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The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, there is no quorum. I direct that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Hon. Deputy Speaker: Switch on my microphone. Okay, Hon. Members, we may begin. First Order.

PAPERS

Hon. Deputy Speaker: Hon. Members, we shall deal with Papers later. Now we can proceed to the next Order.

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: Member for Kacheliba, Hon. Titus Letoo, do you have a Statement?

Hon. Titus Lotee (Kacheliba, KUP): Yes.

Hon. Deputy Speaker: Is it here?

Hon. Titus Lotee (Kacheliba, KUP): Yes, I have it here.

Hon. Deputy Speaker: Okay.

REQUEST FOR STATEMENT

INSECURITY IN KACHELIBA CONSTITUENCY

Hon. Titus Lotee (Kacheliba, KUP): Hon. Deputy Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding a recent attack by bandits in Kases Village, Kacheliba Constituency.

Hon. Deputy Speaker, on Thursday, precisely last week on 25th July 2024, Kases Village in Kasai Ward, Kacheliba Constituency faced a reprehensible attack that was orchestrated by bandits. The assailants, who initially attempted to raid cattle, tragically killed two women – Ms. Chemket Long’olenyang of I.D. No. 20743245 and Ms. Cheposang’il Rengeyei of I.D. No.

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31950149, who were engaged in alluvial gold mining. Ms. Cheposang'il Rengeyei unfortunately left behind a five-months-old baby who is now an orphan. That incident underscores the pressing need to address the security situation in Kacheliba Constituency. It is worth noting that the attack happened barely a few months after the Ministry deployed the National Police Reservists to the area and yet, the situation remains dire. Recent weeks have witnessed planned and carefully executed attacks targeting innocent civilians, diverging from the belief that those are merely cattle-related thefts. They are not.

The persistent insecurity has severely disrupted the provision of essential services such as education and healthcare, significantly impacting development in the region.

Hon. Deputy Speaker, as we speak, Lonyang'alem Primary School remains closed even after the President's directive that it should be opened. It is also worth noting that the attackers of Kases, Ombolion, Tartar Junction and Takaywa villages have been hiding in Lorogon Village. Despite that village being geographically located within West Pokot County, it has been administered from Turkana County since 1997. This administrative structure raises concern about the village operating as a safe haven for bandits.

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

1. A detailed account of the recent attack, and the current status of investigations into the matter, particularly the killings of Ms. Chemket Long'olenyang and Ms. Cheposang'il Rengeyei.
2. The additional resources or support being provided to strengthen the capacity of security personnel in Kases Village and Kacheliba Constituency to respond to the perennial security threats in the region.
3. A report on the immediate and long-term measures that the Government has put in place to address the recurring banditry attacks to enhance security in Kacheliba Constituency.
4. Administrative status of Lorogon village, including reasons for being administered from Turkana County and yet, it is geographically located in West Pokot County, and measures being implemented to prevent that village from serving as a hideout for bandits.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. (Dr) Pukose, I can see that you have pressed the intervention button. Do you want to comment on this request for a statement?

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Deputy Speaker. I want to comment on the request for statement by Hon. Lotee, who is my neighbour. The people of Kacheliba have suffered as a result of cattle rustling. It is important for the Departmental Committee on Administration and Internal Affairs to take this matter very seriously. We have witnessed loss of lives and livestock, which is the major source of livelihood for the people of West Pokot. They should visit the area to see the challenges that those people face. The Member has raised this urgent issue. It should be treated as such, so that the people of Kacheliba can be reassured of their security and livelihood.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: The Chairperson of the Departmental Committee on Administration and Internal Affairs. He is not here. Is there any member of the Committee here? Leader of the Majority Party, ensure that the Committee acts on this matter and gives a response within a week.

The next request for a statement is by Hon. Dorothy Ikiara.

STATUS OF THE DEDAN KIMATHI UNIVERSITY
CANCER MANAGEMENT CENTRE

Hon. Dorothy Muthoni (Nominated, UDA): Hon. Deputy Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Health regarding the status of the Kimathi Cancer Centre at Dedan Kimathi University of Technology.

The Dedan Kimathi University Cancer Management Centre was launched as a crucial healthcare initiative aimed at providing comprehensive cancer services, including research, treatment and management. The project, financially backed by the Hungarian Government, was envisioned to serve as a regional hub for cancer care, benefiting Nyeri and its surrounding counties and become a national hub for cancer care and treatment. However, it is deeply concerning that, despite its critical importance, the project is yet to be completed with little transparency regarding its current status. The urgency of completing that centre is underscored by alarming health statistics which indicate that cancer is the third leading cause of death in the country, followed by infectious and cardio-vascular diseases.

Article 43(1) of the Constitution enshrines the right of every person to the highest attainable standard of health, including the right to healthcare services. As such, the delay in the completion of that project has significantly impacted patients who are forced to travel long distances, often to Nairobi or even abroad, to access essential healthcare services.

It is against this backdrop that I request for a statement from the Chairperson of the Departmental Committee on Health on the following:

1. The current status of construction and operationalisation of the Dedan Kimathi Cancer Centre project and reasons for delayed completion.
2. Steps the Government has undertaken to address the challenges that have led to the delay in the completion of the project and plans for its completion, including specific timelines.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: The Chairperson of the Departmental Committee on Health.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Deputy Speaker. Hon. Duncan Maina Mathenge, the Member for Nyeri Town, is a Member of my Committee. I can confirm that he has been following up on this matter. I assure the Member that I will give a response in two weeks' time.

Hon. Deputy Speaker: Next Order.

BILL

First Reading

THE SEXUAL OFFENCES (AMENDMENT) BILL
(National Assembly Bill No.78 of 2023)

*(The Bill was read a First Time and
referred to the relevant committee)*

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Hon. Deputy Speaker: Next Order.

MOTION

SENATE AMENDMENTS TO THE SUGAR BILL
(National Assembly Bill No.34 of 2022)

Hon. Deputy Speaker: Proceed, Hon. Emmanuel Wangwe.

(Hon. Emmanuel Wangwe consulted the Clerks-at-the-Table)

Hon. Emmanuel Wangwe (Navakholo, ODM): Hon. Deputy Speaker, I beg to move the following Motion:

THAT, the Senate amendments to the Sugar Bill, (National Assembly Bill No. 34 of 2022), be now considered.

This Bill came to this House way back in the last Parliament. It was considered. When Parliament adjourned *sine die*, we adopted it in the 13th Parliament. It was considered in this House and then it was taken to the Senate. Members expressed their views. I remember we did 17 public participations. Much of the information has been shared in both Houses, but the Senate has failed. Few things have to be changed.

Indeed, the Senate felt that a few things need to be changed. Upon bringing it back, the Departmental Committee on Agriculture analysed the Bill. Allow me, at the outset, to thank the Chair of the Departmental Committee on Agriculture and the entire team. They have done a lot of good work on this Bill. They have considered several issues. I wish to request my colleagues to help me reach the next level during the Committee of the whole House as we pass this Motion. We need to look at the 11 issues that were raised. Out of the 11 issues, some of them have been considered and accepted by the Departmental Committee on Agriculture. Those that the House will feel otherwise about them will be moved to the next level. I beg to request my colleagues to honourably help me to move to the next level. I beg to move.

Thank you.

(Question proposed)

Hon. Members: Put the Question.

Hon. Deputy Speaker: Is it the mood of the House that I now put the Question?

Hon. Members: Yes.

(Question put and agreed to)

Hon. Deputy Speaker: Hon. Members, we will proceed to Order No. 11. The Sugar Bill is not ready for the Committee of the whole House for now. I am told there has to be some discussions between the Clerk's desk and the Departmental Committee. We will move on to Order No.11 as they consult.

MOTION

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POLICY FOR THE PROVISION OF MENTAL HEALTH
SERVICES IN ALL HEALTHCARE FACILITIES

Hon. Deputy Speaker: Hon. Misho Mboko, please, proceed.

Hon. Mishi Mboko (Likoni, ODM): Thank you, Hon. Deputy Speaker. I beg to move the following Motion:

THAT, aware that Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health; including the right to health care services; further aware that, mental health is a key determinant of overall health and socio-economic development; recognising that the Constitution assigns to the national Government the responsibility of matters of health policy; concerned that according to the World Health Organisation (WHO), mental and neurological disorders are common and about ten 10 per cent of the population at any given time suffers from, at least, one mental health disorder; noting that patients attending primary care clinics may have diagnoseable mental disorders; deeply concerned that, psychiatric units are only available in a few counties, indicating that patients seeking services of healthcare facilities have limited or no access to mental health care services; acknowledging that efficient access to healthcare facilities would lead to improved overall health, increased economic productivity, social equity and improved quality of life for all; now therefore, this House urges the national Government, through the Ministry of Health, to collaborate with county governments to develop a policy that will integrate mental health services at all levels of healthcare facilities in the country to enable all the citizens to access them.

The mental health crisis in Kenya has reached a critical juncture and it demands urgent and comprehensive action from this honourable House. The statistics highlighted are deeply worrying. One in every four Kenyans is suffering from a mental health condition. A significant portion of outpatient cases are related to mental health issues. This crisis has far-reaching implications for the wellbeing and prosperity of our nation.

The right to the highest attainable standard of health is enshrined in the Kenyan Constitution, 2010 in Article 43(1)(a) which states that:

“Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.”

However, the reality on the ground paints a stark picture. I sense an urgent need to tackle Kenya’s mental health crisis. The Mental Health Act, 1989 and the National Mental Health Policy, 2015 provide a framework, but they face a challenge of weak enforcement, unclear financial support and conflicting laws. Those hurdles contribute to the crisis we are having of one in every four Kenyans suffering from mental health issues and the frequent tragedies we experience.

To fix this, I propose reforms and a strong action plan to protect and support people with mental disorders, including more resources and updated policies. I have come to learn that this problem cuts across all the counties in Kenya. Although some counties may have one or two mental health facilities, the supply of drugs in those facilities is erratic with frequent shortages. Many counties have just one or two mental health specialists. For example, in Kilifi County, there are only two mental health nurses serving a population of approximately 1.2 million.

Lack of mental health infrastructure and human resource has a devastating impact on Kenyan communities. I want to note some cases that happened in Kenya regarding mental disorders.

On 24th January 2024, 34 years old James Master was found dangling from a tree in Kisii. On the same day, 72 years old Maina was found in Kirinyaga and it was suspected it was suicide. On the same day in Mituni Location, Machakos County, David Mutua was found dead hanging from a sisal rope. On 2nd January 2024 at Kangema Police Station, Murang'a County, a police constable shot himself dead. Again, on the same day, in Ngusishi Police Station in Meru County, Corporal Simon Gitonga was found lying in a pool of blood dead from a self-implicated gunshot wound on the head.

Another case happened at the Lunga-Lunga Police Station where a police officer shot his wife and later shot himself dead. In April 23rd 2024, a 24-year-old Olivia Naseria from Kitengela, in a bizarre incident, killed her two-year old daughter and consumed her organs as she sang and recited alphabets as the neighbours watched helplessly.

The crisis extends beyond the tragic loss of life. The frequency of mental health issues in our learning institutions is evident in rampant love triangles, femicide and mushrooming of juvenile gangs. Those disturbing trends are clear indicators that mental health challenges facing our youths are not being addressed adequately.

Furthermore, I raise concerns about the impact of mental health issues in workplaces. Cases of assault, gender-based violence and employee absenteeism due to depression are on the rise. This not only affects the well-being of our work force, but also, has a significant economic implication for our nation.

Just to note, I sit in the Parliamentary Service Commission (PSC) on the Committee on Staff Welfare. We have several cases of mental disorders; be it anxiety, depression or bipolar. We are yet to find a solution for those cases. The existing legal framework such as the Mental Health Act of 1989 and the National Mental Policy of 2015-2030 are outdated.

Hon. Deputy Speaker: Hon. Mishi Mboko, you have proceeded to debate your Motion before we even propose the Question and open it up for debate. Just wind up. You are supposed to move it as it is.

(Hon. Samuel Chepkonga spoke off the record)

Hon. Mishi Mboko (Likoni, ODM): Hon. Deputy Speaker, what I understand is that when one is moving a Motion...

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

Hon. Samuel Chepkonga (Ainabkoi, UDA): On a point of order, Hon. Deputy Speaker.

Hon. Mishi Mboko is my good friend. However, I rise pursuant to Standing Order 83. The way she is moving the Motion is okay, but she is reading her notes instead of having a casual look at them and then debate. She does not have to read everything. She only needs to refer at her notes. This is a House of debate and not a reading Chamber. Let her just take a casual look at her notes and then present her points.

Hon. Deputy Speaker: You have made your point. Hon. Mishi, proceed.

Hon. Mishi Mboko (Likoni, ODM): Hon. Deputy Speaker, I understand the Standing Orders. I know what happens when one is moving a motion. It is not that I am debating this Motion. I am moving. When one is moving, you can read and look at your notes or *vice versa*. I do not

have limitations on that. If it was all about debating in this Chamber, then one is not even supposed to refer to their notes. One is supposed to just debate.

Hon. Deputy Speaker: Proceed.

Hon. Mishi Mboko (Likoni, ODM): Hon. Deputy Speaker, we have a moral duty to care for our citizens, especially the vulnerable ones to ensure that their mental well-being is prioritised and guarded. The tragic cases I have highlighted are a stark reminder that mental health is not just a personal issue, but a societal one that, and has far-reaching consequences. Therefore, it is mandatory upon this august House to act and address the mental health crisis in Kenya.

I want to talk about the suggested reforms which, if considered, will help us fight that menace. These includes but not limited to the following:

First, is allocation of adequate resources which is a huge challenge. We need financial and human resources, mental health infrastructure and services, and establishment of stand-alone mental health facilities. Currently, we do not have them. In Mombasa, we only have the Port Rietz District Hospital for mental disorders which is very small and lacks capacity. It also lacks both the drugs and professionals. This is similar in other counties. I have mentioned about what we have experienced in Kilifi.

Second, we need to integrate mental health into primary health care to improve accessibility and do away with stigma that is associated with seeking mental health services. The issue of stigmatisation is huge. Even in Parliament, some of us might be suffering from mental disorders but we cannot disclose or share with other people. It is high time we did something.

Third, we need to conduct robust research and data collection to understand better the scope and drivers of the mental health crisis which will inform evidence-based policy making. In fact, we should have a programme on wellness and under it, we have a centre to ensure we tackle cases of mental disorders. Most of the cases reported concerning our staff are of absenteeism, and that is caused by mental disorders. The PSC has about seven cases, and all of them are of depression.

Fourth, we need to review and update the Mental Health Act and National Mental Health Policy to align them with the Constitution and international best practices.

Additionally, we need to launch public awareness campaigns to de-stigmatise mental health and encourage Kenyans to seek help without fear of discrimination or social ostracisation.

Also, we need to establish robust mental health support systems in learning institutions, workplaces and other key setting to proactively address emerging challenges. We have seen what has been happening in our learning institutions. We have seen the results of love triangles cases in our universities and other institutions. This is caused by mental disorders that have not been addressed adequately.

We need to act now. We owe it to the people of Kenya. We need to prioritise their mental well-being and create an environment where they can thrive free from the burden of untreated mental health conditions. I implore this august House to take the necessary steps to address this crisis and ensure a healthier and prosperous future for our nation.

With those many remarks, I beg to move and call upon Hon. Catherine Omanyoo to second this Motion.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Proceed Hon. Omanyoo.

Hon. Catherine Omanyoo (Busia County, ODM): Thank you, Hon. Deputy Speaker. Thank you, Hon. Mishi Mboko for remembering this sensitive issue. I heavily support it.

I have deeply looked into this matter extensively and I realised it should be declared a national crisis. It should be treated as an emergency in this nation. If you look at what is happening

in Kenya at the moment, you might easily ignore or not be aware that someone has a mental issue and needs help.

Many a time when we realise that someone is abusing drugs or is depressed, people are so busy to even help. You can easily hear statements like: “This one has turned out to be a Mathari case.” Meaning, we dismiss easily and carry on with our lives.

Mental health issues are with us in every family. As we look at how Kenya is, a facility like Mathari National Teaching and Referral Hospital is admitting more people daily than its capacity. There is lack of enough staff to handle the menace. We are just losing family members or relatives as we watch. Most of those who give up end up hanging themselves or committing suicide because we do not understand.

Hon. Mishi has come up with what we can inculcate even in our curriculum so that every child grows up understanding and knowing how to handle anything that comes up indicating mental health problems. Some people end up taking to jail anyone who is disturbing in their homes. It may be because of drugs or trauma-related actions. Mentally ill people are not for jail. They are not for beating up or mob justice. We have seen people beating up mentally ill people because of how they behave or carry themselves around the society.

We want the Government to increase funding in this sector so that every county can have a stand-alone facility that is solely built for handling mental illnesses or mental health issues. We need accessibility. Sometimes, we victimise those people. It becomes an embarrassment for any family to share mental health issues of their family members. We should stop victimising them. Sometimes, it could be genetic. It is not just drugs and lack of jobs.

You have seen how our Gen. Zs have come up. It is not because of lack of respect. It is because of frustrations. Children have witnessed parents sell their property. Children have witnessed parents deny themselves basic needs just to take them to school. That takes all the money at home. Anything called money takes children to school. After school, they come back, sit and become a burden to their parents. Even when people want to marry, they take their spouses to stay with their parents again because they cannot sustain them. Some of those things mount up to frustrations. If frustrations keep mounting on top of frustrations, it becomes depression. People lose their normalcy when they are depressed. Sometimes, they become very poisonous when they lose their normalcy. We really have to care about mental illness by making sure that the money is set aside for its cure.

In fact, Hon. Ndindi Nyoro talked about cutting on impulsive spending yesterday. It will be easier to handle and prevent than to cure if we cut to make sure that facilities at the county and sub-county levels have sections that deal with this matter. We can all prevent mental health issues if we look into this.

I support and really thank Hon. Mishi for coming up with this Motion. We are all affected. We cannot run away from this. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Say: “I second”.

Hon. Catherine Omanyoo (Busia County, ODM): I second.

(Question proposed)

Hon. Justice Kemei (Sigowet/Soin, UDA): On a point of order, Hon. Deputy Speaker.

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

Hon. Justice Kemei (Sigowet/Soin, UDA): Hon. Deputy Speaker, I rise under Standing Order No.96.

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Without going into the details of what Standing Order No.96 stipulates, it simply says that a Member may rise at any given time during a debate to move an adjournment of the debate until some other occasion. Earlier, you properly guided that Motion No.9 should appear after Motion No.11. You said that the Office of the Clerk, the Chairperson of the Departmental Committee on Agriculture and Livestock, together with the Mover of the Sugar Bill, were not ready. I wish to mention that we have had consultations. We are now ready to move to the Committee of the whole House for the Sugar Bill.

I beg to move that the debate be adjourned.

Hon. Deputy Speaker: Okay. Thank you for that. If the Committee of the whole House is ready, I agree that Hon. Pukose may make brief contributions. Then, I will move to adjourn the Motion.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Deputy Speaker. I support the Motion by Hon. Mishi Mboko. I would like to state that we have a 2017/2018 Mental Health Policy by the Ministry of Health. Her Motion wants the national Government and county governments to consult towards mental health in all the health facilities. The Mental Health Policy provides for the formation of mental health facilities in both the national and county levels. We need to improve the policy. Her intention is to improve it so that every health facility provides mental health services. I think that is an improvement.

Human resource is one of the biggest challenges to mental health. We urge county governments to look at how best they can incorporate it to have enough mental health personnel and human resource to deal with mental health issues. From the global figures she has given, 10 per cent of the population suffers from mental health conditions at any given time. Therefore, I think this is a very important area. While sitting with Hon. Didmus Barasa, he told me that we need to begin with Busia County. He is here and seconding what I am saying. Therefore, yes, we can begin there. Every part of this country requires that service. We should look at how best to address it because we see people committing suicide. We even hear of police officers shooting each other and such things. We should look at it and find the best ways to improve the situation.

With those few remarks, I support.

Hon. Deputy Speaker: I now adjourn debate on this Motion. We shall come to it later. Let us now move back to the next Order.

(Debate on the Motion adjourned)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE PENSIONS (AMENDMENT) BILL (National Assembly Bill No. 44 of 2022)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we are in the Committee of the whole House and we will be considering the following Bills:

1. The Pensions (Amendment) Bill, (National Assembly Bill No. 44 of 2022).
2. The Cotton Industry Development Bill (Senate Bill No. 5 of 2023).
3. Consideration of Senate Amendments to the Sugar Bill (National Assembly Bill No. 34 of 2022).

We shall now proceed. There is a point of order from the Chairman of the Departmental Committee of Agriculture and Livestock. You may proceed.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, I rise on a point of order under Standing Order No. 33 to request that we re-arrange the order of items under Order No.10 so that we may start with Order No.10(iii) then go to Order No.10 (ii). This particular Bill will go to mediation and we know that we need time to allow the Senate and the National Assembly to pick their mediation teams. It is not overly encompassing and so, I request we deal with Order No.10(iii) after Order No.10(i) and then Order No.10(ii).

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The Chairman is making a request that we re-organise and that is agreeable.

Hon. Members, we are going to start with the first Bill, which is the Pensions (Amendment) Bill, (National Assembly Bill No. 44 of 2022), and then we will go to the third one, which is the Consideration of Senate Amendments to the Sugar Bill, (National Assembly Bill No. 34 of 2022). Let us proceed.

(Clause 2 agreed to)

New Clause

Hon. Julius Rutto (Kesses, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the bill be amended by inserting the following new clause immediately after clause 1.

Amendment of
section 3 of Cap. 189

1A. Section 3 of the Pensions Act is amended by inserting the following new subsection immediately after subsection (5)-

(6) The Cabinet Secretary may make regulations to give effect to the provisions of section 6.

(Question of the new clause proposed)

(New clause read the First Time)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Mover to move Second Reading of that clause.

Hon. Julius Rutto (Kesses, UDA): Hon. Temporary Chairlady, I beg to move that the new clause be read a Second Time.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): For the record, move that the new Clause 1A be read a Second Time and give the justification.

Hon. Julius Rutto (Kesses, UDA): I beg to move that the new Clause 1A be read a Second Time. The amendment is to give the Cabinet Secretary power to make regulations to give effect to

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the provisions of Section 6 with regard to prompt payment of pension. This is justified in that we have witnessed retirees after going through tribulations and challenges pursuing their pension for a long time. This particular amendment gives power to the Cabinet Secretary to make regulations to give effect that within 90 days after retirement, a pensioner should receive his or her dues on time when he or she is still energised and can enjoy the services he or she has provided.

Thank you.

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Let me give you a chance Mheshimiwa. Please proceed.

Hon. Jared Okello (Nyando, ODM): Thank you, Hon. Temporary Speaker. I truly support this clause. There are many retirees who take up to 20 years without seeing their pension. It is immoral, as a country, to have people who served our Government for so many years still waiting for their pension, instead of giving them their money to enter their retirement with. At the time when people are retiring, they are susceptible to many chronic illnesses and they have nothing in their pockets. Therefore, the 90 days as proposed by the Committee is welcome. I hope we can all adopt it so that retirees do not wait forever.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Justice, the last one. Please give him the microphone. Move to the microphone near you on the left.

Hon. Justice Kemei (Sigowet/Soin, UDA): Thank you, Hon. Temporary Chairlady. I wish to support that amendment. Most public servants are heavily inconvenienced after retirement when they have to wait for a long time to get their pension. Most of us Members of Parliament are asked by teachers and other public servants to intervene after missing their pension for as many as 10 to 15 years, and they may not realise the purpose for which they are given their pension.

I support.

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

(The new clause was read a Second Time)

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Temporary Chairlady. There is an amendment which we did not see and it is very important. I request that we recommit the Bill so that we can carry along that amendment.

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, Clause 2 brings in the spirit of seeking to set timelines at 30 days, which are very important. We believe that 30 days is good enough for the transmission of the retirees by making sure that the documentation and the filing is properly done. The Ministry or the departmental issues need to be

given sufficient time, because we know that they do so in consultation. Therefore, they will need some good time to work on this.

However, we need to have the retirees taken care of, or their issues handled as it were. We need to have their issues dealt with. In most cases, we have a problem with retirees following their pensions for a very long time and not getting them. Therefore, to require the Pension Department to process the pension within 60 days is good enough for us so that we have, at least, a specific time limitation. The backlog will also be cleared so that they can streamline their working relationships and their processes. That way, they can deliver to the retirees. We have many retirees coming to Nairobi and requesting Members of Parliament to support them in getting their pensions. It is a big issue. So, the timeline is important and the Committee's amendment is in good faith and is giving us the necessary flexibility that we are building.

I thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I see several requests. I would like to give a chance to another person. Please hit the intervention button. Hon. Eckomas Mutuse, would you like to comment on this?

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Hon. Temporary Chairlady, I am queued in for the next Order in the business of the House today.

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

(New Clause 1A as amended agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I would like to get a comment from the Chairperson of the Departmental Committee on Finance and National Planning or a representative, concerning the matter to be dropped. That has been raised by the Hon. Barasa.

Hon. Julius Rutto (Kesses, UDA): Thank you very much Hon. Temporary Chairlady. As well guided, New Clause 1A seeks to give more powers to the Cabinet Secretary. This is so as to make proper regulations to effect the processing of pensions within 90 days. I am well guided that the 30 days that Clause 2 is seeking to work on has already been captured in the same. The Cabinet Secretary, therefore, will have powers to make managerial regulations to be able to effect that.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I would like you to go on record so that we do not have to revisit that clause. So, do you agree that it has been dropped?

Hon. Julius Rutto (Kesses, UDA): Yes, I agree to that effect.

(Proposed amendment by Hon. Francis Kimani dropped)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we are done with the first. As agreed when we began, we will now go to the third. Before we go there, I would like to call the Mover to move reporting. Mover.

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Pensions (Amendment) Bill, (National Assembly Bill No. 44 of 2022) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we move to the next one, and it will be the third one, which is the Consideration of the Senate Amendments to the Sugar Bill, (National Assembly Bill No. 34 of 2022).

Senate amendment to Clause 6

THAT, Clause 6 of the Bill be amended in—

(a) subclause (1) by inserting the following new paragraph immediately after paragraph (e) –

(ea) one person of the gender that is least represented in the composition of the Board who has knowledge and experience in matters relating to the sugar industry appointed by Cabinet Secretary; and,

(eb) one person representing persons living with the disabilities or youth appointed by the council of county governors;

(b) subclause (2) by deleting the expression “and (e)” and substituting therefor the expression “(e), (ea) and (eb)”.

(Question of the amendment proposed)

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, we considered the proposed Senate Amendment to Clause 6, and we rejected this amendment. The reason being that the proposal was to add another member appointed by the Council of Governors. The presumption here is that the Board will already be formed and the Council of Governors will assess the gender equity and that is not a possibility. The Board is formed at the same time. So, we realised this was not possible. On the second sub-clause 2, we also, therefore, did not consider the additional sub-clauses. Therefore, the Part B also falls.

Thank you.

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

Hon. Jared Okello (Nyando, ODM): Okello.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I am sorry about that, Hon. Okello.

Hon. Jared Okello (Nyando, ODM): Thank you, Hon. Temporary Chairlady. Taking a tangent from what my Hon. Chairman has already alluded to, in the composition of the Board, all the factors under Article 27 of the Constitution shall have been attained. If we are going to cherry-pick and engage in splitting hairs on this matter, there will be an inordinate delay in the composition of a Board which will, in effect, disenfranchise the operations of the entire Board. Any delay in

coming up with the Board, which is long overdue and which can as well be orchestrated by these kinds of proposals as advanced by the Senate, is unwelcome at this point.

Therefore, I align myself with the rejection of the Senate Amendment. I thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Justice?

Hon. Justice Kemei (Sigowet/Soin, UDA): Hon. Temporary Chairlady, I wish also to support the views of the Chairman of the Departmental Committee on Agriculture. In the composition of the Board as per the Bill, all constitutional requirements have been met. Therefore, giving an opportunity to another body to add to the composition of the Board, in my view, is unnecessary. Therefore, we reject the Senate Amendment.

Thank you.

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

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

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

(Senate amendment to Clause 6 negatived)

Senate amendment to Clause 17

THAT, the Bill be amended by inserting the following new heading immediately after Clause 17. PART III –LICENSING AND REGISTRATION

(Question of the amendment proposed)

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Chairlady, we considered this proposal by the Senate, and we have no problem with the addition of the title “Part III - Licensing and Registration”. It flows with the legislation. We approve that proposal.

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

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Temporary Chairlady. I support the Committee. We all agree that grammar is not our mother tongue, and any improvement to it by the Senate is welcome.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Justice Kemei, Member for Sigowet/Soin.

Hon. Justice Kemei (Sigowet/Soin, UDA): Madam Chair, I agree with the amendment from the Senate. Where value is added to a Bill by the other House and it makes sense, we are duty-bound to accept. Therefore, I accept the amendment.

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

(Senate amendment to Clause 17 agreed to)

Senate amendment to Clause 19

THAT, Clause 19 of the Bill be amended by –

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

(1) A miller shall not purchase sugar crop from, or accept, sugar crop delivered by a grower and a grower shall not sell or deliver sugar crop to a miller, unless the —

(a) grower is registered with, and has in force a valid supply agreement with the miller;

(b) factory of the miller is situated within the grower's sugarcane zone; or

(c) grower is exempted from the requirement by the Board under section 19A.

(b) deleting the heading appearing immediately after the subclause (3).

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Chair, this amendment alludes to the zoning, and operations after the zoning. We have decided to take the zoning issue, and the definition of the zones to mediation. We rejected this particular amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Didmus Barasa. I will come to you, Hon. Jared.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Temporary Chairlady. I rise to oppose this amendment. When a farmer decides to plant sugarcane, that farmer is not different from the one who plants maize or tea. At the point of selling that cane crop, the farmer should sell to the person who has arrived and wants to buy. You cannot tie a farmer to the factory. If the factory becomes moribund because of poor management, the same suffering should not be transferred to the farmer. The farmers plant sugarcane so as to sell it when it matures, get the money and sort out their businesses.

We are in a free market economy. You sell your crop to the person who has arrived as long as the money being paid is competitive. These issues of tying farmers to a particular market is punitive. It is not in the modern times. Farmers should be allowed to sell their cane crop to whoever has arrived with the money to buy. Saying that a factory has provided specific farmers with incentives is describing a form of debt. They can have their own arrangements on how they are going to pay each other.

I rise to vehemently and profusely oppose this amendment of tying cane farmers to a particular factory.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair, before we proceed with the debate, I can see that you are accepting part of the amendment and rejecting another part of this amendment. I would like you to clarify, so that we can make a decision on how to put the question.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, I refer Members to Clause 19. The proposal by the Senate in Part (a), which is additional, does not apply

to imported industrial sugar. We have to import industrial sugar. It is refined and, therefore, it is necessary for us to allow that section.

When it comes to selling by the farmers themselves, we have not agreed because we need to go to the Senate for mediation so that we agree whether zoning or not zoning is key. We need to give them our point of view as the National Assembly on what we think about zoning. The Senate seems to have stuck to zoning while we removed the zones as has been strongly supported by Hon. Didmus Barasa.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair, please give us the decision on the two Parts.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): The Committee approved part (b) and rejected part (a).

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

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Chairlady. I would wish to bring the Hon. Member of Kimilili alive to 19 (a). Whereas what he has said is the actual operations of a miller and a grower, we have given the exemption authority to the Board to make variation to a decision of a party where a grower has no contract with a miller. He is at liberty to make that kind of sale at that last minute. But a person who is in contract with a miller should not divert the sugarcane in between and deliver to a certain miller whereas he knows very well he is under contractual obligations where the other miller gave him the inputs of production. Therefore, what we are saying is that the grower who has not contracted is at liberty to sell at any market rate to any miller at that last minute. But those who have been contracted are given direction on what to do.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): The Hon. John Makali, Member for Kanduyi.

Hon. John Makali (Kanduyi, FORD-K): Thank you, Madam, Chair. The entire spirit of the Act is to provide for the registration of farmers. And the registration of farmers is not compulsory. Once farmers are registered, a contract is created between a miller and the farmer. One of the issues that have afflicted the sugar industry is the issue of cane poaching where farmers run away and contracts are broken, thus creating a lot of litigation in the sugar sector. So, this particular provision is aimed at regulating and maintaining contracts. No farmer is being forced to register with a specific miller. But once you have registered with a specific miller, you need to honour your contract because contracts are made to be honoured.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Justice Kemei you will be the last on this so that we can put the question.

Hon. Justice Kemei (Sigowet/Soin, UDA): Madam Chair, the issue of zoning is heavily rejected by farmers who have experienced trouble in the past. I have been in the sugar sector for quite some time. The issue of zoning is not accepted by farmers where I come from. Let us provide a situation where if a farmer has a contract with a miller, not necessarily in that particular zone, that farmer must be given the freedom to take the cane to a miller of his or her choice.

Concerning sugar, we produce about 70 per cent of what we consume in this country. We do not even produce industrial sugar. Industrial sugar used to be produced by Miwani Sugar Company Limited. So, we are saying that we need to give room for the Board to consider the importation of sugar. Therefore, when we go for mediation, we would like to listen more to the Senate on this particular amendment which is theirs. However, I totally reject the first part.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Members, I will give the Chairperson the last chance. We need to decide and make progress.

Hon. (Dr) John K Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Chairlady. I refer the House to our decision immediately after clause 17, where we transferred the title in part III “Licensing and Registration.” This is the essence of part (b). We agreed to move the title forward because clauses 17, 18 and 19 are talking about registration. This amendment is in agreement with this.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, having listened to you and the Chairperson, I will put these questions separately.

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

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

(Senate amendment to Clause 19 (a) negatived)

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

(Senate amendment to Clause 19 (b) agreed to)

(Senate amendment to Clause 19 as amended agreed to)

Senate amendment to Clause 29

THAT, Clause 29 of the Bill be amended —

(a) in sub clause (1) by —

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

(d) one person with knowledge of and experience in the operation of sugar industry nominated by the Council of County Governors;

(ii) deleting the words “nominated by universities” appearing immediately after the words “one person” in paragraph (e) and substituting therefor the words “representing the universities nominated by the Commission on University Education”;

(b) by inserting the following new subclause immediately after subclause (1) —

(1A) The Cabinet Secretary shall appoint the members under subsection (1), (a), (b)(c) (d) and (e) by notice in the Gazette.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, as you proceed, bear in mind that this too has two parts.

Hon. (Dr) John K Mutunga (Tigania West, UDA): Clause 29 has part (a) (i) and (ii) and part (b). The Committee approved part (a) (i) which seeks to delete paragraph (d) of the Bill on the management of the Sugar Research and Training Institute. We agreed that it is impossible for the

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Council of Governors to appoint people to the Board. It is okay to go with the Council of Governors' proposal because we had left it to a member of the supply chain. The supply chain is long without a specific group to appoint a Board member. So, the Senate proposal is to substitute that with one person with knowledge of and experience in the operation of the sugar industry nominated by the Council of County Governors. We agree with this.

We rejected the proposal in clause 29 (a) (ii) to change the nomination by the universities to localise it to the Commission on University Education (CUE). The CUE is a regulator of the curriculum and the content that is taught in the universities. It does not necessarily bring the universities together. The universities have an organised body which can be consulted to provide a representative to the Board. So, we stuck with the proposal by the National Assembly.

Hon. Temporary Chairlady, on clause 29 (b), we incorporated the Senate's proposal and agreed to have all the appointees appointed by the Cabinet Secretary as outlined in the provision given in the Order Paper.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Jared Okello, you may proceed.

Hon. Jared Okello (Nyando, ODM): Hon. Temporary Chairlady, I agree with the Hon. Chairperson. In clause 29 (a) (i), the Council of Governors will definitely have a latitude to nominate one of their own, but with a rider that they must have the requisite knowledge and experience on matters concerning sugarcane.

Part (ii) of the same clause is what we contested because the CUE is broad. It deals more with the regulation of university curricula. Therefore, the chances of bringing an employee of the Commission who is not suitable to sit on this Board are high. Our argument is that, that person must be from the universities that provide academic education on matters concerning sugar, sugarcane and all its attendant products. I thank you.

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

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, I also want to reiterate what Hon. Jared has said. We should not simply grant a blanket authority to any institution to appoint individuals to the Board. The appointed person must possess relevant expertise. The Board members should tap into their intelligence, wisdom and experience to improve the sugar sector. Therefore, we have to put a rider that the nominee proposed by the Council of Governors to the Board must possess the necessary expertise to address the current challenges in the sugar sector and take it to the next level. We do not want Board members appointed just for the purpose of drawing allowances.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. You have made your point. Next is Hon. Ntwiga.

Hon. Elisha Odhiambo (Gem, ODM): On a point of order.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): What is out of order Hon. Elisha?

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Temporary Chairlady. Hon. Didmus has made his point.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): What is out of order?

Hon. Elisha Odhiambo (Gem, ODM): Hon. Didmus has talked about the requisite qualifications. What competencies are you looking for? You must be candid...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Order, Hon. Elisha. What exactly is out of order?

(An honourable Member spoke off the record)

He has a right to speak even if you have just come in.

Hon. Elisha Odhiambo (Gem, ODM): I was just looking at the phonology of what my brother was talking about.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Nothing is out of order because Hon. Didmus had finished his contribution. I will give the last chance to Hon. Patrick Ntwiga so that we can make progress.

Hon. Patrick Ntwiga (Chuka Igambang’ombe, UDA): Hon. Temporary Chairlady, I support Hon. Didmus and Hon. Jared Okello. We are opposed to the Council of Governors simply appointing someone without considering their qualifications. That is because quite often, political considerations result in appointees who do not add value to the sector. We need a rider to include the qualifications. However, Hon. Elisha is asking, when we say qualifications relevant to the sugar sector, do we have sugar studies, for example, a BSc in Sugar Studies or what kind of qualifications are we referring to? We might have financial problems in the sector that require a financial expert or engineering problems that may require a civil engineer. So, when we say relevant qualifications to the sugar sector, what are we talking about?

(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)

(Senate amendment to clause 29 (a) (i) and (b) agreed to)

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

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

(Senate amendment to Clause 29 (a) (ii) negated)

(Senate amendment to Clause 29 as amended agreed to)

Senate amendment to Clause 38(6)(b)

THAT, Clause 38(6) be amended in—

- (a) paragraph (b) by inserting the words “allocated to the Kenya Sugar Research and Training Institute” immediately after the words “research and training”; and,

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair of the Committee, this clause also has two parts. Guide the House accordingly.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the Clause has two amendments, (a) and (b). The first amendment enhances the spirit and the presentation of that particular clause such that it gives the share of the levy to the Research and Training Institute. We agreed with the Senate on that particular issue.

When it comes to the issue of the money that is supposed to repair or improve the infrastructure in the sugar-growing areas, we rejected the proposal by the Senate that the money be domiciled at the county level. The proposal by the National Assembly is that, that money should be managed by the Kenya Rural Roads Authority (KURA). This is one of the issues that will go to the mediation committee.

Thank you, Hon. Temporary Chairlady.

(Question of the amendment proposed)

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

(Senate amendment to Clause 38 (6) (b) agreed to)

Senate amendment to Clause 38 (6) (d)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We will now move to the second one.

THAT, Clause 38(6) be amended in—

- (a) paragraph (d) by deleting the words “and shall be managed by Kenya Rural Road Authority of the catchment area” appearing immediately after the words “development and maintenance” and substituting therefor the words “of county roads and shall be allocated to county governments as a conditional grant on a pro-rata basis”.

(Question of the amendment proposed)

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

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

(Senate amendment to Clause 38(6)(d) negated)

Senate amendment to New Clause 38(1A)

THAT, Clause 38 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) The provisions of sub-section (1) shall not apply to imported industrial sugar.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair of the Committee, I would like you to speak to the New Clause 38(1A). Proceed.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the New Clause 38(1A) brought by the Senate was rejected by the Committee. When you look at the proposal to levy the imported sugar alone, the idea is that COMESA countries have been complaining that we are discriminative. Therefore, the Committee decided not to pass this clause. It is one of the clauses that will be mediated upon.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): It is a sub-clause within a clause.

(Question of the amendment proposed)

Hon Jared Okello (Nyando, ODM): Hon. Temporary Chairlady, the rejection of this clause by the Committee stems from the fact that we do not want to give importers of sugar more leverage over our own. Therefore, the rule must apply universally. So, we reject this Senate amendment.

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

(Senate amendment to New Clause 38(1A) negatived)

Senate amendment to Clause 43

THAT, Clause 43 be amended in sub-clause (2) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair of the Committee.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, Clause 43 is about reporting. The spirit of the National Assembly on the Bill that was presented to the Senate indicated that this report should be brought to the National Assembly and the Senate proposes that it should also be taken to the Senate. We have no problem with that.

(Question of the amendment proposed)

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

(Senate amendment to Clause 43 agreed to)

Senate amendment to Clause 59

THAT, the Bill be amended by deleting Clause 59.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair of the Committee.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the Senate amendment to Clause 59, which basically presupposes that we delete the entire clause, was rejected

by the Committee. The Committee believes that Clause 59 is important in terms of representatives of the growers in the private milling company.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I would like to get more voices on this. Hon. Justice.

Hon. Justice Kemei (Sigowet/Soin, UDA): Thank you, Hon. Temporary Chairlady. Growers in this country have a huge stake in the sugar industry matters. Therefore, we would be doing a lot of injustice to our cane farmers in the country if we omit the representation by the growers.

Thank you, Hon. Temporary Chairlady.

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

Hon. John Makali (Kanduyi, FORD-K): Thank you, Hon. Temporary Chairlady. Growers are the goose that lays the golden eggs. They provide the raw materials for the running of those particular factories, and their voices need to be heard. If we delete that particular clause, then it means that the growers will not be represented. That will be disenfranchising a critical sector of the sugar industry. I support the rejection of that amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Didmus Barasa, Member for Kimilili.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Temporary Chairlady. I am wondering what was in the minds of the Senators when they were recommending the deletion of this clause. Whom were they speaking for? We are elected to speak on behalf of farmers and so, we cannot be the people suffocating their voices. I also join my fellow Members of Parliament in rejecting this proposal. It is very important. I support the Committee's position to reject this Senate amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. The last one on this is Hon. Ntwiga.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): Thank you, Hon. Temporary Chairlady. I come from a tea and coffee-growing zone. At the backbone of the management of coffee and tea factories, is representation from farmers. The moment you remove growers/farmers from the management of societies and factories, you will be leaving them to be managed by cartels.

I also join other Members to reject this amendment.

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

(Senate amendment to Clause 59 negatived)

Senate amendment to Clause 60

THAT, Clause 60 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (k) —

(ka) the procedure for election of farmers and millers' representatives to the Board and the pricing committee.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair of the Committee.

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Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, we noted that there was an omission in the Bill presented to the Senate on this particular clause, which has to do with the procedure for election of farmers' and millers' representatives to the Board and the pricing committee. Therefore, we approved the insertion of that sub-clause in this Bill.

(Question of the amendment proposed)

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

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Temporary Chairlady. I also join the Departmental Committee on Agriculture and Livestock to support the amendment. What the Senate has done is to help us clean up what was omitted. When you look at the issues to do with cane production, the sweetest part is in production, but the juicy side is on the earnings. If the pricing committee can be well taken care of, our farmers will get value for their money. They should be well coordinated in terms of who sits in that committee.

Therefore, Hon. Temporary Chairlady, I support this amendment.

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

(Senate amendment to Clause 60 agreed to)

Senate amendment to New Clause 19A

THAT, the Bill be amended by inserting the following new clause immediately after clause 19—

19A. (1) A grower may deliver cane outside a sugar-cane zone provided that the grower, —

- (a) has a pre-existing agreement with a miller outside the sugar-cane zone;
- (b) is not indebted to a miller or an out-grower institution within the sugar-cane zone that they are situated; and,
- (c) has no supply agreement with a miller within the sugar-cane zone that they are situated.

(2) the grower who fulfils the provisions of subsection (1) shall notify the Board of their intention to supply cane outside a sugar-cane zone.

(3) The Cabinet Secretary shall prescribe regulations for the notification process under subsection (2). Exemption from cane supply restriction.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chair of the Committee.

Hon. (Dr) John K Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the Committee rejected the entire new Clause 19A because it alludes to the exemption from cane supply restrictions. This has to do with the zoning, which is a contentious issue in this particular Bill. We deferred the zoning issue and zoning management to the mediation committee. So, this is also rejected.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): This being a rejection, we would like to hear more voices. Hon. Shakeel Shabbir.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you. Hon. Temporary Chairlady.

I wish to strongly oppose the Senate proposal under new Clause 19A. The fact is that sugar-cane growers are treated like slaves. They are told where to go and where not to sell sugarcane. If anything, they should be allowed to deliver cane anywhere in the zone provided that they have a pre-existing agreement with the miller. I do not think it should be provided as if it is a, b and c. I strongly support new Clause 19A.

Thank you.

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

Hon. Justice Kimei (Sigowet/Soin, UDA): Hon. Temporary Chairlady, in the spirit of bicameralism, we should accept what makes sense from the Senate. However, how can we stifle our farmers? How can we restrict farmers from supplying cane to a particular mill in a particular zone? We need to give our farmers freedom to sell their cane anywhere in this country, as long as it makes economic sense.

On the issue of agreements, there are laws in this country that govern agreements. We cannot legislate on laws which already exist. In the event that there is need to make any changes concerning this particular area, the Cabinet Secretary may provide regulations to that effect. It cannot be in a substantive law.

Thank you, Hon. Temporary Chair.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Melly is the last one to contribute to this Hon. Members.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Chairlady. I echo what Hon. Kimei has just said. As a farmer and as their representative, it is illegal and illogical for one to tell a farmer to supply cane to a particular miller and yet, he has not even participated in the farming activities himself. A farmer looks for fertiliser, starts the process and everything. We must be very progressive like tea, coffee or any other crop. This is the only crop where the miller wants to force the farmer to take his or her crop to his place.

Hon. Temporary Chairlady, this amendment from the Senate is not right. We should allow farmers to take their crops wherever they want to.

Thank you.

The Temporary Chairlady (Hon. Rachael Nyamai): Hon. Members, in the interest of time.

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

New Clause 19B

THAT, the Bill be amended by inserting the following new clause immediately after Clause 19:-

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- 19B. A miller may enter into a contract of cane supply with another miller if —
- (a) the miller's factory is temporally broken down; or,
 - (b) there is an over-supply of cane to the miller; and,
 - (c) the mill is located within the same sugar-cane zone.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you realise that this clause has several amendments. So, please guide the House.

Hon. (Dr) John K Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Chair. Indeed, it has three amendments, namely; New Clause 19B has sub-clauses (a), (b) and (c).

The Committee considered the three sub-clauses in view of the inter-miller agreement. The first one, where such an agreement can be entered into is when the miller's factory is temporarily broken down and where there is an over-supply of cane to the miller. The Committee agreed on the inter-miller agreement on these two. However, when it comes to where the mill must be located within the sugar-cane zone, the Committee rejected it because we have an issue with zoning. This is part of what will be discussed in the mediation committee.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I would like to put the question because this is straightforward.

(Question of the new clause proposed)

(New clause read the First Time)

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

(Question, that new clause 19B (a) and (b) be Read a Second Time, put and agreed to)

(The new clauses 19B (a) and (b) were read a Second Time)

(Question, that the new Clause 19B (a) and (b) be added to the Bill, put and agreed to)

The Temporary Chairlady (Hon. Rachael Nyamai): I will now move to the second part.

(Question, that the new Clause 19B (c) be read a Second Time, put and negatived)

New Schedule

THAT, the Bill be amended by inserting the following new schedule immediately after the First Schedule: -

NEW SCHEDULE S.2, 19(1)(B), 19A SUGAR-CANE ZONES

SUGARCANE ZONES	COUNTIES
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Central	Kisumu, Southern Nandi, and Kericho Counties.
Upper Western	Bungoma, Kakamega - excluding Mumias area, Trans-Nzoia, Uasin Gishu, and Northern Nandi Counties.
Lower Western	Mumias, Busia, and Siaya Counties.
Southern	Migori, Homa Bay, Kisii, Narok Counties.
Coastal	Kwale, Tana River, and Lamu Counties.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chair?

Hon. (Dr) John K Mutunga (Tigania West, UDA): Hon. Temporary Chairperson, the Committee considered the Senate proposal for the new Schedule. It does not capture the entire contents of the proposal by the National Assembly and we had good reasons for that. This is one of the issues that will be discussed in the mediation committee. Therefore, the Committee rejected this proposal.

(Question of the new Schedule proposed)

(The new Schedule was read a First Time)

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Justice, would you like to add to the voice of the Hon. Chairman? Hon. Didmus.

Hon. Justice Kemei (Sigowet/Soin, UDA): Yes, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Okay, let us start with Hon. Justice.

Hon. Justice Kemei (Sigowet/Soin, UDA): Hon. Temporary Chairlady, this is part of what is coming from the Senate that we rejected. As the National Assembly, we agree to let it go to the mediation committee. Let us go and listen to them. It does not make sense on our part. But whatever they have in mind, they will explain to us. That why we have rejected the amendment. Let us go to the mediation committee.

Thank you, Hon. Temporary Chairlady.

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

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, at times, I wonder why we over-protect millers. The people we should protect are the farmers. The millers should protect themselves by offering competitive prices, paying on time and using proper weighing scales.

A farmer who decides to plant sugarcane should sell the cane anywhere, even if it is in Uganda, as long as they are paid money to sort out their bills. The sentimental value that we attach to those factories is making our farmers poorer. Our efforts and focus should be on how to protect farmers so that they are paid good prices and in good time. Anything else is neither here nor there. Factories that are not going to be competitive can close down.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Melly, the last one.

Hon. Julius Melly (Tinderet, UDA): Hon. Temporary Chairlady, what my colleague, Hon. Didmus Barasa, has said is quite true. This Bill appears to be looking at the miller as the main person. The core person in the sugar industry is the farmer. When we have a Bill that tries to protect millers at the expense of farmers, it only shows that we have gone wrong and rogue. We have missed the target. The person to be protected is the farmer. If the miller is not competitive, let him or her perish. If they want to have economies of scale, let them have large plants.

In this particular case, we had said we do not want the word ‘zoning’ in this Bill. How did it come back? Yet we, the farmers and members of the former Departmental Committee on Agriculture and Livestock in the last Parliament said the word “zoning” should not exist in this Bill. How was it brought back? We need to make the farmer the king.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Jared Okello.

Hon. Jared Okello (Nyando, ODM): The elephant in the room is this idea of zoning. If you look at what we have dealt with before this, we rejected any element of zoning because we do not want our farmers to be boxed into a corner and, therefore, have absolute control in the hands of an individual called a miller.

Hon. Temporary Chairlady, in liberalised market economies, people are allowed to sell as and when they deem necessary. Therefore, using some tactics to bring about zoning at the tail-end of this process cannot be welcome at this point.

Thank you.

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

Hon. Charles Nguna (Mwingi West, WDM): Thank you, Hon. Temporary Chairlady. I am lucky because I was part of the Committee on Implementation in the last Parliament that physically visited sugar factories on this issue in sugar belt zones. We visited Mumias, Chemelil and Muhoroni sugar factories. While there, farmers rejected the issue of zoning in totality.

I support what Hon. Melly, Hon. Jared and Hon. Didmus Barasa have put across. Let us reject this Bill in totality. There is no need for mediation.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, CNN. You have made your point.

*(Question, that the new Schedule be read
a Second Time, put and negatived)*

Senate amendment to Clause 2

THAT, Clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of “sugarcane manufactures apex body” –

“Sugar-cane zone” means a geographical area as set out in the Second Schedule where growers and millers are restricted to deliver and receive cane respectively.

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the Senate Amendment to Clause 2 brings in the definition of ‘sugar-cane zone’, which is the issue we have been discussing. We reject that definition as well.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I would want to put the Question because this is a straightforward matter.

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Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Hon. Temporary Chairlady, whereas this matter is straightforward, it is important to be on *the Hansard*. The cancer in the sugar industry is the use of the word “zoning”. The moment you mention the word “zone”, it behaves more or less like the cancer in a human being. Therefore, I want us to make sure that zoning is not there. However, let us have discipline in the sector. Let us invite order in the industry, so that we have something good for our people.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Shakeel Shabbir.

Hon. Shakeel Shabbir (Kisumu East, Independent): I want this point to be on the *Hansard*. There are cases in Kisumu where the miller refuses to take cane from a particular person because he supports Hon. Shakeel or Hon. Melly.

There are certain millers who have tried to oppose Members of Parliament. Some said that they would spend Ksh10 million each to get rid of three Members of Parliament. Bad luck for them, because the three of us are here. My brother, Hon. Melly, K'Oyoo and I. We have to get away from those people who are treating us and our people like slaves. How can you tell a farmer who has grown everything for you that you will not take his cane only because he supports Hon. Melly or Hon. Shakeel?

Thank you very much.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Shakeel. It is clear.

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

(Senate amendment to Clause 2 negatived)

Hon. Members, thank you very much. We have concluded the consideration of the Senate Amendments to the Sugar Bill. I now call upon the Mover to move reporting.

Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Hon. Chairlady, I beg to move that the Committee do report to the House its consideration of the Senate Amendments to the Sugar Bill, (National Assembly Bill No.54 of 2022), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE COTTON INDUSTRY DEVELOPMENT BILL
(Senate Bill No.5 of 2023)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, as we agreed earlier, we will now move to the Cotton Industry Development Bill, (Senate Bill No.5 of 2023). Hon. Chairman.

Clause 3

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Hon. (Dr) John K Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, we considered Clause 3 of the Senate Bill.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You may approach the Table, Hon. Chairman.

(The Hon. Temporary Chairlady consulted with Hon. (Dr) John K. Mutunga)

Hon. Members, I would like you to look at the other amendments ahead, so that we can move faster than we did with the earlier Bill.

Hon. Chairman, are you ready?

Hon. (Dr) John K Mutunga (Tigania West, UDA): Yes.

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

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

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

“(a) to promote a globally competitive cotton industry through regulation in collaboration with the county governments;”.

Hon. Temporary Chairlady, we considered Clause 3 of the Bill. It talks about deleting paragraph (a) and substituting it with another one which basically looks at promoting a globally competitive cotton industry through regulation and collaboration with the county governments. The regulation function was not explicitly mentioned. Therefore, we needed to incorporate this particular function because the Cotton Board is supposed to be a regulatory agency besides the promotion of production and marketing.

(Question of the amendment proposed)

I do not see any interest in this amendment. Therefore, I will proceed 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 as amended agreed to)

(Clauses 4, 5 and 6 agreed to)

Clause 7

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

THAT, Clause 7 of the Bill be amended—

(a) in subclause (1)—

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

“(c) The Principal Secretary responsible for matter relating to Industrialisation”

(ii) by inserting the following new paragraph immediately after paragraph (c)—

“(ca) the Principal Secretary responsible for National Treasury”

(b) by inserting the following new subclause immediately after subclause (3) –

“(4) In making appointments of members to the Board, the appointing authority shall observe the principle of gender balance.

The Committee considered Clause 7 of the Bill. It proposes insertion of two subclauses. In subclause 1, we need to delete paragraph (c) and to substitute therefore with the following new paragraph: ‘The Principal Secretary responsible for matters relating to industrialisation’. The reason is that the cotton industry is under the State Department for Industry. It is, therefore, important for the Principal Secretary for Industry to be a member of the Board.

On the other hand, in part (ii) of the amendment, we propose the insertion of a new paragraph immediately after paragraph (c), which is (ca), whereby we bring in the Principal Secretary responsible for National Treasury. We realised that National Treasury was not included. Therefore, the State Corporations Act provides for inclusion of the Principal Secretary of the National Treasury, so that we have a linkage with the purse-handler.

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

(Question of the amendment proposed)

Hon. Mary Emaase.

Hon. Mary Emaase (Teso South, UDA): Hon. Temporary Chairlady, I support the amendment, especially the new addition that relates to Article 27 (8) of the Constitution. It states that not more than two-thirds of either elective or appointive positions should be from the same gender. That is a good addition. Therefore, I support it.

However, I also have a concern about the other amendment that seeks to introduce the Principal Secretary for Industry and remove the one for Trade. I have agreed with the Chairman that it is more of a value addition that relates more to industrialisation than trade.

Therefore, I support the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Emaase. Hon. Nabii Nabwera, Member for Lugari. Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, I support the Clause that seeks to allow the Principal Secretary to make appointments. However, we should not just make appointments to those boards. We should identify the enabling sectors that will add value and those are the ones that should second people to those boards. This will ensure that they can improve the sector. We are where we are, as the cotton industry, because of seconding people who do not add any value to the Board. So, we should first identify the enabling sectors and require them to second representatives to the Board. Those are the people who can support the cotton sector to move forward.

Hon. Temporary Chairlady, I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Chairman, would you like to say something before we put the question?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, I gave the justification for the amendment but the co-sponsor of the Bill has brought up an issue on gender. We introduced sub-clause (4), which reads: “In making appointments of members to the Board, the appointing authority shall observe the principle of gender balance.” This then takes care of the gender issue.

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

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

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

(Clause 7 as amended agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, for the purpose of the *Hansard*, please, record your vote.

(Clauses 8, 9 and 10 agreed to)

Clause 11

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

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

THAT, Clause 11 of the Bill be amended in sub clause (1)—

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

“(a) regulate and promote the development of the cotton industry;”

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

“(e) regulate and promote import and export of cotton products and by-products;”

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

“(g) in consultation with the Kenya Bureau of Standards and other relevant institutions, formulate standards and code of practice acceptable in international markets to ensure the competitiveness and reliability of the country as a producer of cotton products.”

(d) by deleting paragraph (n);

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

“(o) establish linkages with other Government agencies and research institutions to enhance quality assurance and research and facilitate flow of research findings to the interested parties;”

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

“(p) liaise with the national agricultural research systems to develop suitable and affordable cotton seeds;”

Hon. Temporary Chairlady, we proposed several amendments as indicated in the Order Paper. We deleted Clause 11(1)(a), substituting therefor the new paragraph (a) as indicated. This is to ensure that all industry players are properly regulated. We also proposed the deletion of paragraph (e) and substituted therefor with new paragraph (e) as indicated. The reason for this is to cater for regulation and promotion of cotton products and by-products that may come into the country. There is also proposed deletion of paragraph (g) and a proposed new paragraph (g) as indicated.

The reason for this amendment is that it does not make sense as written in the Bill and, therefore, we brought it in this amendment to improve the presentation of that subclause.

We also proposed a deletion of paragraph (o) and substitution therefor with new paragraph (o) as indicated.

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

I would like to guide that you summarise the amendments because it is just as per the Order Paper, and the Members have it.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Okay, Hon. Temporary Chairlady. I propose that the Members adopt our Committee’s recommendations that the amendments brought forward be approved as per the Order Paper.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Are there any interests? Hon. Emaase.

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Chairlady.

I support the amendment because the previous one was a bit shallow. For example, paragraph (a) had only limited the regulation and promotion to growing and spinning. But the new amendment brings on board value addition and marketers and so, it is broader and encompasses all aspects.

Paragraph (b) is better because it includes all cotton products as opposed to the previous one which refers only to the aspect of lint and seed. The amendment speaks about promoting and marketing all the cotton by-products.

Finally, paragraph (c) also enriches this Bill because it brings in the aspect of linkages and quality assurance, as opposed to the previous one that only talks about improving the prices of cotton through research. In this amendment, there is provision to the effect that through research, we can improve quality, build networks and partner with other relevant partners.

Hon. Temporary Chairlady, I thank you.

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

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Chairlady. I wanted to comment on clause 7 but that has been covered in Clause 11. I have attended a number of World Trade Organisation (WTO) meetings. In those meetings, there is a very strong approach from India and other cotton-growing countries. The one from Kenya is very weak. I am pleased with the amendments that seek to regulate and promote the import and export of cotton products, in consultation with Kenya Bureau of Standards (KBS) as indicated in paragraph (g). I would like to emphasise the importance of international market development. I would have loved that the Principal Secretary, State Department for Trade join the one for State Department for Industry, but that amendment has been dealt with.

Thank you, Hon. Temporary Chairlady.

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

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

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

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

(Clause 11 as amended agreed to)

(Clauses 12 and 13 agreed to)

Clause 14

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

THAT, Clause 14 of the Bill be amended by deleting the words “fees or allowance” appearing immediately after the word “remuneration”.

We considered this Clause and thought of deleting the word “fees and allowances” because ‘remuneration’ covers both. So, we basically did some grammatical correction.

(Question of the amendment proposed)

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

(Clause 14 as amended agreed to)

Clause 15

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

THAT, Clause 15 of the Bill be amended in paragraph (b) by deleting the word “degree” and substituting therefor new words “master’s degree”.

We improved on the qualifications of the Chief Executive Officer (CEO) of the Board and added that they should have a master's degree and not just a degree.

(Question of the amendment proposed)

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

Hon. David Ochieng’ (Ugenya, MDG): I oppose this amendment. I imagine that the Chairman would say that the CEO should have experience in the cotton industry, and not necessarily a master's degree. This industry has been facing many challenges. Most people in this area have been learning and amassing experience. In my opinion, too much ado about a master’s degree will not add value to this sector. I plead with the Chairman to reconsider the issue of master’s degree. This country has so many people with experience and can do a good job. However, there are people who just move. He gets a bachelor's degree today. He has a master’s degree tomorrow.

We are going to leave a person who has been in the sector for the last 15 or 20 years and has built experience and capacity. I was in Moi University where there was a course in Industrial and Textile Engineering. There is the Rift Valley Textiles (Rivatex) East Africa Limited there. So many people who are working there have much experience without master’s degrees. They manage this sector. Would we leave those ones out and pick a person who probably has just a master's degree in another area? Will it be just because of the master's degree? I plead with the Chairman to leave out this master's degree requirement. Let the basic academic qualification be a bachelor's degree in this situation.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Eckomas Mutuse.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): Thank you, Hon. Temporary Chairlady. The amendment proposed by the Departmental Committee on Agriculture and Livestock is well intentioned. However, I share the feelings by the Member of Ugunja that the CEO position is a managerial position and not academic.

(Hon. David Ochieng’ spoke off record)

I am sorry! He is the Member for Ugenya.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Ochieng’ is the Member for Ugenya, and not for Ugunja.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): I have made that correction, Hon. Temporary Chairlady.

The position of CEO is managerial, and not academic. Comparatively, if you look at the qualifications of CEOs in other parastatals in Kenya, many of the laws constituting those parastatals do not provide for a compulsory master's degree. Even Cabinet Secretaries and Principal Secretaries, by dint of qualifications under the Constitution, are required to have an undergraduate degree. I would rather the Committee proposed that a master's degree would be an added advantage and placed more weight on experience so that the position attracts people with practical knowledge in order to make the sector work.

With tremendous respect, we would need more justification lest we oppose the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, I would like you to have the last voice on this amendment and then I put the question.

Hon. (Dr) John K Mutunga (Tigania West, UDA): I would like to refer the Members to the Bill. The provisions for a qualified person for this position include being a Kenyan citizen holding a degree from a university recognised in Kenya, and having at least ten years' experience in senior managerial position. Hon. Shakeel talked about the international trading system and the negotiations that go on there. In some cases, we need somebody who has analytical skills to represent such an industry. That was the thinking behind this provision by the Committee.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. I am going to put this matter to vote.

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

(Clause 15 agreed to)

(Clause 16 agreed to)

Clause 17

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

THAT, Clause 17 of the Bill be amended in paragraph (c) by inserting the word "of" immediately after the word "contravention".

We made a small grammatical correction to Clause 17. We inserted the word "of" immediately after the word "contravention".

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, that is straightforward.

(Question of the amendment proposed)

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

(Clause 17 as amended agreed to)

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

Clause 23

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

THAT, Clause 23 of the Bill be amended-

(a) in sub-clause (1)-

(i) by deleting paragraph (b);

(ii) by deleting paragraph (c);

(iii) by deleting paragraph (d); and,

- (iv) by deleting paragraph (e) and substituting therefor the following new paragraph-
 - (e) promote the organisation of cotton farmers co-operatives, associations and link them with credit and financing support;
- (b) in sub clause (2)-
 - (i) by deleting paragraph (b);
 - (ii) by deleting paragraph (c) and substituting therefor the following new paragraph-
 - (c) promote production and productivity of cotton in the respective county;”
 - (iii) by deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) offer extension services on cotton production and processing;”
 - (iv) by deleting paragraph (e);
 - (v) by deleting paragraph (f) and substituting therefor the following new paragraph-
 - (f) provide training and dissemination of information to cotton farmers and processors on technologies, innovations and management practices
 - (vi) by deleting paragraph (g);
 - (vii) by deleting paragraph (h) and substituting therefor the following new paragraph—
 - (h) promote farm productivity through suitable seed varieties and integrated cotton farming systems;
 - (viii) by deleting paragraph (i);
 - (ix) by deleting paragraph (j);
 - (x) by deleting paragraph (m) and substituting therefor the following new paragraph—
 - (m) establish cotton collection aggregation centres in collaboration with the national government;”
 - (xi) by deleting paragraph (n);
 - (xii) by deleting paragraph (o) and substituting therefor the following new paragraph-
 - (o) link cotton farmers with agricultural mechanization centres for affordable machinery;
 - (xiii) by deleting paragraph (p) and substituting therefor the following new paragraph-
 - (p) link the farmers with affordable farm inputs.
 - (xiv) by deleting paragraph (q) and substituting therefor the following new paragraph-
 - (q) carry out other functions as may be conferred upon by this law or any other written law.”
- (c) by deleting subclause (3)

Hon. Temporary Chairlady, there is proposed deletion of several clauses and subclauses. We substituted them with one subclause. It is to promote the organisation of cotton farmers’ co-

operatives and associations to link them with credit and financing support. The reason is that most of the functions, like (b) and (c), belong to the board. Paragraph (d) has been merged with paragraph (e). Therefore, we did that deletion. The amendment in paragraph (e) is because the role of county governments is to link farmers with financing agencies or financiers.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Mary Emaase.

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Chairlady.

I thank the Committee for this amendment. These amendments are bringing clarity on how to support farmers and the formation of co-operatives. Above all, it brings about specificity to the intent. The previous one was too wordy. They have summarised things and are now very specific. The intention is very clear. I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Member for Gichugu, Hon. Gichimu Githinji.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Chairlady.

I support the amendment because the way to support farming currently is through co-operatives because of the economies of scale. It is very difficult to have farmers supported individually. Co-operatives is the way to go in support of any kind of farming in Kenya.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, this is straightforward.

(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 deleted be deleted, put and agreed to)

(Clause 23 as amended agreed to)

Clause 24

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

THAT, Clause 24 of the Bill be amended-

- (a) in subclause (1) by deleting the words ‘for the better carrying out of the functions under this Act’ appearing immediately before the word ‘committee’;
- (b) in subclause (2) by deleting the words ‘that the county executive committee member shall deem fit’ appearing immediately after the word ‘county’;
- (c) in subclause (3) by deleting the words ‘executive committee member’ appearing immediately after the word ‘county’;
- (d) by deleting subclause (4);

- (e) by deleting subclause (5);
- (f) by deleting subclause (6); and,
- (g) by deleting subclause (7).

We proposed amendment to Clause 24 as it were. Just as in Clause 23, these amendments aim at creating clarity to the legislation. Therefore, they touched on the various subclauses as appearing on the Order Paper.

(Question of the amendment proposed)

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

(Clause 24 as amended agreed to)

Clause 25

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

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

THAT, Clause 25 of the Bill be amended—

- (a) by deleting sub-clause (3);
- (b) by deleting sub-clause (4), and substituting therefor the following new subclause—
 - (4) A registered co-operative society or cotton association shall submit a register of its members to the respective county government and shall furnish the county government with information on any changes of its membership within thirty (30) days of a change in membership.
- (c) in sub-clause (5) by deleting the words “under subsection (1)” appearing immediately after the word “applicant” and substituting therefor the words “under this section”;
- (d) in sub-clause (6) by deleting the words “subsection (1)” appearing immediately after the word “under” and substituting therefor the words “this section”;
- (e) in sub-clause (7)—
 - (i) by deleting the words “subsection (6)” appearing in the opening statement and substituting therefor the words “this section”;
 - (ii) by deleting the words “or that” appearing immediately after the word “business” in paragraph (b);
- (f) in sub-clause (8) by deleting the words “under subsection (6)” appearing immediately after the word “register”;
- (g) in sub-clause (10) by deleting the words “subsection (1)” appearing immediately after the word “under” and substituting therefor the words “this section”.

Hon. Temporary Chairlady, we spent some time on Clause 25 as well. This was basically to create more clarity and correct grammatical errors and referencing. We made a few corrections as appears in the Order Paper.

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

(Question of the amendment proposed)

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

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

(Clause 25 as amended agreed to)

Clause 26

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

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

THAT, Clause 26 of the Bill be amended—

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

“Licensing of ginners, spinners and processors.”

(b) in sub-clause (1) by inserting the word “processing” immediately after the word “spinning”;

(c) by deleting sub-clause (2) and substituting the following new subclause—

(2) A person who intends to engage in the business of cotton ginning, spinning, processing or value addition and has been registered by the respective county government for that purpose shall submit an application in the prescribed form to the Board together with—

(a) such documents and information as the Board may prescribe; and,

(b) the prescribed fees.

(d) in sub-clause (3) by deleting the words “a county executive committee member” and substituting therefore the words “The Board”;

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

(5) Where the Board refuses to grant an application for a licence, the Board shall specify the reasons for the refusal.

(f) by deleting sub-clause (6) and substituting therefor the following new subclause—

“(6) The Board shall, at least thirty days before granting a new licence under this Act, publish a notice of the proposed grant by notice in the gazette and in such other manner as the Board may determine.”

g) in sub-clause (7), by deleting the words “county executive committee member” and substituting therefor the word “Board”;

(h) by deleting sub-clause (8) and substituting therefor the following new subclause—

(8) The Board shall consider any objection and may grant the licence applied for subject to such terms and conditions as the Board may consider appropriate; and,

(i) in sub-clause (10) by deleting the words “of subsection (1)” appearing immediately before the word “commits” and replacing therefor the word “this section”.

Hon. Temporary Chairlady, we also spent some time on Clause 26. This was to basically separate the functions of the board *vis-a-vis* those of the county executive committee as well as correct some typographical errors.

(Question of the amendment proposed)

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

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

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

(Clause 26 as amended agreed to)

Clause 27

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

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

THAT, Clause 27 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) The board may refuse to grant a licence where the application does not comply with the requirements imposed under this Act; and,

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

(2) The board shall notify the applicant of the decision within fourteen days of such refusal.

Hon. Temporary Chairlady, Clause 27 erroneously makes reference to county legislation. Licensing is a function of the board. We corrected that particular anomaly.

(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 27 as amended agreed to)

Clause 28

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

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

THAT, Clause 28 of the Bill be amended—

(a) by deleting the opening statement in sub-clause (1) and substituting therefor the following new opening statement—

(1) The board may revoke license under this Act if the licensee—”; and,

(b) by deleting the opening statement in sub-clause (2) and substituting therefor the following new opening statement—

“The board shall not revoke a licence unless the board”.

Hon. Temporary Chairlady, in the same spirit, Clause 28 mixes the functions and therefore, we have separated the functions of the board. We have further corrected the cross-refencing in order to make the Bill to flow better.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Before I put the Question, let us hear Hon. Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): Hon. Temporary Chairlady, I have just been looking at the latest amendments, that is, Clauses 26, 27 and 28 *vis-à-vis* the...

(Hon. David Ochieng’ spoke while seated)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Ochieng’, please be up standing.

Hon. David Ochieng’ (Ugenya, MDG): Sorry. On Clause 28, I am wondering whether we would have found, at least, some place for counties. Even as you remove the role of counties in licensing, I think we would have got a place for them. In the formation of the board, there is only one person that represents all the 47 counties and yet, we have said they are going to be in charge

of implementation. If you ask me, almost 80 per cent of this Bill will be implemented by counties. The amendment just substitutes the role of the board and counties, which does not make sense. We should have found a role for counties in all this. Even if they are not licensing, there should be a role for them in enforcement, for example. This is to ensure that what is done by the board does not lose ground because there is going to be turf wars between the board and the counties if there is no role for the counties in this regard.

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

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, I wish to oppose the statement by Hon. Ochieng'. Matters licensing must be clear and precise. The moment you put two entities in licenses, you will have an individual oscillating between county governments and some other entity. Licensing must therefore be put under one person for the purposes of smoothness in application. If it is the county, you know that you will go somewhere and you are sorted out. Trying to get two entities to sit together is going to complicate the whole process. I therefore support the amendments as they are.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Eckomas Mutuse.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): Hon. Temporary Chairlady, I support the amendment and oppose Hon. Ochieng's sentiments because we have to reduce bureaucracy in order to make it easy for people to invest and farm in this country. The moment you create many centres of power within the regulation and farming of cotton industry, it will be the first step towards killing the sector. There needs to be only one place where you go to obtain your licenses without being sent to so many other offices. The board should be the one-stop shop for licensing. The Committee amendment is, therefore, justified in my view.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I give the last opportunity to the core-sponsor, Hon. Mary Emaase, and then we put it to a vote.

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Chairlady. We need certainty and uniformity in the process of licensing. If we allow too many bodies and give them powers to offer this service, it is going to cause a lot of problems. I support the amendments by the Committee.

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

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

(Clause 28 as amended agreed to)

Clause 29

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

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

THAT, Clause 29 of the Bill be amended—

- (a) by deleting the opening statement in sub-clause (1) and substituting therefor the following new opening statement—

- (1) “A compliance notice issued under subsection 28(2)(b) shall”.
- (b) by deleting subclause in sub-clause (2) and substituting therefor the following new subclause—

(2) The board may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the board may consider to ensure compliance.

Hon. Temporary Chairlady, there were quite a number of mis-refencing. We corrected the cross-referencing and aligned the responsibilities of the board. If I may comment to Hon. Ochieng’s sentiments to satisfy him, if you look at the composition of the board, there are six persons representing cotton farmers, one from region specified in the second schedule, nominated by the farmers’ co-operative societies with the largest membership in the respective areas. That means that we have more of county-specific representatives in the board than all the others. We did proper cross-referencing and aligned the responsibilities of the board for licensing.

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

(Question of the amendment proposed)

Hon. Members, if you want to speak on this, please go to the intervention button. Hon. Phylis Bartoo, Member for Moiben. If no intention, just say so.

Hon. Phylis Bartoo (Moiben, UDA): Hon. Temporary Chairlady, I have no intention.

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, as much as the amendment to Clause 29 is timely and appropriate, I am worried that the time given for compliance is an open-ended cheque, meaning that the licensee may just play a ping-pong game while undertaking operations without complying. I suggest that there must be a specific timeline, and that discretion is not given to the board to determine when to comply and when not to.

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

Hon. Patrick Ntwiga (Chuka/Igambang'ombe UDA): Thank you, Hon. Temporary Chairlady. I was telling Hon. Njeri, who is seated next to me that, if we Members of Parliament from a certain region are not serious in this House, the people will kick us out. When the Sugar Bill was here, the people from the sugar industry were very active. I come from a place that grows cotton. When I come here, sit down and warm the chair for two hours, it might not end up very well for me.

I agree with the Chairman that they have done well in representing county governments in the whole of this thing. But as Hon. Oundo is saying, when we leave the board to determine how long they extend the licence, I think you are giving them a lot of leeway. The length or duration of the licence should be specific. We have now opened it such that the board can decide whether to extend it or not and for how long to extend it. All this has been left to them and I do not think it is okay.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Tindi Mwale.

Hon. Nicholas Mwale (Butere, ODM): Thank you, Hon. Temporary Chairlady. I rise to support the amendments, especially the way the Chairman has raised about the composition of the board. It is very important. We have seen so many boards get into problems while executing their mandate due to the composition.

I also support my colleagues who have raised issues about the licensing. We need to limit time specifications about it. I support the amendments. Thank you.

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

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, on these issues of licensing, there should be a requirement that one has to satisfy before a license is renewed or given.

Timeline is not of essence. Once you meet the requirements, even if it is after three minutes, you are given the license. It is about meeting the conditions that one has to meet before you are given the license. At times, when we say that they should be given within 20 or 30 days, and somebody has complied, there is no reason why the licensing entity should delay the issuance of such licenses upon meeting the minimum requirement. It should be automatic. We do not need to belabour the point. We would be making some people very lazy

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Okay. Hon. Nabii Nabwera, Member for Lugari Constituency.

Hon. Nabii Nabwera (Lugari, ODM): Thank you, Hon. Temporary Chairlady. If you look at the agricultural laws architecture in this country, we have not been able to move in many of the sectors because of leaving the laws loose. There is too much breather.

I want to agree with Hon. (Dr) Oundo that, in contextualising this particular section of the law, we should not allow too much luxury of time. Maybe, what we would do to help this area is that we cover the issue of time in the regulations. Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Kiamba, the last one on this. It looks like your microphone is not working. Please move to the one that is working. Try to give the next one. There is one behind you.

Hon. Suzanne Kiamba (Makueni, WDM): Thank you, Hon. Temporary Chairlady. I support the amendments. As Hon. (Dr) Oundo has suggested, the issue of timeframe makes the clause valid. Without time, it would look like licensing people to do whatever they want at whatever time.

We need to have a clear timeframe when they need to meet those conditions. Otherwise, it will be as good as not having the clause. Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Yes, the Hon. Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): Hon. Temporary Chairlady, I have heard Hon. Nabii and Hon. (Dr) Oundo.

You have already given a license, there is a farmer or a person running a ginnery and going on with what he is supposed to do. We must give discretion for the person who goes to supervise and witness how that factory is being run. We should have some discretion. If we now feel that 14 or 15 days and the person who is running this has invested in close to Ksh1 billion and what is required to be done requires a month, we would have tied down their hands. This is a matter that requires discretion and that is why we should leave a leeway for the person doing the supervision to determine, in their opinion, whether this should take a week or a month or more. This amendment is reasonable.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I will give the last chance to the Chairman, and then I will put the Question for us to make progress.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, I would like to invite Hon. (Dr) Oundo to read Clause 27 which clearly answers his question. Clause 27, for the benefit of everyone says:

1. The board may refuse to grant a licence where the application does not comply with the requirements imposed under this Act.

2. The board shall notify the applicant of the decision within fourteen days of such refusal.

Please read the entire Bill.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, let us now put the Question.

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

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

(Clause 29, as amended, agreed to)

Clause 30

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

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

THAT, Clause 30 of the Bill be amended—

- (a) by deleting the opening statement in subclause (1) and substituting therefor the following new opening statement—

(1) Where a person who receives compliance notice under section 29 fails to comply with such notice, the Board may—

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

(2) For purposes of this Act, a revocation of licence takes effect on the date on which the licence is revoked by the board.

We are still discussing licensing under Clause 30. We did also correct the referencing and looked further into the responsibilities of the board on licensing and revocation of such licenses. We also did improve on the consistency on the marginal notes. It is the board that is responsible to revoke a license and not the county executive committee member (CECM). We did correct that anomaly as well.

(Question of the amendment proposed)

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

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

(Clause 30 as amended agreed to)

Clause 31

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, you had some information. I am told you have an amendment in an amended form. Proceed.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Chairlady. We did look at Clause 31 and made our proposals, but Hon. Mutuse has an amendment which to us is more preferable. The amendment by Hon. Mutuse is better than ours in terms of giving the schedules of the meetings. It would be more appropriate in this particular respect.

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

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I would like him to finalise, since what he is saying is important for us to make progress. Hon. Mutuse, proceed as the Chairman prepares himself.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Thank you, Hon. Temporary Chairlady. As the Chairman of the Departmental Committee on Agriculture and Livestock, Hon. (Dr) Mutunga, has alluded to, we have had discussions because the Committee has a proposal. I also had a proposed amendment which, in spirit, is similar to what the Committee wants to achieve.

However, our amendment is broader in the sense that it also provides how the tribunal would work. Basically, those are provisions to provide for an establishment of a tribunal that would sort out disputes that would arise within the sector. You realise that you require an efficient system of dispute resolution so that you do not have to take too long sorting out disputes in court.

Therefore, we are in agreement with the establishment of a tribunal. However, the Committee had not provided for how the tribunal shall operate. These are rules of procedure in terms of meetings and procedure when you bring a dispute before the tribunal. How are you going to register it? How are the parties going to be served? How are parties going to do pre-trials and within what period of time is the dispute going to be resolved?

We added that. I have had discussions with the Chairman of the Committee and he has been magnanimous enough to accept that our proposed amendment is richer than what had been proposed by the Committee.

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the Committee wishes to drop the amendments to Clause 31, and have further amendments to Clause 31 –

(Proposed amendment by Hon. (Dr) John K. Mutunga withdrawn)

I beg to move further amendments to Clause 31 –

THAT, the Bill be amended by deleting Clause 31.

We propose that the Bill be amended by deleting Clause 31.

(Question of the amendment proposed)

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

Hon. Didmus Barasa (Kimilili, UDA): I support the proposal to delete this clause. We have many crop tribunals in this country which serve no purpose. It is a waste. We should just have one tribunal in the whole country that deals with the crop disputes. A person who understands matters of law can interpret various crop Acts in this country to avoid every crop having a tribunal.

This is a waste of resources and time. Those officers should serve elsewhere. I support the Committee's reason for deleting this clause.

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I agree to some extent with my good friend with a red cap. I remember Kibra. I totally agree. If you look at the intent and wording of the clause, it seems to resolve disputes between the cotton farmer, the co-operative societies and other members. In the current Co-operative Act, there is already a tribunal that resolves disputes between the co-operators and the management of the co-operative. In the new Act, Hon. Gichimu and I are privileged because we sit in another committee that is reviewing the Act. The mandate and composition of the tribunal have been changed. Again, under the Crop Act, there are very many tribunals. I would imagine any dispute arising out of any arrangement between the members and the co-operative union, should be dealt with under the co-operative tribunal. Any other matters dealing with disputes about cropping, crop husbandry, disputes between one farmer and another, there are enough regulations and laws under the county governments that can deal with that. This is just a waste of public resources. They will have nothing to do. I would want the Chairman to drop it as well as that of my good friend, Hon. Mutuse, and probably just make a reference or re-draft the section that any dispute arising will be handled by the Co-operative Tribunal that is established under the Co-operative Act.

Thank you.

Hon. David Ochieng' (Ugenya, MDG): Now that they are going to be working on an amendment they are agreeing on, I am just trying to agree with Hon. Oundo. As you do that, please, put a mandatory requirement for ADR. Before they go to any tribunal, there is a level that they settle the issues at the community level within the region before someone goes to some umpire, that is like a court system. That is going to help because we cannot have any small issue between farmers of certain crops or tussles taken to the tribunal. Let us have a way of solving issues locally.

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

(Clause 31 deleted)

Clause 32

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

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

THAT, Clause 32 of the Bill be amended—

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

“(1) The county government shall designate collection centres in consultation with cotton growers and other stakeholders.”

(b) in subclause (2)—

(i) by deleting the words “county executive committee member” and substituting therefor the words “county government;” appearing in the opening statement; and,

(ii) in paragraph (a) by deleting the words “Cabinet Secretary” and substituting therefor the word “Board”.

We examined Clause 32 in view of the responsibilities of the county governments to designate the collection centres. We also assigned the county executives the responsibility for designations. We also looked at what the board will need to do in terms of ensuring that a collection centre meets the required standards and not the cabinet secretary as stated in the Bill as it is right now. Those are the proposals we made.

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

(Question of the amendment proposed)

Let me get an alternative voice, Professor. Hon. Member for Gichugu, Hon. Gichimu Githinji. Oh, sorry! Hon. Wilberforce Oundo, Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I have very nostalgic memories of collection centres, which we used to call stores in my constituency. It was one of the leading areas in cotton growing and the way it was designed, it was owned by the co-operative societies. Those who are going to grow cotton, are going to aggregate in co-operative societies and a co-operative society is more or less like a private entity. By asking the county governments then to set up collection centres, what will be the connection? How will they relate? Will the collection centres belong to the county government? With the consignments, will the collection centres belong to county governments? Who will be in charge of the security of the cotton collected and stored in the collection centres? It is something that we need to relook into. Let the process be handled by the co-operative societies and their cotton association to avoid bringing in county governments and giving them a burden they cannot carry.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Professor, please summarise. We are in the Committee of the whole House.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Yes, it is fine. I have summarised. Have a look at it.

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

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

(Clause 32 as amended agreed to)

Clause 33

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

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

THAT, Clause 33 of the Bill be amended—

- (a) by deleting sub-clause (3);
- (b) by deleting sub-clause (4);
- (c) by deleting sub-clause (5);

- (d) in sub-clause (6) by deleting the word “subsection (2)” appearing immediately after the word “under” and substituting therefor the words “subsection (6)”;
- (e) by deleting sub-clause (7);
- (f) in clause (9) by deleting the words “subsection (4)” appearing immediately after the word “under” and substituting therefor the words “subsection (6)”;
- (g) by deleting subclause (10) and substituting therefor the following new subclause—

“(10) A person who is not satisfied with the decision of the board may appeal to the cabinet secretary; and where such a person is not satisfied with the decision of the cabinet secretary, shall appeal to the High Court.

We looked at the clause and corrected typographical errors and cross-referencing.

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

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, we also did a bit more work, because we looked at the penalty provided under sub-Clause (9), which appeared too high and, therefore, we amended it. Finally, under Clause 10, we amended it to give room for appeal if the aggrieved parties are not satisfied with the board's decision.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Chairman, which are you speaking to? Clause 33?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Yes, Clause 33.

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

Clause 34

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

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

THAT, Clause 34 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new subclause—
“(1)A license issued under this Act shall be valid for a period of one year from the date it was issued.”;
- (b) by deleting sub-clause (2) and substituting therefor the following new subclause—

“(2) A person who intends to renew a license under sub-section (1) shall submit an application to the Board in the prescribed form at least thirty days before the date of expiry of the current license”.

(c) in subclause (3) by deleting the words “section 32” and substituting therefor the words “section 33”.

We did a little bit of cleaning and correction of typographical errors.

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

(Question of the amendment proposed)

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

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

(Clause 34 as amended agreed to)

Clause 35

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

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

THAT, Clause 35 of the Bill be amended—

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

“(1) The board may revoke a licence issued or renewed under this Act if the licensee—”

(b) in sub-clause (2) by deleting the opening statement and substituting therefor the following new opening statement—

“(2) The board may revoke a licence issued under subsection (1) unless the board—”.

We looked at Clause 35 and the Committee provided for issuance of renewal of licenses as provided in the Act, and not just under Section 32. We also bestowed the responsibility of licensing to the board and not the county executive committee.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. David Ochieng’. If you do not have an interest in this, do not go to the intervention.

Hon. Patrick Ndwiga, Member for Chuka/Igambang’ombe, your interest is not in this one?

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

(Question, that the words to be inserted in

place thereof be inserted, put and agreed to)

(Clause 35 as amended agreed to)

Clause 36

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

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

THAT, Clause 36 of the Bill be amended in sub-clause (1) by deleting the words “section 34(2)” appearing immediately after the word “under” and substituting therefor the words “section 35(2)(b)”

We just made some corrections on the references in this clause.

(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 36 as amended agreed to)

Clause 37

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

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

THAT, Clause 37 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “section 34” appearing immediately after the word “under” and substituting therefor the words “section 36”;

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

“(2) For purposes of this Act, a revocation of license takes effect on the date on which the license is revoked by the board.”

In this clause, we just corrected the text to be consistent with the marginal notes.

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

(Question of the amendment proposed)

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

(Question, that the words to be inserted in

place thereof be inserted, put and agreed to)

(Clause 37 as amended agreed to)

Clause 38

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

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

THAT, Clause 38 of the Bill be amended by inserting the following new sub-clause immediately after subclause (1)—

“(2) The board shall apply the money received under this section for the furtherance of the objects and performance of the functions of the board.”

Hon. Temporary Chairlady, in Clause 38, we provided clarity on how the money will be utilised by the board.

(Question of the amendment proposed)

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

(Clause 38 as amended agreed to)

Clause 39

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have amendments by the Chairman and Hon. Mutuse. I will start with Hon. Mutuse.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 39 and substituting therefor the following new clause—

Cotton
Development
Levy.

39. (1) The Cabinet Secretary shall, in consultation with the Board, and by order in the Gazette, impose a levy to be known as the Cotton Development Levy.

(2) The levy shall be applicable to all imported textiles and shall be payable at such rate as may be specified in the order.

(3) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.

(4) All monies received in respect of the levy shall be paid to the board and if not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Board.

(5) If a person fails to pay any amount payable by him or her by way of the levy on or before the date prescribed by the order, a sum equal to five per centum of the amount shall be added to the amount due for each month or part thereof during which the amount due remains unpaid.

(6) The board shall apply the money received under this section for the furtherance of the objects of the Board.

(7) The money received by the board under this section shall be apportioned as follows—

(a) an amount not exceeding seventy per cent for the development of constituency textile value addition and garment manufacturing centres, to be developed in every constituency; and,

(b) an amount not exceeding thirty per cent to provide for sustainable, affordable credit and advances to cotton farmers for all or any of the following purposes—

(i) farm improvement;

(ii) farm inputs;

(iii) farming operations; and,

(iv) price stabilisation.

Clause 39 is on imposition of levies. We are proposing an amendment for the imposition of Cotton Development Levy so that the industry is resourced. It has three particular limbs that are important in our proposed amendment.

Number one, we want the levy to be imposed on imported finished textiles, and not on the local cotton or raw materials that may be coming into the country. The purpose of imposing the levy on finished textile products is to, first, protect the industry that we want to grow locally and, secondly, to protect our economy from cheap imports from other economies.

Number two, the amendment as provided was very broad and had left the board with unfettered powers to determine how the money collected will be spent. I have come up with a proposal that 70 per cent of the money that will be collected from the Cotton Development Levy be used to establish constituency cotton value addition centres. This will ensure that Members of this House who come from cotton-growing areas have a fund to establish the Cotton Development Centres within their constituencies for purposes of promoting the cotton industry. The other 30 per cent of this fund will be used as soft credit to farmers for purposes of promotion of that industry.

Therefore, after consulting with the Chairman of the Departmental Committee on Agriculture and Livestock, Hon. Dr Mutunga, we agreed that this proposed amendment is justified and is in the spirit of promoting the industry. It is also at the centre of ensuring that farmers have money to use in farming. It will also ensure that there is money for the Government to establish cotton industries at the local level.

If you look around in this House, many of us are wearing imported clothes. The purpose of this amendment is to make sure that these clothes are made locally and we can export.

Thank you, Hon. Temporary Speaker. I request the House to adopt the amendment that I have proposed.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much. The amendment has been circulated. Please, make sure that Hon. Ochieng', Member for Ugenya, has that amendment.

(Question of amendment proposed)

I will give the first opportunity to the Chairman of the Departmental Committee on Agriculture and Livestock, bearing in mind that if Hon. Mutuse's amendment is carried, then yours will be accommodated.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you very much, Hon. Temporary Chairlady. Indeed, we only aligned the levy to the national level as opposed to the county level, as proposed in this legislative proposal. We, therefore, accept the proposal by Hon. Mutuse because it basically bars finished products from coming into Kenya. This will stimulate local production and productivity, increase value addition and create the jobs that we need.

Thank you.

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

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, I want to oppose the amendment by Hon. Mutuse. If we want to protect the cotton sector, then we should not put any tax on importation of cotton unfinished products. Instead, you completely ban importation. We need this country to ban importation of cotton and unfinished cotton products. Before you create a levy, then you must first have regulations. How are the levies you collect going to trickle down to develop the sector? We do not want to repeat a situation where the courts have accused us of coming up with proposals to increase taxes on certain products when we do not have a framework on how those collected taxes and funds will benefit the farmers.

I agree that we must protect the cotton industry, but this cannot be done by taxing imports, but by completely banning them so that our farmers can get value for the cotton crops they grow. I reject the amendment by Hon. Mutuse.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. David Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): Hon. Temporary Chairlady, the primary reason for this Bill is to revive the failed cotton industry. Our history as a country has shown that every time we introduce a levy, the body that we are creating here today will be looking forward to raising money, and not developing the cotton industry. That is my fear. We have seen this throughout. You may know this today, and with no pun intended, that the Housing Levy money cannot be used. It is just lying there. The Railway Development Levy, that we introduced in the last term, is also just lying there and not being used to develop the railway line.

I oppose anything that introduces money because we have seen that whenever you give boards money, their mandate changes from what was meant to be. If it is in the sugar industry, they will not develop the sugar sector, but will start looking at how to raise money through that levy provision. We have ways of protecting the cotton industry without necessarily having a levy.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Emaase, you are the co-sponsor of the Bill.

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Chairlady. I oppose this amendment. First of all, it is ambiguous. It just recommends imposition of a levy. What will the imposed levy be for? If we want to impose it on imports, we have to be specific and say that it will be imposed on imports.

I agree with Hon. Ochieng’. The intention of this Bill is to revive or resuscitate the cotton industry, cotton growing and marketing and everything about cotton. So, we cannot begin introducing levies on anything. I support the idea that we need to protect our industries to create opportunities. If we have to do that, we should ban importation. We cannot begin by introducing levies. I oppose, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): In that case, let us put this to a vote. I will give a chance to just one more Member. Hon. Nabii.

Hon. Nabii Nabwera (Lugari, ODM): Hon. Temporary Chairlady, I support the amendment. I support it on this premise. If we listened to Hon. Mutuse carefully, we are not imposing a levy on local cotton production, but we are imposing a levy on any imported cotton.

We must agree that we are in a global world. We also must agree that before we become self-sufficient, we will rely on importation. Therefore, we must take it in the context that, as we grow to be self-sufficient, we will still be importing cotton.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Suzanne Kiamba. Let her be heard in silence. She is from a cotton growing zone. Give her a microphone, please. Please, come to the microphone at the front. There is a small problem with the microphones where you are.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): What is out of order, Hon. Mutuse? Please, Hon. Suzanne, come to the first and the second line as Hon. Mutuse clarifies.

Hon. members, we have a problem with the microphones. But let us just keep trying.

Please, give the microphone to Hon. Mutuse. Clarify in a half a minute.

Hon. Mwengi Mutuse (Kibwezi East, MCCP): Hon. Temporary Chairlady, I rise on a point of order. The point of order is that I realise Members are debating using the Order Paper, but the Order Paper does not contain the amendment that I have proposed. Therefore, my point of order is that if Members would have the benefit of having the amendment that I am proposing, it will be very easy for us to agree. The issue of who we are levying the tax on is clearly provided for under my sub-clause 2, that it is on imported textiles. So, if Members can have it as a matter of order, it will be very easy for them to agree with what I am proposing, Hon. Temporary Chairlady.

(Technical hitch)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I am very sorry, Hon. Kiamba.

Hon. Suzanne Kiamba (Makueni, WDM): Hon. Temporary Chairlady, I do not know whether this is deliberate. How can the whole Minority side not have proper working communication gadgets? I think this is intentional. I do not think it is technical. How can I move?

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Suzanne, please, go to the point. The challenge we have with microphones is universal. It is in all areas. It is going to be corrected. So, please, go to your point. Give the microphone to her.

Hon. Suzanne Kiamba (Makueni, WDM): Thank you, Hon. Temporary Chairlady. I support the amendment by Hon. Mutuse, but only in Part 1. That is where we have the issue of tariffs to ensure we protect the local cotton farmers. But I do not support Part 2. I do not support it because if we have every crop ring-fencing any form of taxation, there will be a lot of confusion in this particular country. Taxation should not be ring-fenced for development of cotton. We should have policies that direct where the priority is.

Thank you, Hon. Temporary Chairlady.

Hon. David Ochieng (Ugenya, MDG): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): What is out of order, Hon. Ochieng?

Hon. David Ochieng (Ugenya, MDG): Hon. Temporary Chairlady, I am just wondering whether at this stage we can have that. This is like a tax. I am wondering whether, at this stage, we can introduce a tax on something we did not conduct participation on; and whereby the sector has not considered it and we have not done public participation on it. We are opening ourselves up to

litigation. I request that we retain what there was because that is what we did public participation on. This one, as it is, may open us up to litigation because public participation was not done on it.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, for the purpose of progress, I will give the Chairperson a chance to say something. Then we will decide what to do on this clause.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Chairlady. The contention in the room is that we may not introduce a tax at this point in time. The other issue is that the levy is not appropriately shared in view of the functions that it is supposed to respond to. Leaving Clause 39 as per the Committee position, will provide us a possibility to introduce a levy and then we can have public participation at the regulation stage which will specify exactly how the levy is going to be used. But a levy is important in this sub-sector.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, I would like to ask you a question. Is the levy you are suggesting in Article 114 of the Constitution? Your answer will enable us to decide. So, if it is subject to Article 114 of the Constitution, we may not be able to proceed. If it is not, we can proceed.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the Bill already provides for imposition of a levy, as it is. All we did is to align the levy to the national level because they were putting it at the county level.

The Temporary Chairlady (Hon. Rachael Nyamai): That then means you are supporting Hon. Mutuse's amendment. Does it mean you are supporting Hon. Mutuse's amendment?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, let us stick to our amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You are saying we stick to your amendment? So, then you are not supporting Hon. Mutuse's amendment? Okay, then I put this to a vote.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Yes.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): That means you do not support, Hon. Mutuse's amendment. Hon. Members, we have given it enough time. So, I would like now to put the question.

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There is a further amendment by the Chairman of the Committee. Proceed.

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

THAT, Clause 39 of the Bill be amended by deleting the words "the county government" appearing immediately after the word "board".

The Committee proposes that the levy be a function of the national Government and not the county government in that particular amendment.

(Question of the amendment proposed)

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

(Clause 39 as amended agreed to)

(Clauses 40 and 41 agreed to)

Clause 42

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

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

THAT, Clause 42 of the Bill be amended in subclause (3), by deleting the words “the National Assembly and the Senate” appearing before the word “to” and substituting therefor the word “Parliament”.

We substituted the words ‘the National Assembly and the Senate’ with the word ‘Parliament’ in this Clause.

(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 42 as amended agreed to)

(Clause 43 agreed to)

Clause 44

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

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

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

Incentives

“44. The Cabinet Secretary responsible for agriculture may, in consultation with the Cabinet Secretary for Treasury, initiate implementation of such measures, including tax incentives, in order to promote the development of the cotton industry.

In this clause, we emphasise the need for the Cabinet Secretary for Agriculture and Livestock Development to be part of the initiation of implementation of incentives for the cotton industry.

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

(Question of the amendment proposed)

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I can see the good intention of the Committee, as pronounced through the Chairperson. However, I am afraid the issue of tax incentives is clearly stipulated in the Constitution and Public Finance Management (PFM) Act. I do not know under what powers can a Cabinet Secretary for the National Treasury grant tax incentives, unless it is done through the Finance Bill. I can see that we are going to run into constitutional headwinds or have a superfluous clause that cannot be implemented. Probably, the legal team can advise the Chairperson who can consequently advise us.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman, the matter that has been raised by Hon. Oundo is serious. Would you like to comment on it?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, we did not indicate that the Cabinet Secretary for the National Treasury would be part of the incentive. It is the Cabinet Secretary for Agriculture and Livestock Development because he understands the kind of incentives we are talking about.

(Hon. David Ochieng' spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Give him the microphone.

Hon. David Ochieng' (Ugenya, MGD): Hon. Temporary Chairlady, I want to build on what Hon. Oundo has said. This amendment will be good, if the Chairperson moves a further amendment and removes the word "tax". I plead with him to do it. It opens the whole thing up to the Cabinet Secretaries concerned to do anything. It is not limited to tax. If he allows, he can move a further amendment to his amendment which currently states: 'The Cabinet Secretary responsible for Agriculture may, in consultation with the Cabinet Secretary for National Treasury, initiate implementation of such measures, including incentives, in order to promote the development of the cotton industry. I have removed the word 'tax'. This is what I have here.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairperson, please read your amendment and then I will put it to a vote. Please give the Chairman of the Departmental Committee on Agriculture and Livestock the microphone.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, Clause 44 amendment by the Committee reads as follows:

Incentives

"44. The Cabinet Secretary responsible for agriculture may, in consultation with the Cabinet Secretary for Treasury, initiate implementation of such measures, including tax incentives in order to promote the development of the cotton industry.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, it is in consultation....

Hon. (Dr) John K. Mutunga (Tigania West, UDA): We can move a further amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): Hon. Temporary Chairlady, this is not possible. The two cabinet secretaries cannot initiate taxes. Incentives without taxes cannot work, and that is where we lost the point. This industry would have been self-sustaining if there was a levy that

would enable the industry to run on itself, but we lost it at some point. However, a tax cannot be introduced by two cabinet secretaries in consultation.

(Hon. (Dr) Ojiambo Oundo spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Let the Chairman do it. I would like to give a chance to the Hon. Chairman.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Chairlady, the provision of tax is already in the Bill, unless we are moving an amendment. We only introduced the Cabinet Secretary for Agriculture and Livestock Development to consult with the National Treasury for purposes of defining and initiating the incentive.

(Question of the amendment proposed)

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

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

(Clause 44 agreed to)

Clause 45

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chairman. Do you have amendments?

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

THAT, Clause 45 of the Bill be deleted.

Hon. Temporary Chairlady, we looked at this particular provision and thought it was necessary. Therefore, let us delete Clause 45.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Any interest in this clause, Hon. Members? Hon. Chairman, is Clause 45 a deletion?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Yes.

(Question of the amendment proposed)

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

(Clause 45 deleted)

Clause 46

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

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

THAT, Clause 46 of the Bill be amended in subclause (1) by deleting the words “twenty thousand” and substituting therefor the words “one hundred thousand”.

Hon. Temporary Chairlady, we aligned the penalty with the offence in this particular respect.

(Question of the amendment proposed)

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

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

(Clause 46 as amended agreed to)

Clause 47

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

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

THAT, Clause 47 of the Bill be amended in subclause (2) by deleting the words “under section 7(1)(c)” appearing in paragraph (a).

Hon. Temporary Chairlady, we deleted subclause 7(1)(c) because it is not necessary. We did not find the value of having that particular subclause.

(Question of the amendment proposed)

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

(Clause 47 as amended agreed to)

(Clause 48 agreed to)

Hon. Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, in the interest of time, I would like to call the Mover, Hon. Emaase, to move reporting. When we resume, we will start from Clause 49.

Hon. Mary Emaase (Teso South, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Cotton Industry Development Bill, (Senate Bill No.5 of 2023) from Clause 3 to Clause 48, and its approval thereof with amendments and seek leave to sit again.

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

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

[The Temporary Speaker (Hon. David Ochieng') in the Chair]

The Temporary Speaker (Hon. David Ochieng'): Hon. Members, as you are aware, we have considered three Bills. We will start with the reporting of the first one we did. I therefore call upon the Chairperson to move reporting.

MOTION

CONSIDERATION OF REPORT ON THE PENSIONS (AMENDMENT) BILL
(National Assembly Bill No. 44 of 2022)

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Pensions (Amendment) Bill (National Assembly Bill No. 44 of 2022) and approved the same with amendments.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng'): Mover.

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Speaker, I beg to move that this House do agree with the Committee in the said Report. I request Hon. Brighton Yegon to second.

Hon. Brighton Yegon (Konoin, UDA): Hon. Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Hon. David Ochieng'): Hon. Members, for obvious reasons, I defer putting the Question on this matter until the next time it is slotted in the Order Paper.

(Putting of the Question deferred)

MOTION

CONSIDERATION OF REPORT ON THE SUGAR BILL
(National Assembly Bill No. 54 of 2022)

The Temporary Speaker (Hon. David Ochieng'): We, therefore, move to the Sugar Bill. Hon. Temporary Chairlady.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Sugar Bill, (National Assembly Bill No. 54 of 2022), and approved the same with amendments.

The Temporary Speaker (Hon. David Ochieng'): Mover.

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Hon. (Dr) John. K. Mutunga (Tigania West, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report.

I also request Hon. Nabii Nabwera to second the Motion for agreement with the report of the Committee of the whole House.

The Temporary Speaker (Hon. David Ochieng’): Hon. Nabii.

Hon. Nabii Nabwera (Lugari, ODM): I second.

(Question proposed)

(Putting of the Question deferred)

The Temporary Speaker (Hon. David Ochieng’): The next Bill that was considered this morning is the Cotton Industry Development Bill.

CONSIDERATION OF REPORT ON THE COTTON INDUSTRY BILL

The Temporary Speaker (Hon. David Ochieng’): Temporary Chairlady.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Hon. Temporary Speaker, I beg to report that the Committee of the whole House is considering the Cotton Industry Bill (Senate No. 5 of 2023), and seeks leave to sit again.

The Temporary Speaker (Hon. David Ochieng’): Mover, Hon. Emaase.

Hon. Mary Emaase (Teso South, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request Hon. Mutuse to second the Motion for agreement with the report of the Committee of the Whole House.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): I second.

(Question proposed)

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Speaker (Hon. David Ochieng’): Hon. Members, the time being 1.09 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.09 p.m.

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