg to ask the Cabinet Secretary for Energy:

- a) Is the Cabinet Secretary aware that one, Sumoo Lemuna, a minor from Wamba East Ward in Samburu East had her hand amputated as a result of electric burns from unattended low-lying power cables on the Wamba – Suswa high transmission power line by the contractor?
- b) Could the Ministry consider waiving the hospital bills incurred by the family as a result of this accident and further compensate the family of the girl for the damages?
- c) What measures is the Ministry putting in place to ensure that the power line from Wamba to Suswa is properly fixed to mitigate recurrence of such incidences?

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. The Question is referred to the Departmental Committee on Energy to prioritise.

Let us have Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, the Question is more related to health and not energy. When you talk of the hospital bill and injuries suffered, it has more to do with industrial injuries that someone sustains. That could be better prosecuted by the Ministry of Health.

**Hon. Speaker:** On the contrary, the issues raised in this Question seem to suggest some element of negligence on the part of the Ministry that handles matters to do with power lines. It talks about low-lying cables. Just a minute, Hon. Pukose. As a result of that, somebody suffered an amputation. In case the Ministry is responsible for some form of negligence, then obviously the Member is right to imagine that they should be responsible for the costs incurred as a result of that amputation. If the Ministry of Health came and said that that was caused by the negligence of the Ministry of Energy or the Kenya Power and Lighting Company (KPLC) then the Member will be left without any serious response. If they came and admitted to negligence, the Member is right to seek compensation from the Ministry that caused that amputation. In any event, since it is you, Hon. Pukose, to whom the Question is referred, I am sure you fit very well in both dockets. Being the Vice-Chair of the Departmental Committee on Health and a surgeon, I am sure you will find it very interesting to assist in giving a response to part (b) of the Question.

The next Question is by the Member for West Mugirango, Hon. Vincent Kemosi Mogaka, who has requested that it be deferred on account of his absence from the Chamber with the leave of the Speaker.

*Question No.209/2018*

TARMACKED ROADS IN WEST MUGIRANGO CONSTITUENCY

*(Question deferred)*

The next Question is by the Member for Magarini, Hon. Michael Thoyah Kingi. I also saw a letter from him requesting deferment. I have also approved his absence. That Question is deferred.

*Question No.210/2018*

COMPENSATION FOR MR. JUMAA BAHATI SHANGA FOR INJURY CAUSED  
BY POLICE OFFICER AT ADU POLICE STATION

*(Question deferred)*

The next Question is by the Member for Homa Bay Town, Hon. Peter Kaluma. Is it that he does not desire to be present? I will adopt the practice suggested by the Leader of the Minority Party. We will come back to the Question when we are through with the rest. Thank you, Hon. John Mbadi. Your proposal makes a lot of sense.

The next Question is by the Member for Tharaka Nithi County, Beatrice Nkatha Nyaga.

*Question No.212/2018*

MEASURES TO SECURE INTEGRITY OF NATIONAL EXAMINATIONS

*Question No.224/2018*

REPAIR OF ROADS IN THARAKA NITHI COUNTY

**Hon. (Ms.) Beatrice Nyaga** (Tharaka Nithi CWR, JP): Thank you, Hon. Speaker.

I beg to ask Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

- a) Is the Cabinet Secretary aware that all the roads and bridges in Tharaka Nithi County are in a bad state, with huge potholes and bridges have no guard-rails which have led to over 20 accidents in the last one year?
- b) What measures is the Ministry putting in place to ensure that roads on the Tharaka Nithi Highway are repaired and maintained, including construction of guard-rails on the bridges?
- c) Could the Ministry consider compensating victims of road accidents that are as result of poor maintenance of roads and bridges in Tharaka Nithi County?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Transport, Public Works and Housing.

The next Question is by the Member for Kanduyi Constituency. Is he away on official duties? My attention has been drawn to the fact that Hon. Kaluma has written to me expressing his inability to be present in the House today. For that reason, his Question is deferred.

*Question No.212/2018*

MEASURES TO SECURE INTEGRITY OF NATIONAL EXAMINATIONS

*(Question deferred)*

Member for Kanduyi Constituency. I have no record of his inability to be present. The Question is dropped.

*Question No. 227/2018*

HIGH NUMBER OF REMANDEES IN REMAND PRISONS

*(Question dropped)*

There had been an indication that there is a Member who intended to make a statement but the Member sneaked in his statement for my approval just about the time when there are instructions that I cannot look at Statements and Papers. I am not just supposed to approve documents, I need to read and see what it is that a Member is saying. Therefore, when you sneak them after 2.00 p.m., bear in mind that I need time to look at it. So, Godfrey Osotsi, I will look at your Statement and see whether to approve or not to approve. But most likely if it is a personal statement, unless it is making very outrageous things that would offend the rules of the House, it would be approved. I have not looked at it. I have just been told that it has been brought to my office. You ought to have done this early in the morning because I have been in the office since 8.00 a.m. I would have looked at it. No problem, most likely you will make the statement on Tuesday.

Let us have the Leader of the Majority Party

**STATEMENT**

BUSINESS FOR THE WEEK COMMENCING 27<sup>TH</sup> TO 29<sup>TH</sup> NOVEMBER 2018

**Hon Aden Duale** (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order, I rise to give the following Statement on behalf of the House Business Committee that met on Tuesday this week at the rise of the House:

On Tuesday next week, the following Bills have been scheduled for Second Reading, if not concluded today: The Insurance (Amendment) Bill, 2018; the Capital Markets (Amendment), 2018; the SACCO Societies (Amendment) Bill, 2018; the Government Contracts Bill (No.9) of 2018; and the Assumption of Office of the County Governor Bill (Senate Bill No. 1 of 2018).

On Wednesday, this House will vote at the Second Reading for the Constitution of Kenya (Amendment) Bill (No.4) of 2018. I repeat that the Constitution of Kenya (Amendment) Bill (No.4) of 2018 will be voted on, on Wednesday afternoon. Members should note that in

accordance with Article 256(1) (d) of the Constitution, for a vote to take place on the Bill and to pass to the next stage, two-thirds of Members – 233 - are required to be present and vote for it.

Other business scheduled for consideration is debating on the following: Report on Constituency Digital Innovation Hubs, which is on the Order Paper. This is important for single Member constituency. The Report is asking the House to give discretion on whether you want to use funds to establish ICT innovation hubs or you want to use that money for other infrastructural development. There is also the Report of the Departmental Committee on Health on Kenyatta University Teaching and Referral Hospital Project; the Report of the Departmental Committee on Health on Ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products; Report of the Public Accounts Committee on the Audited Financial Statements for the National Government for Financial Year 2014/2015; and Report of the Select Committee on Delegated Legislation on the Judiciary Fund Regulations.

In accordance with the provisions of Standing Order No. 42A (5) relating to Questions, I wish to convey that, having consulted with the Chairperson of the Departmental Committee on Environment and Natural Resources, that of Energy, and that of Information, Communication and Innovation, the following Questions are scheduled for reply by specific Cabinet Secretaries:

The Cabinet Secretary for Water and Irrigation will appear before the Departmental Committee on Environment and Natural Resources on Tuesday, 27<sup>th</sup> November 2018 to answer Questions No. 056/2017 from Hon. Zuleikha Hassan, and Question No.073/2018 from Hon. Kipruto Moi.

The Cabinet Secretary for Energy will appear before the Committee on Energy on Tuesday, 27<sup>th</sup> November to answer Questions No. 072 from Kipruto Moi, Question No. 074 from Hon. (Dr.) Adan Keynan and Question No. 156 from Hon. Vincent Mogaka.

The Cabinet Secretary for Information, Communication and Technology will appear before the Committee on Information and Communication on Tuesday 7<sup>th</sup> November 2018 to answer Questions No.158 from Hon. Godfrey Osotsi.

Finally, the House Business Committee will reconvene on Tuesday, 27<sup>th</sup> November 2018 at the rise of the House to consider business for the remaining part of the week. I now wish to lay the Statement on the Table of the House and ask Members come Wednesday 28<sup>th</sup> in the afternoon session, the Question will be put for the Second Reading of the Constitution of Kenya (Amendment) (No.4) Bill on the gender principle at 2.30 p.m.

**Hon. Speaker:** Hon. Members, I approved a Question by private notice to be asked by the Member for Kipkelion East, Hon. Limo. I will give him the chance to ask.

### QUESTION BY PRIVATE NOTICE

#### PROCESS OF FORMULATING THE ANNUAL SCHOOL CALENDAR

**Hon. Joseph Limo** (Kipkelion East, JP): Thank you, Hon. Speaker. I rise to ask a private Question concerning opening and closing of schools in this country.

Could the Cabinet Secretary:

- a) Explain the process of formulating the annual school calendar which stipulates the opening and closing dates for each term for primary and secondary schools.
- b) State whether there is involvement of relevant stakeholders in the process; and
- c) Stipulate what measures the Ministry is taking to ensure that the calendar is more flexible to ensure that the opening and closing dates do not coincide with the

festive season thus creating predictability and enhancement of the social wellbeing of the parents and students and the general public.

For example, in the year 2018/2019, the end year is 31<sup>st</sup> December 2018 and the New Year is 1<sup>st</sup> January 2019 which falls on Monday and Tuesday respectively and the schools are scheduled to open on Wednesday, 2<sup>nd</sup> January 2019 which does not go well with the parents and students.

Thank you.

**Hon. Speaker:** Since these are matters that would be best explained, it is better that the House gets to know what exactly Hon. Limo has. I have approved that Question because I am aware the House is scheduled for recess on 6<sup>th</sup> of December so that the Cabinet Secretary can come and clarify those issues before the House breaks for the long recess. The Chair of the Departmental Committee on Education and Research is requested to prioritise it so that the matter can be clarified not just to the House, but to the entire country; whether there is confusion that Hon. Limo seems to suggest. Let us not answer the Question ourselves.

Member for Mwingi what is your intervention.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): I want to draw the attention of the House to Article 35 of the Constitution.

**Hon. Speaker:** You want to do what?

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): It is point of order.

**Hon. Speaker:** You are rising under what Standing Order?

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Regarding the Question that has been put. It is a point of order?

**Hon. Speaker:** What is your point of order? Do you have a complaint?

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Yes I do.

**Hon. Speaker:** What is the nature of your complaint?

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Cabinet Secretaries are not availing themselves to Members of Parliament. Today I attempted to see the Cabinet Secretary for Defence just to access information which my constituents have been asking me on recruitment...

**Hon. Speaker:** Member for Mwingi, you have said that it is about Questions, and then you went on to say that you wanted to access. That I do not deal with.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): I am now coming there.

**Hon. Speaker:** What is your concern? Are you saying that a Question has been answered or it has not been answered? When you say that you wanted to access... I do not know where the Cabinet Secretary is.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): It is actually a complaint; I wish you could listen to me.

**Hon. Speaker:** Not access, what is the question?

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Hon. Speaker, if only Cabinet Secretaries can avail themselves to Members of Parliament, some of these Questions which have been put here will reduce. Right now I will be forced to put a Question on the Floor of the House. I attempted to see the Cabinet Secretary and I was not able to see him. I was told that I had to go there with an appointment.

**Hon. Speaker:** That is not an outrageous statement. There is nothing out of order. You just want to wake up from your place of aboard and walk into some office.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Many of the Cabinet Secretaries are open to Members of Parliament.

**Hon. Speaker:** Who told you? The next thing you are going to say is that you want to walk into my office just because you were just hovering around.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Are you saying that I cannot walk to your office without an appointment even to say hi to you?

**Hon. Speaker:** If you are just coming to say hi, you can walk in.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Most of these Cabinet Secretaries, we do not have their mobile numbers and sometimes you do not know how to reach them.

**Hon. Speaker:** Hon. Mulyungi, let me just come to your rescue. Part of the reason why Members are encouraged to raise Questions... If the issue you have in mind is what you have alluded to, that is the kind of Question that I should approve as a Question by Private Notice because it is an urgent matter that needs to be responded immediately. They say, when the mountain could not go to Mohamed, Mohamed went to the Mountain. If that mountain does not want you to be there, then bring the mountain here. Hon. Mulyungi, if it is a matter that you think is urgent and the efforts to see a Cabinet Secretary is unsuccessful just raise the Question here. I am not going to be given rumours about other people's offices. This is a House of rules. You were talking about recruitment.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Yes, I wanted to know how many people will be recruited from my constituency because people were asking and I was not able to access the Cabinet Secretary. I was told I had to go with an appointment yet, I do not have his mobile number.

**Hon. Speaker:** I am not going to direct that people go to other people's offices without appointment. Member for Mwingi Central given his height is actually standing. He is not seated.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): I am talking this from experience. I am a former Permanent Secretary and my office was open.

**Hon. Speaker:** It does not matter; there is another former Principal Secretary here.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): I know, he was my colleague and my office was open for access to any information. So when I cannot reach a Cabinet Secretary or a Principal Secretary, I do not understand where we are going to. They have become like mountains which I cannot climb and I am too short, how will I reach there. I stand guided.

**Hon. Speaker:** Hon. Mulyungi, if the matter is as urgent as you just indicated, please draft a Question urgently and style it, "Question by Private Notice." It will be approved. In fact, the information will be useful to all the Members. Now it would have been useful only to you and your constituents. When you ask it, the Cabinet Secretary will give the number of recruits per constituency. Therefore, it is better that you were not able to see the Cabinet Secretary so that you can ask a Question which will benefit the other Members as well. I encourage you to draft the Question urgently. I believe it is something the rest of the Members may wish to also know before the House goes on recess.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): I stand guided. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members because the House will obviously rise possibly at 7.00 p.m or such other time as it may be possible; it is important that we carry with ourselves into the weekend the message from the Leader of the Majority Party that on Wednesday next week at 2.00 p.m, the House will be forced to put the Question for Second Reading of the Constitution of Kenya (Amendment) Bill, National Assembly Bill No.4. I have heard it being erroneously referred by other Members, more notably the Member for Nandi County as the "Duale Bill". That is the Bill. The Member for Nandi County understands it that way. It makes it easier for

her to remember. Everybody is reminded that Members will be voting on that day. Hon. Kamket, this is just information and a reminder. That on Wednesday, since I have seen there has been overwhelming support, please, show that support by your presence. I can see the Deputy Leader of the Majority Party is already taking a nap. Is it because it is after lunch?

*(Laughter)*

The Deputy Leader of the Majority Party, I am just reminding you that on Wednesday, at 2.30 p.m. be present because people will expect you to vote for the famous Bill, the Constitution of Kenya (Amendment) Bill No.4.

Next Order!

### PROCEDURAL MOTION

#### RESOLUTION TO HOLD SITTING ON A SPECIFIED THURSDAY MORNING

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order No.30(3)(b), this House resolves to hold a morning sitting on Thursday, 6<sup>th</sup> December 2018 commencing at 9.30 a.m. for the purpose of considering priority business.

This matter was canvassed and adopted by the House Business Committee (HBC), but last week, when moving the Procedural Motion, we forgot to include the last day of the calendar. We did a Motion for until 29<sup>th</sup> November, which is next Thursday. We want to sit and conclude all the pending businesses of the National Assembly. Nobody should accuse the HBC of making certain business either private or Government to lapse because of the end of the calendar year.

We felt that we should also add 6<sup>th</sup> December as the last day to have a morning sitting so that we dispose of all Bills both Government and private; all Motions, protocols, treaties and Reports of Committees. So that, this House can go on holiday recess knowing that our tray is empty.

As we do this, I hope the over 14 Bills from this House, which lapsed in the 11<sup>th</sup> Parliament and are now about to lapse in the Senate our colleagues in the Senate will do something about them between now and 6<sup>th</sup> December.

It will be very sad if we again begin a process of dealing with the Energy Bill, the Roads Bill, the Lands Index Bill, the Irrigation Bill, the Petroleum Bill, the Public Finance Management (Amendment) Bill and the County Pensions Scheme Bill, next year. I do not know what is happening. I think the people of Kenya were very wise when they established the Senate. They had very good reasons. One reason may be to delay and fail the process of legislation. I hope the Bills we are going to pass, in the remaining days, will also not get stuck in the Senate.

I beg to move and ask the Leader of the Minority Party, a Member of the HBC to second.

**Hon. Speaker:** Hon. John Mbadi.

**Hon. John Mbadi** (Suba East, ODM): Hon. Speaker, as I second there is really nothing much to add because we had spoken about this issue. We had agreed that we sit on Thursday mornings so that as we finish this Session, we would have completed a number of Bills. I also

want to pray and hope that the Senate will pass the Bills we have already sent to them. I also know that they are complaining that there are Bills which they referred to this House that have not been dealt with. The HBC is trying to prioritise and have them debated, so that, we have a seamless relationship between the National Assembly and the Senate in terms of Bills transaction.

As I finish, I want to add that Senate has been priding itself as the upper House, never mind that our Constitution did not make that clear. Now, we want to see this on Tuesday next week. This is because there is a Report going to the Senate on the Ruaraka land which this country has very serious interest in. The vibes in the corridors is that, that Report may be defeated.

We are watching if the Senate is likely to behave as a senior House. Now that we going for referendum, we may reconsider and make it the upper House, as it is everywhere. If they behave properly by making sure that such a Report is treated seriously and given the attention it deserves. We passed a Report here on the Ruaraka land. So the Senate should equally pass their Report. If they defeat it, then we will now know which House is serious in this country, in terms of oversight.

Thank you, Hon. Speaker.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Angwenyi, what is your point of order?

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): On a point of order, Hon. Speaker. Is it in order for a Member to lecture the Senate on what to do? In this House, are we going to be lecturing the Senate on what they should do? Will we have the reverse happening, where a Senator will lecturer us on what to do in this House?

**Hon. Speaker:** Order Members! Is that Member in the Chamber? Hon. Members, I find absolutely nothing wrong with a Member commenting. I have not heard of any lecture. But, also it may be desirable to appreciate the provisions of Article 95(4)(c) of the Constitution on exercising oversight over expenditure by the national Government. Where it resides, I think is a matter which nobody needs to find out where it is. The matter which Hon. John Mbadi is raising is to do with expenditure by a national Government ministry. This is neither here nor there. We leave everybody to do what they best know and how best they know to do it.

*(Question proposed)*

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

*(Question put and agreed to)*

**Hon. Speaker:** Yes, Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, before we go to Order No.9, I indulge you that we step down Order No.9 (ii). The reason is the amendments by Hon. Kimunya and Hon. Faith of Nyandarua have not been captured in the Order Paper. We saw this after the Order Paper was published and also there are some amendments which the Attorney-General wants to bring. I ask that Order be placed on Tuesday's Order Paper, so that the amendments of Hon. Kimunya and Hon. Faith Gitau can be dealt with.

Thank you, Hon. Speaker.

**Hon. Speaker:** For the reasons stated, I order that the business appearing as Order No. 9(ii) be stepped down. Therefore, it will not be considered when the House converts into Committee of the whole House. It is so ordered.

*(Consideration of the County Governments (Amendment) Bill at  
Committee of the House deferred)*

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

#### THE WAREHOUSE RECEIPT SYSTEM BILL

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order, Hon. Members! We are now in the Committee of the whole House to consider the Warehouse Receipt System Bill (Senate Bill No. 10 of 2017).

#### *Clause 3*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, there are two proposed amendments to this. There is an amendment by the Chair of the Committee and another proposed amendment by the Leader of the Majority Party. We will have the first take by the Chair.

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, clause 3 of the Bill be amended—

(a) by deleting sub clause (3) and substituting therefor the following new sub-clause—  
(3) The Council shall consist of—

(a) a Chairperson, who shall be appointed by the President;

(b) the Principal Secretary for the time being responsible for matters related to agriculture or a representative;

(c) the Principal Secretary for the time being responsible for matters related to finance or a representative;

(d) one person nominated by the Council of Governors;

(e) the Director-General of Agriculture and Food Authority or a representative;

(f) the chief executive officer of the Council who shall be an *ex-officio* member;

(g) one person nominated by Financial Sectors Regulators Forum;

(h) one person nominated by the Kenya Farmers Association;

- (i) one person nominated by Kenyan members of the Eastern Africa Grain Council;
- (j) one person nominated by Consumer Federation of Kenya
- (k) one person nominated by Kenya Bankers Association; and
- (l) one person nominated by the Kenya Warehouse Operators Association.”
- (b) by deleting sub-clause (5) and substituting thereof with the following sub-clause—
- (5) A person shall be qualified for appointment as chairperson of the Council if such a person—
  - (a) is a citizen of Kenya;
  - (b) meets the requirements of leadership and integrity set out in Chapter 6 of the Constitution;
  - (c) holds relevant academic and professional qualifications including a university degree in a relevant field; and
  - (d) has at least eight years’ experience in—
    - (i) agriculture;
    - (ii) finance;
    - (iii) business;
    - (iv) law;
    - (v) procurement; or
    - (vi) administration.
  - (e) in sub-clause (9), by—
    - (i) inserting the words, “in contravention of the Public Officer Ethics Act and any other relevant law” immediately after the word “office” in paragraph (c);
    - (ii) deleting the words “ in the opinion of the Council” in paragraph (e);
    - (iii) deleting paragraph (g) and substituting therefor with the following paragraph—
      - “(g) conviction of an offence and sentenced to six months imprisonment without an option of a fine.”

The justification is that the amendment defines the role of the warehouse operator more clearly, which is to hire out space. If you look at the Bill, it only merely states that: “A warehouse operator means a person engaging in the business of storing goods...”

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, we are talking to Clause 3. We will come back to Clause 2 at the end.

**Hon. Ali Adan** (Mandera South, JP): The amendment seeks to provide for appointment of the chairperson by the President. It further seeks to incorporate appointment of a member of the Kenya Bankers Association, who is a very important member, as well as the Kenya Warehouse Operators Association and the Consumer Federation of Kenya so as to make the body more inclusive and accommodate more stakeholders for ease of operation.

Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I would like to give direction on this considering that there are two amendments to the same clause. We have the one that has been prosecuted by the Committee. If the House agrees with the Chair, then the one by the Leader of the Majority Party will fall by the way. However, we will give you an opportunity to prosecute it. This is the one by the Chair. So, let us prosecute this one and then we will come to the one by the Leader of the Majority Party.

Leader of the Majority Party, are you the owner of the Bill?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I thought as the Mover of the Bill I will have the first chance. However, I have no problem.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): As the Members debate, my advice would be for the Leader of the Majority Party and the Chair to, probably, put their heads together as I give two or three Members to just make some comments on this. This is because you are basically speaking to the same thing but one is going further than the other one.

*(Question of the amendment proposed)*

I will give Hon. Wamalwa the first opportunity to speak to this.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment as proposed by the Chair of the Committee. When you look at it, it is all inclusive. Different critical stakeholders are actually represented. So, in case of any conflict, I think the representation is there and it can be ironed out in an amicable manner. I support.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I absolutely have no problem with the amendment by the Chair but we need to define who the Consumer Federation of Kenya is. Are they a legal entity? This is a board that must conform to the *Mwongozo* principle and must conform to the parastatal reform sector laws. There are many amorphous groups that call themselves Consumer Federation of Kenya. How do we legislate?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Mutua Barasa. Chair, do not worry. I will give you an opportunity.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Temporary Deputy Chairman. I am just wondering and looking the people who will form the council; these are too many people. I am wondering whether some of them are relevant, like the Bankers Association of Kenya. What would be its relevance in this board? So, instead of bloating this council with too many people... This is because when you want to have quality debate, have fewer people who are going to add value and not just adding very many people for other interests that I even do not know.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wachira Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment by the able Committee, but I would like to seek some clarification. When we take goods to the warehouse, some trading will take place inside there and exclusion of the Principal Secretary in charge of trade needs to be clarified. I also have a problem with “(1) one person nominated by the Kenya Warehouse Operators Association.” Is this in anticipation that there will be an association by that name and if so, do we pass a Bill without it being formed?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Oundo, I will give you opportunity right away after the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, if you look at my amendment, the council shall consist of: The chairperson appointed by the President; PS for the time being responsible for matters related to agriculture; PS for the time being responsible for matters related to finance; PS for the time being responsible for matters related to trade; the Attorney-General; the Director-General of Agriculture, Food and Fisheries Authority; one person nominated by the Council of Governors, which is good because these warehouses will be in counties; one person appointed by the Cabinet Secretary; and the Chief Executive Officer. Those are nine numbers. I have a question and then we will give the chance to the Chair. I have no other problem with the bodies. We need to add the Kenya Bankers Association. They are very important because of the element that they will use the goods in the warehouse as security or

collateral. Do the Kenya Warehouse Operators Association and the Consumer Federation of Kenya exist?

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

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. I also rise to join my colleagues in raising reservations in respect of the amendments proposed by the Chair, Departmental Committee on Agriculture and Livestock. Ordinarily, for a council or board to be effective, it requires a reasonable number. What we have here is literally a crowd. You cannot make substantive decisions in a crowd.

Two, we tend to have groups that do not exist or are recognised in law. I do not know who the Consumer Federation of Kenya is. I have searched and I do not know in which particular Act of Parliament they are anchored. The council shall consist of one person nominated by the Kenya Warehouse Operators Association. We cannot include in the Act things that do not exist, and are futuristic and anticipatory. We cannot legislate in anticipation. We must only deal with organisations or bodies that exist, and are definable. I wanted to raise further amendments but luckily enough; amendments by the Leader of the Majority Party seem to incorporate our concern on the issue of the warehouse receipt as a commodity which must be traded. Therefore, you cannot exclude the Cabinet Secretary for Industry, Trade and Cooperatives, and related matters.

Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. I have looked at this list. I agree with all the Members who have expressed reservations on a bloated council. We know Kenya Farmers Association is a moribund body that died long time ago. We are now trying to re-invent them by giving them a role within this warehouse receipt system after failing farmers terribly. The Consumer Federation of Kenya are consumers. We are bringing some activism into what should be a trading platform. We need efficiency in these organisations but not bureaucracy.

We have the Eastern Africa Grain Council, Consumer Federation of Kenya, Kenya Bankers Association and Kenya Warehouse Operators Association. The next thing you will add after people agitate is Kenya Transporters Association. They also want to be there. Market People Association will also want to be there because they have an association with warehousing. The leaner the council the better it will be. Fellow Members, so that we do not waste a lot of time on this amendment, I ask the Chair of the Departmental Committee on Agriculture and Livestock to withdraw the amendment or we vote against it and we adopt the amendment brought in by the Leader of the Majority Party. Without anticipating debate, it also has duplication of the Principal Secretary for Agriculture and the Director-General of Agriculture but we can leave that. It is a small thing. If you start bloating a new organisation with these kinds of organisations, you are basically getting people here to come and get their honoraria and allowances and kill a body that we desperately need to sort out and revolutionise trading in our commodities in this country. Let me urge my fellow Members that in the absence of the Chair withdrawing his amendment, you call it to vote, we get rid of it and we move on with the next amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. We shall have the voice of Hon. Kevin Wanyonyi on this.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD – K): Hon. Temporary Deputy Chairman, there is a misconception of the representation. I want to make that correction. The Departmental

Committee on Agriculture and Livestock has done benchmarking. The other information that we have got from areas, for instance India and Brazil which are success stories, is that they have representatives of these associations. It is a new concept in this country. Therefore, you do not want to have it because you want an easy way out. The Departmental Committee on Agriculture and Livestock has gone out of the way to benchmark in areas where this system has worked.

In the last Parliament, last year, I had an opportunity to go to India. I had time to visit various warehouses. What we mean here, Leader of the Majority Party, is that there will be various warehouses countrywide. Therefore, they will have their own associations to understand the system. We are going to have warehouses in many places but not just in one place. Therefore, one person from the Kenya Warehouse Operators Association will be there. The Kenya Bankers Association is there because there will be some money in the whole system. It is a new thing and we have done benchmarking. It has been a success elsewhere. Therefore, this composition is representative of what is going to happen.

Hon. Temporary Deputy Chairman, I support the inclusion.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, give a final comment before I give it to the House.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairman. I just wanted to correct a misconception again. I think Members who have contributed in the negative have not had the chance to look at the Warehouse Receipt System Bill which is already published. What I want to make clear is that when we were starting the whole process, the Ministry of Industry, Trade and Cooperatives wanted us to accommodate them in this Bill. However, because we were dealing with fresh produce and commodities which is agriculture, we decided to separate the two. We allowed the Ministry of Industry, Trade and Cooperatives to do their warehousing system. We limited the warehouse receipt system in its current form under the Ministry of Agriculture which is going to basically deal with farm produce which are cereals, manage the price, as well as reduce post-harvest loss.

We are talking about the removal of the Kenya Bankers Association. We are talking about warehouse receipt system which is supposed to be something which can be traded by the banks. After the farmers take their wares to the operator, they are issued with a receipt which they can use to access credit. So, there is no way we cannot allow the Kenya Bankers Association to be part of this council because they are the biggest stakeholders. Much as I agree that we cannot legislate in anticipation, we can remove the Consumer Federation of Kenya and this other body that has not already been formed but then the other part of the information must remain intact.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order Members. I think we had sufficient debate on this. It is the business of the House now.

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

Hon. Members, now that the Nays have it, we shall allow the Leader of the Majority to move his proposed amendment to Clause 3(3).

Clause 3(3)

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

THAT, clause 3 of the Bill be amended—

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

(3) The Council shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary for the time being responsible for matters related to agriculture or a representative;

(c) the Principal Secretary for the time being responsible for matters related to finance or a representative;

(d) the Principal Secretary for the time being responsible for matters related to trade or a representative;

(e) the Attorney-General or a representative;

(f) the Director-General of Agriculture, Food and Fisheries Authority or a representative;

(g) one person nominated by the Council of Governors;

(h) two other persons appointed by the Cabinet Secretary;

(i) the chief executive officer of the Council.

I want to make it clear that it is about the composition. This is one of the first such pieces of legislation in our country. It does not hurt anybody. Why do we have warehouse and receipts? We want to introduce efficiency help farmers. But, if at the outset, we introduce amorphous organisations, we will create bureaucratic systems where these organisation for them to run their day to day operations, they will ask for certain amounts of money to be paid to them. The cost will go up. Once we put this law in place, with the Council of Governors and sector Cabinet Secretaries represented; if after six months professional bodies related to this law are formed, we can come and amend the Warehouse Receipt System Act, 2018. I made a mistake when I supported the bankers. They cannot be there because they are supposed to offer and cannot sit in the council. There will be conflict of interest. When you offer service of a warehouse, it is the customer who will go to the bank to get a guarantee. So, there is no way we can have the bank sitting in the council.

All of us know the Consumer Federation of Kenya. They are amorphous. They are not even registered. I agree with Hon. Wanyonyi that there are countries... When people in this country see a piece of legislation, in anticipation they form organisations. These organisations were formed when they realised this law was in the House. This is a very new law. Let us first put the necessary infrastructure in law now. This Bill is coming from the Senate. With these amendments, the Bill will end up in the Mediation Committee because we have proposed serious amendments to the Committee of the whole House. The Ministry has written to me and other Members that they have amendments. So, we will end up in mediation.

I ask the Chair of the Committee to agree with me that for now let us keep the council lean, the three Principal Secretaries who are relevant, Director General of Agriculture, Food and Fisheries Authority, the Attorney-General in case of a legal matter, a member nominated by the Council of Governors because warehouse will happen in counties and then we will have a person to be nominated by the Cabinet Secretary who could represent the organisation you are saying. Then we have the CEO.

I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We shall start with the Hon. Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Chairman. I stand to support the proposed amendment by the Leader of the Majority Party.

We should not legislate in vain. As we propose laws here, they must stand the scrutiny of time. The purpose of having a council is for decision and policy making in institutions. Most of those proposed to be members of the council are outsiders who are likely to have pecuniary interest when they are in the organisation. For that reason, it should be allowed to be as lean as possible but also reflect the wider interest of Government, the wider interest of farmers, and grain producers. When we going to have...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Rasso Ali, I just want to remind Members that this is the Committee of the whole House. It is not Second Reading. You should be brief and take probably one minute or so.

**Hon. Ali Rasso** (Saku, JP): Point taken, Hon. Temporary Deputy Chairman. I beg to support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I stand to oppose this amendment for a very simple reason. We are going to have an organisation where individuals are going to form warehouses where they store farmers' grains. I agree that they need serious regulation, but the amendment as proposed by the Leader of the Majority Party is purely the Government. So, we are going to have a Government department, except the person nominated by the Council of Governors. I had a problem with the Chair's amendment because it included an organisation we did not know it exists. But as it is in the Bill, all these organisations are actually legal. An organisation like this will need people who participate and not Government officers alone sitting and making a decision. This council will be a Government department prone to direction by the Government as it wishes.

I oppose the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you very much, Hon. Temporary Deputy Chairman. I rise to oppose the amendment because of one very critical issue. The warehouse receipt system is a bank in form of commodities. It is going to rotate around and charge security for purpose of trading, warehousing and attaining loans later on. Therefore, the composition of the council the Leader of the Majority Party has proposed only charges the finance department of Government. He has left out the Kenya Bankers Association which is very critical in ascertaining where the rotation of the commodities will occur.

I stand to oppose.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nguchine.

**Hon. Moses Kirima** (Central Imenti, JP): Hon. Temporary Deputy Chairman, I take this opportunity to support the amendment by the Leader of the Majority Party. The amendment reduces the number of the people who were initially indicated to constitute the council. The previous number was a crowd. When it is a crowd, it will be unable to make a reasonable decision. As it has been proposed by the Leader of the Majority Party, it reduces the burden from

Wanjiku. The moment we put a crowd there, as it has been before, it means that we are going to burden the taxpayer.

To add to the proposed amendment by the Leader of the Majority Party, still the number he has proposed is unmanageable. It is not possible to have nine people over a matter which can be handled by three people. There is duplication. Clause 3(3) (b) (c) and (d) is a duplication because one Principal Secretary can stand for the other.

As far as I am concerned, there is duplication. I support the amendment by the Leader of the Majority Party with a reservation that it should be looked at properly. I support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Thuku Kwenya, Member for Kinangop.

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Chairman. I wish to support the amendment by the Leader of the Majority Party. In fact, I want to be brief because this is in line with the *Mwongozo* guideline where nominated Members are nine as opposed to what was proposed by the Chairperson of the Departmental Committee on Agriculture and Livestock. These are some amorphous organisations that do not exist in law. I support the amendment by the Leader of the Majority Party.

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

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

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, just relax. This is our process. We shall have a retake on it.

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

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

Hon. Members, I am going to have a third take on this. Those voices were too close to call. This is the final one and we must make a decision on this.

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

*(Clause 3(3) agreed to)*

*Clause 3(4)*

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

THAT, Clause 3 of the Bill be amended—

(b) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

(4) A person appointed as a member of the Council under paragraph (a) to (h) shall be persons who have the relevant expertise, qualification and experience in the agricultural sector, warehouse receipt system, commodity markets or any other relevant field.

The person who is appointed as a council member should have the right qualifications, experience and expertise in agriculture, warehousing and commodity markets.

*(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 3(4) as amended agreed to)*

*Clause 3(5)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I withdraw the amendment.

*(Proposed amendment by Hon. Hon. Aden Duale withdrawn)*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 3 of the Bill be amended—

(b) by deleting sub-clause (5) and substituting thereof with the following subclause—

(5) A person shall be qualified for appointment as chairperson of the Council if such a person—

(a) is a citizen of Kenya;

(b) meets the requirements of leadership and integrity set out in Chapter 6 of the Constitution;

(c) holds relevant academic and professional qualifications including a university degree in a relevant field; and

(d) has at least eight years' experience in—

(i) agriculture;

(ii) finance;

(iii) business;

(iv) law;

(v) procurement; or

(vi) administration.

The justification is that we are seeking the amendment to provide for appointment of the chairperson by the President. If so, then, we do not need the first sitting to elect the chairperson and the vice-chair.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I have the Senate Bill. In Clause 3(5), the Council shall have its first sitting to elect a chairperson. I agree with the Chair for the deletion in the sense that already, we have provided for the format of how the chair is to be appointed by the President in line with other organisations. Even Section (6) does not hold water. The deletion is supported.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair and The Leader of the Majority Party, you had already put your point. Allow me then to put the Question.

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

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

*(Clause 3(5) as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Leader of the Majority Party, you also have a proposal to delete Clause 3(6) on Page 341 of the Order Paper.

*Clause 3(6)*

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

THAT, Clause 3 of the Bill be amended—

(a) by deleting sub-clause (6).

If you look at Clause 3(6), the appointment of the chairperson is already provided in line with the *Mwongozo* requirement. I want to delete it because it provides that the chairperson and the vice-chairperson shall be of the opposite gender. That is administrative and it always happens. If the President appoints a chair from either male or female, once the council sits, they will elect a vice-chair from the opposite gender. So, we are just doing what is in the *Mwongozo* principle.

*(Question of the amendment proposed)*

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

*(Clause 3(6) as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair, you have a proposal to amend sub-clause 9 of Clause 3.

*Clause 3(9)*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, Clause 3 of the Bill be amended—

(c) in sub-clause (9), by—

(i) inserting the words, “in contravention of the Public Officer Ethics Act and any other relevant law” immediately after the word “office” in paragraph (c);

(ii) deleting the words “in the opinion of the Council” in paragraph (e)

(iii) deleting paragraph (g) and substituting therefor with the following paragraph

—  
“(g) conviction of an offence and sentenced to six months imprisonment without an option of a fine”.

The amendment seeks to clarify circumstances under which a person may vacate office; that is if he contravenes the Public Officer Ethics Act and any other relevant law. Upon conviction of an offence, the person is sentenced to six months imprisonment without an option of fine. The provision in paragraph (g) provides that persons may vacate office for an offence involving turpitude or corruption. However, this provision is subject to abuse as an interpretation to what amounts to turpitude is not very clear.

*(Question of the amendment proposed)*

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

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

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

*(Clause 3(9) as amended agreed to)*

*Clause 4*

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 4 of the Bill be amended—

(a) in paragraph (a) by inserting the word “produced” immediately after the word “commodities”;

(b) by inserting the following new paragraph immediately after paragraph (j)—

(ja) in accordance with the provision of this Act, suspend operations of warehouse operators, inspectors, weighers, graders or other service providers operating under the Act for contravention of the Act;

(jb) issue, suspend or revoke registration or licenses issued under the Act;

The amendment seeks in Clause 4(a) to clarify the functions of the Council, which is to facilitate the establishment, maintenance of a warehouse receipt system for agricultural commodities produced in Kenya. This is limited to agricultural commodity produced in Kenya.

Further, the amendment seeks to reinstate the functions of the Council, which is to issue, suspend or revoke registration or licence issued under the Act.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are dealing with the entire Clause 4(a) and (b).

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party followed by Hon. Nyikal.

**Hon. Aden Duale** (Garissa Township, JP): I thought in Clause 4, as I support, the Chair is introducing the word “commodities.” You were inserting the word “produced” immediately after the word “commodities.” I have no problem with that, Hon. Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We shall have contribution by Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I wish to support it, but I just wish to seek a small clarification from the Chair. This amendment seeks to protect against the issue of people going to another country, producing grains and storing them here. I support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Didmus, do you have interest in this?

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

*(Clause 4 as amended agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chair, we have not dealt with Clause 4(b).

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We did. We dealt with Clause 4 in totality.

**Hon. Aden Duale** (Garissa Township, JP): Was that procedural?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Yes, it is. We are now on Clause 5 and he has a proposal to delete.

*Clause 5*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, Clause 5 of the Bill be deleted.

The amendment seeks to delete provisions for functions of County Executive Committee (CEC) members as proposed in the Senate Bill. The primary function of the Council is to regulate the warehouse receipt system through issuance, suspension and revocation of licences. The Bill had proposed to delegate this function to the CEC member in charge of this at the counties. That is what we are seeking to delete. The justification is unclear. The provision I have proposed will be tantamount to delegation of a national Government function to the counties.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I support the position of the Chair to exclude the involvement of CECs because it will delay things. I have a problem because we have some important functions that were mentioned in that clause especially in 5(f), (g) and (h). I am wondering how the Committee would like to have that handled. It is important that we promote the use of warehouses especially at the grassroots. People who do not understand what they are need a lot of civic education. I want clarification on how the Committee proposes to have the three functions in (f), (g) and (h) handled. If it is by the Council, then it should be stated somewhere.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Chairman. I am a bit confused and I want to go on record. This is a Senate Bill and within the reading of the Constitution, it emanated from the Senate. What we are doing here is to delete anything to do with counties. In the whole of Clause 5, we are deleting the functions of the CECs responsible for this matter.

So, ultimately, we are altering the whole framework of the Bill. This is a Senate Bill. It is not from the national Government. There is no way we can do this. As a House, we need guidance. For example, on the road Bills which went to the Senate, it cannot decide to remove all the functions of the Kenya National Highways Authority (KeNHA), the Kenya Urban Roads Authority (KURRA) and the Kenya Rural Roads Authority (KeRRA) and give it to the Council of Governors (CoGs).

This Bill is the Warehouse Receipt Systems Bill (Senate Bill No.10 of 2017). If we delete this clause, we are fundamentally removing the role of the counties. Where are these warehouses? They are in the counties. Therefore, I do not see the contradiction between the function of the CEC in reporting to the counties. This is giving functions to the counties. If you read the title, it reads functions of CEC. Hon. Chair, you need to give us direction. Of course, you will put the Question, but I am very uncomfortable.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, I think your concerns are genuine. The Chair of the Departmental Committee on Agriculture and Livestock, just consider it. You will have the final say, but we will have contribution from Hon. Tuitoek.

**Hon. Josphat Kabinga** (Mwea, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): What is out of order, Hon. Kabinga? Hon. Tuitoek, just hold on a second.

**Hon. Josphat Kabinga** (Mwea, JP): On a point of order, Hon. Temporary Deputy Chairman. Even as we deliberate on this Bill, I would like to seek clarification from the owner of the Bill.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): That is not a point of order.

**Hon. Josphat Kabinga** (Mwea, JP): It is, Hon. Temporary Deputy Chairman. I want to know to what extent this Bill is not a money Bill.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I had already given opportunity to Hon. Tuitoek who has hardly said a word. So, there is nothing out of order by Hon. Tuitoek making his contribution. I will allow you another chance to ask your question. Let Hon. Tuitoek use his opportunity.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Chairman. I support the position of the Chair. I think this is not clear to the Leader of the Majority Party. This Bill wants to regulate things at the national level, although, it will be doing the same at the county level.

Originally, we included somebody from CoG, but if we include CECs, then this may interfere with the functions of the warehouses. The warehouses are going to be independent of county governments. They will be run by individuals or county governments if they want to have their own warehouses. We are trying to come up with regulations which will be independent of the governments and will safeguard the functions of the warehouses run by individuals. If you allow a CEC to give direction, then there will be a problem.

Thank you, Hon. Temporary Deputy Chairman. I beg to support the deletion.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Bunyasi.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Temporary Deputy Chairman. I have not said much on this. However, I think it will be unwise to completely cut out the devolved governments. Also, remember the warehouses are going to be local and not national in any sense. It is the aggregation of all these warehouses that we are regulating at the national level or the system. I think the warehouses will be a localised arrangement. There will be more than one in a county. I think it will be unwise to completely cut them out at this stage.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman for giving me a chance again. I just wanted a clarification maybe from the Leader of the Majority Party as to whether this is a money Bill or not.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Temporary Deputy Chairman, I want to support deletion. We have CECs of agriculture in every county. The same way the Chair of the Departmental Committee on Agriculture and Livestock was informed about the people who will be in the board, when he was told the CoG will pick one, he knew we have 47 governors. By saying CECs, what do you mean? In Bungoma and Uasin Gishu, they have CECs of agriculture. Therefore, this will bring confusion and slow down the functions of the board. So, I support the deletion.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Yusuf Haji, Member for Mandera.

**Hon. Yussuf Adan** (Mandera West, EFP): Thank you, Hon. Temporary Deputy Chairman. I support the deletion. This is the Warehouse Receipts System Bill. This system will regulate warehouses nationally, but not locally. If you allow that, every place where we have a warehouse the CEC will regulate it. Then we will have 47 warehouse receipt systems. In that case, it beats logic. Therefore, since this is a system, it has to be regulated. Although the Bill originated from the Senate, there was another one which originated from the National Assembly before. The essence of this is to have one regulatory system all over the country. Therefore, we cannot have CECs in every county controlling warehouses.

Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimunya

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. I am looking at the Bill and I think it is important we get the essence. These warehouses will be in the counties. Our Constitution is very clear about devolution of functions. Agriculture and trade are devolved functions and are regulated at the county level. This Bill in Clause 5 intended to anchor the devolved functions so that the CEC defined in this Bill as the CEC member responsible for matters relating to agriculture in the respective county will interact with these warehouses which are being operated within their system.

If we delete this clause, it means there will be a warehouse in Nyandarua, which the Constitution says should be regulated and managed under the Nyandarua County Government system by the CEC in Nyandarua, but there is no enabling law for him to even inspect that warehouse. It is important that we do not delete just because it is the county. There was a rationale for this provision. At the very least, let us leave it at this point and at the point of mediation, which will obviously come, we can look at the matter. However, deleting it is actually denying county governments the power that they have been given by the Constitution to perform their function.

Remember the Constitution also states very clearly that Parliament shall provide legislation to enable county governments to perform their functions. So, we cannot then tell them that we are doing a law and then cutting them off from carrying out the functions which they have been given by the Constitution. I beg to ask the Chair to reconsider this deletion. It is harmless to have it remain. We can either review it or recommit it, but let us not delete it and then start figuring out how to reinsert it because we have killed a very critical function of the county governments.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you very much, Hon. Temporary Deputy Chairman. Just on the point Hon. Kimunya has raised, I want to inform him that the concept here is marketing and marketing is purely a national function. It is not devolved. Therefore, the aspect of marketing of agriculture is a national function. Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me to put the Question. Hon. Wanyonyi, you are out of order. You cannot behave like that. This is a respectable House. You have spoken and other people have spoken. You will have an opportunity to also speak. It cannot be like that.

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kabinga, your question can be responded to; that a consideration of whether this Bill in Article 114 of the Constitution Bill is really late in the day. That is a consideration that is done much earlier before the Bill arrives here. It is obvious that that consideration was made and it was well taken care of. We cannot take care of it now.

*(Clause 5 agreed to)*

*(Clauses 6, 7 and 8 agreed to)*

*Clause 9*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have the Chair.

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended in sub-clause (3) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) holds a relevant university degree from a recognized university in Kenya.”

The amendment seeks to clarify the qualification of the Chief Executive Officer (CEO) who is required to hold a relevant university degree from a recognised university in Kenya.

*(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 9 as amended agreed to)*

*Clause 10*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party.

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

THAT, Clause 10 of the Bill be amended by inserting the words “a company secretary and” immediately after the word “employ”.

All that I am trying to do is to amend by inserting the words “a company secretary and” immediately after the word “employ”. The main reason is to create clarity that the staff to be employed will include a company secretary because it is a new institution.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from Hon. Bunyasi.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Hon. Temporary Deputy Chairman, I think we made a technical mistake in the grammar in the previous phrase, but I do not know how to cure that. Certainly, we did pass that the CEO must have graduated in Kenya, but I think the intent was if he holds a degree that is recognised in Kenya.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Bunyasi, you must be speaking to Clause 9.

**Hon. Sakwa Bunyasi** (Nambale, ANC): I know and I feel bad about it, but I just think that we have a grammar mistake there.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): You know what to do if you are unhappy with it. We shall have Hon. Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): I support, Hon. Temporary Deputy Chairman. It is a very important amendment because a company secretary is very important to guide the team in the right direction of the law.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you very much, Hon. Temporary Deputy Chairman. I support, but I would want to remind the secretariat not to put it the way the Leader of the Majority Party has said it, but to check grammar and have it as: "it includes among others." Otherwise, if you fix it exactly the way the Leader of the Majority Party has said, it means it might lose direction. Otherwise, I support.

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

*(Clause 10 as amended agreed to)*

#### *Clause 11*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see the Leader of the Majority Party.

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

THAT, Clause 11 of the Bill be amended—

(a) by renumbering the existing clause as sub-clause (1);

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

(2) The Council shall publish the names of persons engaged as experts under subsection (1), in the *Gazette*.

It is also important for members of the public to be aware of the persons who are being engaged by this Council as experts.

*(Question of the amendment proposed)*

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

*(Clause 11 as amended agreed to)*

*(Clauses 12, 13, 14 and 15 agreed to)*

*Clause 16*

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 16 of the Bill be amended in sub-clause (5) by inserting the word “annual” immediately before the word “report”.

This clause deals with preparation of reports on the operation of the Council. The amendment, therefore, seeks to clarify that an annual report should be submitted by the Cabinet Secretary to the National Assembly.

*(Question of the amendment proposed)*

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

*(Clause 16 as amended agreed to)*

*Clause 17*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, there are three proposed amendments in this clause. The first one is by the Chair, which seeks to delete. The second one is by the Leader of the Majority Party to insert sub clause 4(a) to that particular clause. The third one is by Hon. Shamalla to delete subclause 3 of that clause. If the amendment that is proposed by the Chair, which is deletion and substitution, is carried, then the proposed amendment by the Leader of the Majority Party and Hon. Shamalla will fall. So, we shall proceed first by prosecuting the proposed amendment by the Chair.

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 17 and substituting therefor the following new clause—

Licensing of

Warehouse operators. 17. (1) A warehouse operator shall apply to the Council for a license to operate within the Warehouse Receipt System.

(2) An application under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) The Council may grant or refuse to grant a licence to an applicant and may issue a licence subject to such conditions, as it may consider necessary.

(4) A license issued under this part shall be valid for a period of twelve months from the date of issue and may be renewed subject to compliance of any set conditions.

(5) The Council shall annually publish the names of licensed warehouses in the Gazette and in at least one daily newspaper of nationwide circulation.

This amendment seeks to delete the application of a licence by the warehouse operator to the CEC member. Since we have retained CEC in the previous clause, this amendment stands dropped.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. It is sensible to drop that amendment. The proposed amendment by the Chair stands dropped.

*(Proposed amendment by Hon. Ali Adan withdrawn)*

We shall then consider the proposed amendment by Hon. Shamalla before we come to the one by the Leader of the Majority Party.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 17 of the Bill be amended by deleting subclause (3) and substituting therefor the following new clause —

(3) The County Executive Committee member may —

(a) issue a license where the applicant meets all the requirements set out in the prescribed regulations;

(b) decline to issue a license for the conduct of a warehouse where the County Executive Committee member establishes that—

(i) the warehouse is not suitable for the proper storage of agricultural commodities;

(ii) the operator is incompetent to conduct such warehouse in accordance with this Act and the regulations made hereunder;

(iii) there is any other sufficient reason within the purposes of the Act for not issuing such licences.

I wish to make a further amendment to insert the word “operations” after the word “warehouse” in Clause 17(3) (b)(ii).

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shamalla, are you proposing to amend beyond what has been captured in the Order Paper?

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, there is a problem with grammar. Okay. I am not proposing a further amendment.

The rationale and justification is that if you were to leave it the way it is, it would have been open-ended. We must be precise. We must not have it open to abuse and subjectivity of the CEC. In other countries, the legislation is very clear under which specific conditions you will not issue the licence.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to support. Because we retained the other clause on the establishment and the functions of CECs, anything else which is remaining in this Bill is a consequential amendment. There is no way you can delete that. I really want to thank the Chair.

Secondly and more fundamentally, let us not have a mindset of a national Government. The grains and the warehouses which we are dealing with are devolved. The National Assembly

should run away from this feeling. The Constitution is very clear. I really support that. The CECs must have certain powers to deal with the warehouse receipts in their counties. I really want to thank Hon. Shamalla because her amendment has given the conditions under which a licence can be issued or declined. As we move forward, we must have in mind that we cannot undo what the Constitution has devolved here.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kevin Wanyonyi. When you are patient, good things come to you.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): I am upset.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Do not be upset.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Chairman, all I want to say is that we are trying a system in this country, but we are getting lost somewhere. Let us not be in a hurry because the moment we get lost, we lose the concept of the whole system. Much as I agree with the Leader of the Majority Party, we are trying to introduce a national system in this country. We are not bringing in CECs to run systems. We have at one stage passed that county governors will have two representatives in the system. It is there and we passed it. This is the one which was controversial. County governments, through the governors, will have two representatives. Therefore, as we do this, we are not having CECs as the ones who will issue licences.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wanyonyi, let me assist you. I know what you are trying to speak to, but we have the proposed amendment by Hon. Shamalla.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Chairman, I support her proposal.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Just hold on for me to assist you and the rest of the Members. What she is trying to do is to limit the area of discretion, leaving discretion to CECs who will be exercising this power to either license or not license. We will have parameters within which to operate rather than leaving it globally for them to operate as they wish. That is the amendment that we are speaking to.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): I agree with her. All I am saying is that the Council which is made up of various representatives will run this whole system. They are the ones who will have inspectors to inspect the warehouses to see whether they are fit to operate or not. Therefore, deny them or give them licences depending on their conditions.

You have missed the boat.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The whole House cannot have missed the boat. It is you who might have missed the boat. We shall have contribution from Hon. Lentoimaga.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Temporary Deputy Chairman. I support the proposed amendment by Hon. Shamalla. From the outset, we know that this Bill originated from the Senate and the Senate represents the counties. Sometimes we feel that counties do not have enough expertise. But what she has put in place is to empower the CECs at the Council so that they do not go out of line and stick to the rules and regulations.

I support the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nyikal.

**Hon. (Dr.) Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I stand to support this amendment. It is beautiful. It implies that there will be regulations. When we accepted (5),

which provided that the Executive will enforce the Council regulations, it very clear and removes what it says “what it may consider necessary”. I support the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Oundo, make your contribution in one minute. I need to put the Question.

**Hon. (Dr.) Wilberfore Oundo** (Funyula, ODM): Hon. Temporary Deputy Chairman, I support, but I thought sub-clause (b)(iii) might be giving CECs a blanket cheque to literally decline. I would imagine that regulations should have been adequate. One and two are okay, but I have reservations on three.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Oundo, when you see the words “sufficient reason”, there are known tests on sufficiency. So, the reason must be sufficient within the known parameters of what sufficiency is. So, it is as good as it is.

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

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Before I put the global Question, I see the Leader of the Majority Party has a proposed amendment to Clause 17(4).

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

THAT, Clause 17 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4)—

(4A) A person who operates a warehouse under the Warehouse Receipts System without a license issued by the county executive committee commits an offence.

If the proposed amendment by Hon. Shamalla was positive and the House carried it, then we must create penalties or offences. My amendment says that a person who operates a warehouse under the Warehouse Receipt System Bill without a licence issued by the CEC commits an offence.

*(Question of the amendment proposed)*

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

*(Clause 17 as amended agreed to)*

*(Clause 18 agreed to)*

*Clause 19*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Clause 19 of the Bill be amended by deleting the words “fire, flood, theft, burglary, earthquake, explosion” appearing after the word “against” and substituting therefor the words “*force majeure*”.

At this point, I seek your direction, Hon. Temporary Deputy Chairman I beg to further amend Clause 19 of the Bill to read as follows: “THAT, Clause 19 of the Bill be amended by deleting the words “fire, floods, theft, burglary, earthquake, explosion” and inserting the words “*force majeure*.”

The justification for the amendment is that there are many types of *force majeure*. These are acts of nature or unanticipated acts and not just earthquakes and floods. It is more encompassing when we use the legal terminology of *force majeure*. For example, there can be deliberate contamination of food which could cause death and injury disrupting socio-economic and political stability. This has not been captured. There are earthquakes, explosions and *force majeure*.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from Hon. Oundo.

**Hon. (Dr.) Wilbrforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Chairman, I may not be an insurance expert, but I would imagine that insurable risks are explicit in the Insurance Act and various insurance policies. I would rather the amendment has reference to the Insurance Act and the risks provided for under it. That is my suggestion instead of talking about *force majeure*. We must only insure insurable risks.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Oundo, if I could be of assistance to you, *force majeure* is a concept of law and basically it is an act of God. The things you have no control over and happen and cause disruptions and destruction. Basically, that is what *force majeure* means.

*(Loud consultations)*

I will give one more opportunity to Hon. Wangwe, who is the Vice-Chair of the Committee.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Chairman, the way I understand *force majeure*, it simply means unforeseen. Therefore, Hon. Shamalla has put it in one word to mean others, the way we have analysed individually. Once we use *force majeure*, it means we will include all the rest.

I, therefore, support her for that.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nkatha, Member for Tharaka Nithi.

**Hon. (Ms.) Beatrice Nyaga** (Tharaka-Nithi CWR, JP): Hon. Temporary Deputy Chairman, Hon. Shamalla is trying to say that *force majeure* stands for natural calamities. To me, burglary is not a natural calamity. Natural calamities are floods, earthquakes and things that we cannot control. Burglary is human made.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me to put the Question.

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

*be left out, put and negatived)*

*(Clause 19 agreed to)*

*Clause 20*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, because I dropped the earlier amendment where the CEC was involved, this one also stands dropped.

*(Proposed amendment by Hon. Ali Adan withdrawn)*

*(Clause 20 agreed to)*

*Clause 21*

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, this amendment stands dropped because it is inconsequential.

*(Proposed amendment by Hon. Ali Adan withdrawn)*

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

THAT, Clause 21 of the Bill be amended in sub-clause (5)—

(a) by deleting the word “or” appearing immediately before the word “graders”;

and

(b) by inserting the words “or other service providers” immediately after the word “graders”.

This is just to provide that the Council may suspend the operations of warehouse operators, inspectors, the graders or any other service providers operating under this Act for failure to comply with any provision of this Act.

*(Question of the amendment proposed)*

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

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a further amendment proposed by Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 21 of the Bill be amended —

(a) in subclause (4) by inserting the words “and shall be liable on conviction to a fine not exceeding a hundred thousand shillings or imprisonment for a term not exceeding three years, or both immediately after the word “offence”;

(b) by inserting the following new sub clause immediately after subclause (8)—

(8A) The Council shall maintain a data base which shall be availed for inspection by any person upon application pursuant to Article 35 of the Constitution.

The justification is that there cannot be an offence without penalty. There is penal component of this section that states that there has been a violation, a breach of law or rule or an illegal act and it follows that a penalty is prescribed.

*(Question of the amendment proposed)*

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

*(Clause 21 as amended agreed to)*

#### Clause 22

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, the amendment to this clause stands dropped because it is inconsequential.

*(Proposed amendment by Hon. Ali Adan withdrawn)*

*(Clause 22 agreed to)*

#### Clause 23

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 23 of the Bill be amended in sub-clause (2) by —

(a) deleting paragraph (a) and substituting thereof with the following paragraph—

(a) a chairperson appointed by the Cabinet Secretary who shall be an advocate of not less than seven years standing and with experience in dispute resolution; and

(b) deleting the word “adjudication” in paragraph (b) and substituting thereof with the word “resolution”.

The rationale behind is that the amendment provides for the appointment of the chairperson of the warehouse receipt appeals committee by the Cabinet Secretary and the qualification thereafter. It further provides that the Cabinet Secretary shall appoint persons with experience in dispute resolution.

*(Question of the amendment proposed)*

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

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a further amendment by Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, from this, I will give my two other remaining amendments to Hon. Cecily.

I beg to move:

THAT, Clause 23 of the Bill be amended—

(a) by deleting the words “Warehouse Receipts Appeals Committee” wherever they appear and substituting therefor the words “Warehouse Receipts System Dispute Resolution Committee”;

(b) in sub-clause (1) by inserting the following new paragraph immediately after paragraph (d)—

(da) complaints by registered, licensed or other persons operating under this Act;

(c) in sub-clause (4) by deleting the words “Appeals Committee” and substituting therefor the words “Dispute Resolution Committee.”

The amendment seeks to rename the Warehouse Receipts Appeals Committee to Warehouse Receipts System Dispute Resolution Committee. This is in line with the functions. The amendment also includes an additional function for the Committee which is to make a determination in disputes relating to complaints by registered, licensed or other persons operating under this Act.

*(Question of the amendment proposed)*

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I am seeking a clarification. It seems to imply that the dispute will only come from operators. What about the people who are putting the produce in the warehouse? Are they involved here? The second part says: “By other persons operating under this Act.” Do we involve the persons who put their produce in the warehouses or just the operators? I just wanted that clarification.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nyikal, from what I see there, I do not know whether what you are speaking to is there. It is from Page 1748 (da), about complaints by registered, licensed or other persons operating under this Act. It does. We are covered. We need to make progress.

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

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

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shamalla, you had a proposed amendment, which was similar to the one by the Leader of the Majority Party.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Yes, Hon. Temporary Deputy Chairman. I beg to move...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shamalla, if I could just assist you, because your amendment is speaking in very similar terms to the one that we have just carried by the Leader of the Majority Party, it will be prudent to drop this one.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): I drop that amendment, Hon. Temporary Deputy Chairman.

*(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Thank you very much, Hon. Shamalla. So, the proposed amendment by Hon. Shamala to Clause 23 stands dropped.

*(Clause 23 as amended agreed to)*

#### Clause 24

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 24 and substituting thereof with the following new clause—

24. (1) A licensed warehouse operator shall ensure commodities stored in a licensed agricultural warehouse meet the standards published by the Kenya Bureau of Standards and are weighed using equipment certified in accordance with laws related to weights and measures.

(2) The grading of agricultural commodities shall be undertaken by agricultural commodity graders certified by a mandated institution.

(3) The Council shall provide guidelines on the minimum qualifications and competencies required of graders and weighers.

The rationale is to provide for the Council to make guidelines on the minimum qualification on competencies required of graders and weighers who undertake grading of agricultural commodity stored in those warehouses.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman, I do support what is being proposed by the Chair, but I would want us to get a clearer picture. Grading is a very important function with a potential to bring a lot of conflicts and disputes. I wanted to know on what they may have benchmarked on. Are these graders part of the warehouses as employees or are they independent people out there? Do they operate like veterinary officers who visit various slaughter houses and inspect cows? How does it work? I really want to get a clearer picture on these graders.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): In principle I support the proposed amendment but I just want to bring to the attention of the Chair of the Committee that there is an

Act of Parliament that is coming relating to accreditation, weights, measures, testing and everything. I do not know whether it is too late in the day instead of having direct reference to Kenya Bureau of Standards in relation to anybody that is authorised by law to provide accreditation and testing services. We have a Bill in the House at the Second Reading stage

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Oundo, do not anticipate debate. In any event I am aware that there is a Kenya Accreditation Services Bill which is alive. We even have a Kenya Accreditations Authority or service, something along those lines.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): If you allow, could I inform you? The truth of the matter is, what we have now is established by Legal Notice No. 50 or 55 of 2009. We are now in the process of bringing a substantive law and it is at public participation stage. So, I just wanted to draw the attention to the House that probably we could make it neater by generally referring to the relevant institution, circumstances will change.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): You are right. What we have now was operationalised by a legal notice.

*(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 24 as amended agreed to)*

#### Clause 25

**Hon. Ali Aden** (Mandera South, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Bill be amended by deleting clause 25 and substituting thereof with the following new clause—

#### Inspection of

stored products 25.(1) The Chief Executive Officer, appointed Council Inspectors or authorized officers of the Council may inspect any agricultural commodity stored in a licensed warehouse and records relating to warehouse receipts where its considered necessary.

(2) The Council shall appoint and gazette inspectors who shall exercise such powers in accordance with regulations made under this Act.

The amendment provides for the Council to appoint and gazette inspectors who inspect agricultural commodities stored in licenced warehouse and records according to warehouse receipts and make regulations related to the same.

*(Question of the amendment proposed)*

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity. I support this amendment but when I look at these amendments, I find that there is a problem in having the CEO, the Council inspectors or authorised officers inspecting. There will be too many loose cannons. I thought the Hon.

Chairperson of this Committee should have proposed that the CEO or authorised officers so that you do not have so many tasks being duplicated without proper control. Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Didmus.

**Hon. Didmus Barasa** (Kimilili, JP). I agree with Hon. Janet. When you say in some situations the CEO may not be competent enough to inspect a warehouse... He must be very clear that the responsibility of inspecting warehouses should be in the hands of inspectors, not just any officer. So, he must be very clear and say the CEO shall appoint inspectors who will be inspecting. If you leave it open, then it means that people will just be ticking boxes and these are warehouses for commodities.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, before I give Hon. Mbarire, you will see from your Order Paper that there is an amendment proposed to the same clause by the Leader of the Majority Party. Look at page 1748 and see whether it is speaking to what Hon. Ong'era and Hon. Barasa are speaking to. I will then give Hon. Mbarire this opportunity to speak to this.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, we have a further amendment to the same clause that will cure the concerns that the Members have raised. Can I proceed?

*(Technical hitch)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimunya

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. When I look at the amendment by the Chair and the one by the Leader of the Majority Party, I am inclined to go with the amendment by the Chair because, we are dealing with high value produce and by limiting to only an inspector, we will have a situation where at some level, you may want to send the CEO himself to carry out that inspection. What we have here is not a number of people going to inspect, it is an enabling clause that says that the CEO could do a random inspection and you do not want to deny him that. Any appointed Council inspector could do it. The amendment further provides on how the Council shall appoint and gazette the inspectors. I would find this better rather than saying that an inspector will go and do it because you are denying the CEO, who may be called upon by Parliament to lead that inspection. He will say the law does not allow him, it only allows an inspector to do it, yet he is the one responsible for the oversight of these things. Let us give the CEO the mandate to actually do it. I agree with the Chair that this is the better formulation.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I support the amendment by the Chair because in this exercise we have designated inspectors who will be identified and gazetted. I do not know how they will be identified. Those are the people that the Council will have decided that in case there is anything or any dispute in the warehouse, they are the ones who will do the inspection. I support the amendment by the Chair.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. The word 'inspection' is very wide and should not just be limited to quality alone. It also includes the numbers. Therefore, you cannot tie it to one person and say, a quality inspector or quantitative inspection. Therefore, I want to support the amendment by the Chair, read clause 25(1) together with (2).

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

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

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Now that the one by the Chair has been carried, the one proposed by the Leader of the Majority Party fails.

*(Proposed amendment by Hon. Adan Duale withdrawn)*

*(Clause 25 as amended agreed to)*

*(Clause 26 agreed to)*

*Clause 27*

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 27 of the Bill be amended by inserting the words, “insurance contracts, professional indemnities, warehouse receipts registry” immediately after the words “examine all”.

The justification is that the amendment seeks to provide power to the CEO or authorised officers to also examine insurance contracts, professional indemnities, warehouse receipts registry or warehouse licence under the Bill.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

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

*(Clause 27 as amended agreed to)*

*(Clause 28 agreed to)*

*Clause 29*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shamalla, you have a proposed amendment to this.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 29 of the Bill be amended in sub clause (3) by—

(a) deleting the words “be a document of title to goods and need not be in any particular form, but must contain the following information” and substitute therefor the word “contain the following information”;

(b) deleting paragraph (f).

The rationale being that these words are superfluous. A warehouse receipt has also been described in the interpretation and definition. To go further on and define it again in the main body of the Bill as a document of title to goods and need not be in any particular form is superfluous.

The same as clause 29(3)(f) on the particulars of the depositor. Clause 29(3)(a), (b), (c),(d) and (g) is about the particulars of the depositor. Therefore, I wish to abandon the proposed amendment to 29(3)(f) because it is about the particulars of the depositor. I have proposed two amendments on 29(3) and I am dropping one.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members for us to move in an orderly way, Hon. Shamalla has dropped her proposed amendment to clause 29(3)(f) which appears as (b) on page 1750. She will therefore be moving her amendment to clause 29(3)(a) as per the Order Paper. She is dropping (b) where she was proposing to make an amendment to clause 29(3)(f). Are we all together? Hon. Shamalla, prosecute your proposed amendment.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, to drop the proposed amendment to clause 29(3) (f)?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): You have already dropped. Now prosecute the other amendment.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, as I had said a warehouse receipt shall be a document of title to goods and need not be in a particular form. It has already been defined in the interpretation that a warehouse receipt shall contain the above information, so this is superfluous.

*(Question of the amendment proposed)*

**Hon. Emmanuel Wangwe** (Navakholo, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from Hon. Oundo. What is out of order, Hon. Wangwe?

**Hon. Emmanuel Wangwe** (Navakholo, JP): On a point of order, Hon. Temporary Deputy Chairman. Is the Member in order to recite the amendments rather than present them to us? She has said what she already knows. We do not have those amendments on the Order Paper as she has alluded to.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe, look at page 1750.

**Hon. Emmanuel Wangwe** (Navakholo, JP): I have the page with me but the amendments she has proposed here read, “deleting the words “be a document of title to goods and need not to be in particular form, but must contain the following information.” She has said “substitute therefore the words “contained the following information”. That does not mean the same as what she has debated on the Floor now.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe, what have you understood it to mean?

**Hon. Emmanuel Wangwe** (Navakholo, JP): She has reframed it. So, that is why I am asking if she is in order to reframe the amendments.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): That was her explanation but the amendment is captured in the Order Paper. Hon. Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): I want to make a plea to the good lady, Hon. Jennifer Shamalla and I want us to look at where we are coming from. It is not common practice for a warehouse receipt to be used as a lien. This is because so far, it does not contain the same effect, gravity or weight like a title deed or title to property.

I am just speculating that probably the drafters of the Bill wanted to emphasis this point, so that, this particular title can be used as security for purposes of a loan in a bank. I am just pleading with her. Fine, it might look superfluous and not make much sense in legal terminology. But, for purposes of giving effect to the intentions of the drafters of the Warehouse Receipt Systems Bill, allow that we retain the wordings as they are. Once, it has entrenched itself into the system, then we can make amendments to make it neater in the legal terms as we wish. This is just a personal plea.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Barasa, just before Hon. Shamalla responds.

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Temporary Deputy Chairman. I want to agree with Hon. Oundo. What Hon. Shamalla is trying to do is to sneak in some legal jargons. What is in the back of the mind of drafters is to make this receipt an acceptable document in the bank as collateral. That is what informed the drafters of this Bill. I really want to urge Hon. Shamalla not to water down the essence and weight of that document because it will be used by the bank as collateral.

**Hon. (Ms.) Jennifer Shamalla** (Nominated, JP): Hon. Temporary Deputy Chairman, I have noted the sentiments of my colleagues. I am definitely not trying to sneak in any legal jargon. I am persuaded and for avoidance of doubt, I will drop this amendment.

*(Proposed amendment by Hon. (Ms.) Jennifer Shamalla dropped)*

*(Clause 29 agreed to)*

*Clause 30*

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 30 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)—

“(1A) The Central Registry shall have the necessary infrastructure to link it with a central depository of a commodities exchange licensed by the Capital Markets Authority.”

The justification for this is the amendment seeks to provide for the central registry of warehouse receipts to be linked to a central depository of a commodities exchange licensed by the Capital Markets Authority for purpose of facilitating trade in the capital markets.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ojiambo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Chairman, you will excuse me for my ignorance and you will allow me to use this as a learning process. I do not know whether this particular time, the Chair, at his own discretion, can again make a little addition to this particular amendment. This is because the intention of the Bill is to ensure that this particular document is a bankable title. For it to be a bankable title, we cannot run away from the Banking Act and the Finance Act. Is there a way the legal minds can assist us so that we link the two? Yes, it has to be licenced by the Capital Markets Authority but essentially, it must be something that can be traded or used as security for purposes of financial facility. Is there a way we can include the Banking Act? This is because facilities are issued under the Banking Act.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Passaris.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Hon. Temporary Deputy Chairman, thank you. I am following the proceedings very well. I agree that it should go as it is. For purposes of security the way it is laid out, I think it serves its purpose. It should not be amended in any way.

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

*(Clause 30 as amended agreed to)*

#### Clause 31

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 31 of the Bill be amended in—

(a) sub-clause (2), by deleting the words “issue a warehouse receipt” and substitute thereof with the words, “ issue a warehouse replacement receipt”;

(b) sub-clause (3) by deleting the word “ duplicate” and substituting thereof with the word “replacement”; and

(c) sub-clause (4), by deleting the word “deals” immediately after the word “person” and substituting therefor the word “who”.

The rationale is that we are seeking for more clarity on what shall be issued when a warehouse receipt is lost, stolen or destroyed. It is a replacement receipt and not a duplicate receipt because a duplicate receipt can be forged.

*(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 31 as amended agreed to)*

#### Clause 32

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 32 of the Bill be amended by deleting the word “duplicate” and substituting with the word, “replacement”.

The reason is that the amendment is consequential to amendments proposed in Clause 32. It clarifies that the replacement receipt shall have similar standing as the original receipt.

*(Question of the amendment proposed)*

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

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

*(Clause 32 as amended agreed to)*

*(Clauses 33, 34, 35, 36, 37 and 38 agreed to)*

#### *Clause 39*

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 39 of the Bill be amended by deleting the phrase “section 35 and substituting therefor with the phrase “section 38”.

The rationale is that we are seeking to correct a cross-referencing error. It refers to negotiated warehouse receipts, which is contained in Clause 34 and not Clause 35.

*(Question of the amendment proposed)*

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

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

*(Clause 39 as amended agreed to)*

*(Clause 40 agreed to)*

#### *Clause 41*

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 41 of the Bill be amended—

(a) by deleting the words, “ in a case where endorsement is essential for negotiation” appearing in sub-clause (1);

(b) in sub-clause (2) by deleting the words “In a case where it is essential that a warehouse receipt should be endorsed before it is transferred, that” and substituting therefor the word “A” .

The rationale is that we are also seeking to clarify the right of a transferee of a negotiated warehouse receipt to have the same endorsed by the transferor and further provide that a negotiated warehouse receipt should be endorsed before it is transferred.

*(Question of the amendment proposed)*

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

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

*(Clause 41 as amended agreed to)*

*(Clause 42 agreed to)*

### *Clause 43*

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be amended by deleting Clause 43 and substituting thereof with the following new clause—

43. A warehouse operator, or any officer, agent, or employee of a warehouse operator, who issues or aids in issuing a receipt knowing the goods for which such receipt is issued have not been actually received by such warehouse operator, or are not under his actual control at the time of issuing such receipt, commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years or a fine not exceeding ten million Kenya shillings, or to both.

The rationale is that the amendment seeks to increase the penalty for issuing of fraudulent warehouse receipts from imprisonment for a term not exceeding five years or a fine not exceeding Kshs1 million to imprisonment for a term not exceeding 10 years or a fine not exceeding Kshs10 million. This is basically to raise the punishment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): *(Off record)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Use the next microphone. It might be clearer.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): What I am saying is that I support the amendment. You know corruption in this country is a nuisance. You and I do not like this. For us

to retire those people doing the wrong things, let us increase the fine for the same. I support the Chairman for doing the same. Put the Question.

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

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

*(Clause 43 as amended agreed to)*

#### Clause 44

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

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

Issuing of receipts  
with false  
information

44. A warehouse operator, or any officer, agent, or employee of a warehouse operator, who fraudulently issues or knowingly facilitates the fraudulent issuing of a receipt for goods based on a false statement or a false statement to the effect that the warehouse is licensed under this Act or the goods are insured if they are not so insured or fails to disclose such fact, commits an offence and is liable on conviction a fine not exceeding ten million Kenya shillings or to a term of imprisonment not exceeding ten years, or both.

The amendment seeks to increase the penalty for issuing of false information from a term of imprisonment not exceeding five years or a fine not exceeding Kshs1 million to a term of imprisonment not exceeding 10 years or a fine not exceeding Kshs10 million.

*(Question of the amendment proposed)*

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

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Chairman, thank you for this opportunity. I support the amendment in order to deter unethical practices. I have been persuaded by Hon. Wanyonyi to support his cause.

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

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

*(Clause 44 as amended agreed to)*

#### Clause 45

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 45 and substituting thereof with the following new clause—

Unlawful  
issuing of  
duplicate  
receipts

45. A warehouse operator or any officer, agent, or employee of a warehouse operator, who issues or facilitates the issuing of a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and not cancelled, without plainly placing upon the face thereof the word “Replacement”, commits an offence and is liable on conviction to a fine not exceeding ten million Kenya shillings or a term of imprisonment not exceeding ten years, or both.

This is to increase the penalty for unlawful issuing of duplicate receipts from a term of imprisonment not exceeding five years or a fine not exceeding Kshs1 million to a term of imprisonment not exceeding 10 years or a fine not exceeding Kshs10 million.

*(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 45 as amended agreed to)*

*(Clauses 46 and 47 agreed to)*

#### Clause 48

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 48 of the Bill be amended by deleting the word “one” and substituting therefor the word, “three”.

The rationale is that the amendment seeks to increase the general penalty fine from Kshs100,000 to Kshs300,000.

*(Question of the amendment proposed)*

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

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

*(Clause 48 as amended agreed to)*

*(Clause 49 agreed to)*

#### Clause 50

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 50 of the Bill be amended by deleting the word “shall” and substituting therefor the word “may”.

This seeks to give discretion to the Cabinet Secretary for Agriculture and Irrigation to consult the Cabinet Secretary for Industry, Trade and Cooperatives. As it is, the Cabinet Secretary for Agriculture must consult the one for trade. In this case, he is at liberty to consult the Cabinet Secretary for trade.

*(Question of the amendment proposed)*

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Chairman, I can see the Chair is acknowledging that I would oppose the amendment. Once an agricultural product has left the farms, it is now a commodity to be traded. Looking at the arrangement of the systems in this country, it becomes the responsibility of the Cabinet Secretary in charge of trade. Giving the Cabinet Secretary in charge of agriculture the generosity and benevolence to either consult or not, is missing the interlink between production, marketing and trade.

I oppose the amendment and request Members to oppose this amendment. It may have been well-intended but the impact is to literally retain this as an agricultural product and not a commodity. If we want those receipts to become lien or something that can be used as security for a facility, we must give them legal force.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I support the Chair of the Committee. I was in the Cabinet for 10 years. Cabinet works within the framework of collective and not forced responsibility. You cannot force one Cabinet Secretary through law to consult another one. It is assumed that they are consulting. I have the benefit of insider information. By forcing it here, you are creating a situation where if for some reason they did not consult, there will be divisions within Cabinet through legal channels. This amendment is included, not to force them to consult, but as a reminder that they may consult. Making it mandatory would create a gridlock. You would go to court and claim that they did not consult and ask for the minutes of their consultations.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Temporary Deputy Chairman. I support the Chair on this. The Government has systems. You cannot say that they must consult. It was not necessary to say that consulting is mandatory. If you are doing something that falls within the purview of your colleague, you consult. It is not mandatory that the Cabinet Secretary in charge of agriculture must consult the one in charge of trade. Maybe there are laws and guidelines already provided by the Cabinet Secretary and we just need to implement them going forward.

I support the Chair on this.

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

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

*(Clause 50 as amended agreed to)*

*Schedule*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There are two amendments to this. The Leader of the Majority Party has proposed to delete so we shall start with his amendment.

Let us have Hon. Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in paragraph 1 by deleting subparagraph (4) and substituting therefor the following new subparagraph—

(4) A meeting shall be presided over by the chairperson or in the absence of the chairperson, the members present shall appoint one of their members to preside at the meeting.

The amendment seeks to provide that a meeting of the Council shall be presided over by the Chairperson. In his absence, the members present shall appoint one of the members to preside at the meeting.

*(Question of the amendment proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, we are looking at page 1749 on proposed amendments by the Leader of the Majority Party on the Schedule. Allow me then to put the Question.

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

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

There is a proposed further amendment by the Chair.

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move

THAT, paragraph (2) of the Schedule be amended in sub-paragraph (2) by deleting the word “three” and substituting thereof with the word “seven”.

The amendment seeks to increase quorum for functions of the Council from three to seven, in light of the importance we attach to the warehouse receipt system.

Thank you.

*(Question of the amendment proposed)*

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

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): My sincere apology, Hon. Temporary Deputy Chairman. I left to attend to some matters when you were sorting out the membership of the Council. Seven is an inordinately high number. However important the matter is, I can assure you that you will never get a quorum of seven. I do not know whether that percentage relates to the total membership. What is the number of the members of the Council?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Oundo, are you asking the Chair for information?

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Yes.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. As he looks for that information, let us have Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I want the same clarification. I want the total number. The quorum is seven members out of how many members?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD – K): Hon. Temporary Deputy Chairman in the previous amendment, the original number was 13 but because of the arguments, we reduced that. I did not agree with it. It is supposed to be 13 as it is here in the amendment in the Schedule. Seven members is a fair number because it is a serious case. It is not a joke and a walk in the park. Therefore, I support the quorum of seven members. These are serious fellows who are representing everybody else. They must be seven and above. I agree that seven is the right number.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Temporary Deputy Chairman. I have looked at the composition of the Council members. It was clear that some of the organisations do not exist. It is clear that in some circumstances, you will even have a scenario where those purported associations will wrangle for a long time trying to find out whom to second in the Council. Putting the quorum at seven will be a tragedy. The Council will stall. We are creating a crisis.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Tuitoek.

**Hon. Daniel Tuitoek** (Mogotio, JP): We reduced earlier the number of the members of the Council because the Leader of the Majority Party moved an amendment and we passed it. We shall only go for more than half of the members. Five members will be a good number.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, what do you want to do with your proposed amendment before I put the Question?

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Temporary Deputy Chairman. I hear the Members. I would like to do a further amendment to bring the quorum to five members. Thank you.

*(Applause)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, you will then need to give us that, so that it can be a further amendment. Come and consult with the Clerks-at-the-Table as I give an opportunity to Hon. Passaris.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): I agree that the quorum should be at least 50 per cent of the Council members. Three seem very few and risky. We can have collusion when you have few members. Seven members seem too many. Even in our Committee meetings, five is the quorum. If the Chair can amend it to five, then we will at least protect the sanctity of the Council members.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, are you ready? Proceed.

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, paragraph (2) of the Schedule be amended in sub-paragraph (2) by deleting the word “three” and substituting thereof with the word “five”.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the further amendment proposed)*

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

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

*(Schedule as amended agreed to)*

Clause 2

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

**Hon. Ali Adan** (Mandera South, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the definition of the word “warehouse operator” and substituting thereof the following new definition—

“warehouse operator” means a person engaging in the business of hiring out space for storing goods and issuance of warehouse receipts regardless of whether such goods undergo packaging, processing, substitution or other transformation while in the warehouse;

The amendment defines the role of a warehouse operator more clearly which is to hire out space for storage of goods. The words “hire out space” was not in the Bill.

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)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a further amendment by the Leader of the Majority Party. Hon. Cecily.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) by inserting the following new definition in its proper alphabetical sequence—  
“inspector” means an officer of the Council or an authorised officer appointed by the Council in the gazette, to carry out inspections under this Act.

(b) in the definition of the term “warehouse receipt system” by deleting the word “receipts” appearing immediately after the words “the management of the transfer of the” and substituting therefor the term “receipt”.

The amendment seeks to define “inspector” which is a term that has been used in the Bill without being defined.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Temporary Deputy Chairman, I stand to support this amendment. It is going to provide the definition of “inspector” meaning that even the CEO cannot purport to inspect when he does not have the requisite qualifications. He can only endorse or confirm that indeed the contents that have been brought to him by the inspector have been delivered.

This is a very good amendment. I support it.

*(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)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Clause 2 of the Bill be amended —

(a) in the definition of “holder” by deleting the words “who is in possession of the receipt” appearing immediately after the words “warehouse receipt”;

(b) by deleting the definition of “owner”

(c) in the definition of “warehouse operator” by deleting the words “regardless of whether such goods undergo packaging, processing, substitution or other transformation while in the warehouse.”

The rationale for the amendment is that when you say that the holder is a person who is in possession of a receipt that, in my considered opinion, can be quite dangerous. Because anyone in possession of that receipt, should it be stolen, can become the holder.

On the definition of the “warehouse operator”, I am concerned about the words, “regardless of whether such goods undergo packaging processing, substitution other transformation while in the warehouse.” Again it is my considered opinion that with regard to packaging, these matters shall be dealt with comprehensively in subsidiary legislation.

*(Question of the amendment proposed)*

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

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we have completed considering the Bill in the Committee of the whole House. Let us have the Mover.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Warehouse Receipt System Bill, Senate Bill No.10 of 2017 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT AND RECOMMITAL

### THE WAREHOUSE RECEIPT SYSTEM BILL

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Warehouse Receipt System Bill, Senate Bill No.10 of 2017 and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Mover.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request Hon. Amos Kimunya to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Amos Kimunya** (Kipipiri, JP): I second.

*(Question proposed)*

**Hon. (Dr.) James Nyikal** (Seme, ODM): On a point of order, Hon. Temporary Deputy Speaker.

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

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Speaker, it is not clear whether we have recommital or not. We discussed and went through it.

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

**Hon. (Dr.) James Nyikal** (Seme, ODM): Is it in order that we go without being clear what the recommittal is?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Nyikal, I have just proposed the Question. We are going step by step, Hon. Nyikal. You will see how that rules work out. Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words, "subject to recommittal of Clause 3."

When we were in the Committee of the whole House, we received proposed amendments from both the Chair of the Committee which came from some considered deliberations within the Committee and we also received amendments from the Leader of the Majority Party which had also emanated from consultations within Government. The two seemed to have some discrepancies that caused confusion among us in the Committee of the whole House and were defeated. It should be in the best interest of law-making to have the two reconcile those differences and we recommit that here so that we make a law that serves the establishing of the warehousing reporting system which is a new thing rather than have a situation where we are stuck with a Bill which contains some organisations that are not defined in law.

As we are now, we risk passing a law that contains some amorphous organisations but if we give the two sometime, then we can recommit that particular clause and have it passed in a clearer environment.

I beg to move.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kimunya, who seconds you?

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Chair of the Committee will second.

**Hon. Ali Aden** (Mandera South, JP): Hon. Temporary Deputy Speaker, I beg to second.

At the Committee of the whole House, we differed. There were positions that were defeated. The position of the Leader of the Majority Party was defeated and the one for the Committee was defeated. We find that the Bill needs further consultations.

I, therefore, second. Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we cannot put the Question for that one for obvious reasons.

**Hon. Didmus Barasa** (Kimilili, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is out of order, Hon. Didmus?

## QUORUM

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Temporary Deputy Speaker, we are doing a very important function of Government but I want to bring to your attention that we have no quorum. Therefore, we can adjourn so that we handle this next time.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, he raised it and I confirm that we have no quorum. We need the bell to be rung for 10 minutes.

(Quorum Bell was rung)

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Members! The Division Bell should stop now. Ten minutes are over. In the circumstances we still do not have quorum.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, time being 6.10 p.m. this House stands adjourned until Tuesday, 27<sup>th</sup> November 2018, at 2.30 p.m.

The House rose at 6.10 p.m.