

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 25th April 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, at the face value we do not have the required quorum and therefore I order that the Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order Members, we now have the required quorum therefore business will begin.

PAPER LAID

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

Legal Notice No. 79 of 19th April 2018 on exemption from expiry of Legal Notice No. 86 of 2014 and Legal Notice No. 44 of 2018 relating to interest and capital gains in respect of Sovereign Bonds issued outside Kenya by the National Government (pursuant to the Statutory Instruments Act, No. 23 of 2013); and

The Annual Report and Financial Statements of the Communications Authority of Kenya for the Financial Year 2016/2017.

Hon. Deputy Speaker: Very well. Next Order.

PROCEDURAL MOTION

ALTERATION OF SITTINGS

Hon. A.B. Duale: Hon. Deputy Speaker, I beg to move the following Procedural Motion: THAT, pursuant to the provisions of Standing Order 28(4) (Calendar of the Assembly) and notwithstanding the provisions of Standing Order 30(1) (Hours of meeting), this House resolves:

- (i) to stay its morning sitting of Wednesday, May 2, 2018; and
- (ii) to hold morning sittings on Thursday, April 26, 2018; and Thursday, May 3, 2018 commencing at 9.30am.

The aim of abstaining the morning sitting on Wednesday 2nd May is because in the afternoon of that day we will be having a joint sitting of both Houses of Parliament for the State of the Nation Address by the President of the Republic of Kenya in accordance with Article 132(1) (b) and (c) of the Constitution of Kenya.

In this regard, there will be need to clear the Chamber in the morning to allow the Clerk and the other State agencies time to prepare for the debate. This is a routine Procedural Motion which is made on such occasions. On Wednesday afternoon, we will have the joint sitting. The Clerks of both Houses and other State agencies must have an opportunity to prepare the Chamber; to make sure the Chamber is ready for that occasion, a very important occasion in the parliamentary calendar.

The second part of that Motion is for us to hold two morning sittings, starting with tomorrow Thursday, 26th April 2018. As we sit this afternoon, the Budget and Appropriations Committee is receiving recommendations from the various departmental committees. So we want to give an opportunity to the Committee to table their report tomorrow morning to consider the Supplementary Estimates II for the year 2017/2018. This is after the Budget and Appropriations Committee has consulted with various departmental committees in keeping with the requirements of Standing Order 235, which is titled "Presentation of Budget Estimates and Committal to Committees."

Next week on Tuesday will be a public holiday and Wednesday will be the State of the Nation Address. So we are going to lose those two days. The only day remaining before we go for the long recess in the month of May is Thursday the 3rd. That is why we felt that we have a sitting on Thursday the 3rd, in the morning, to consider and complete the Appropriations Bill (No. 2) Bill in all the three stages. Secondly, to discuss and note the President's Address to Parliament, which the Standing Orders obligate the House to deal with for three consecutive sittings. So we can start on Thursday morning and afternoon and also deal with the Supplementary II Bills in all stages.

We also want to use tomorrow and next Thursday to finish with the Computer and Cybercrimes Bill, 2017, which is very important, so that as we go on recess, those people who use.... You have seen what happened - I do not know whether it is true - to the Deputy Governor of Kirinyaga in Kakamega. It is unacceptable. I do not know why he just allowed hooligans to ask him questions. He should have fought like a man. I was shocked. Like Hon. Wamalwa said, when I got that video, I locked myself in the bedroom so that my kids could not see what I was watching. The first thing that came to my mind as a pastoralist is that this guy is not man enough. There is something called self-defence. There is a man who represents Maendeleo ya Wanaume. I am looking for him. That one is not part of us. He does not belong to some of our pedigree. Those guys look like thugs and hooligans. The police cannot say they are not aware of that. They must investigate that matter and the root of the matter should be.... If it is a leader who has played around with integrity, he should be told. If it is about extortion rings and thuggery, we should also know.

Hon. Deputy Speaker: Order, Leader of the Majority Party. I must ask you a simple question. I am wondering the relevance of that to this Procedural Motion.

Hon. A.B. Duale: Hon. Deputy Speaker, I agree because part of the Procedural Motion is to bring tomorrow afternoon the Computer and Cybercrimes Bill. Technology was used in the wrong way by thugs. There is a recording. But I said I must go on the HANSARD. I represent men and women of integrity in this House.

Hon. Wanjala: (*Shouted off record*)

Hon. Deputy Speaker: Order, Hon. Wanjala.

Hon. A.B. Duale: Hon. Deputy Speaker, the Member for Budalang'i represents the men of men. If he wants to marry five he marries five. He does not ask for permission and he does not hide. He comes in broad daylight. That is why he is very much interested in this matter. He is not like some of us who hide. He does not hide.

Because the Leader of the Minority Party who was with me in the HBC is absent, the Whip of the Minority Party was not there and I have not seen Hon. Makali on the other side, let me ask the Whip in whose county the incident happened... Hon. Oparanya must make people safe there. I am told everybody has left the conference this morning. All the men are enroute to their counties because they have seen life is dangerous there. I even told my governor, deputy governor and MCAs to take off; they should not spend another night in Kakamega. That is a very dangerous part of Kenya. Any of you who comes from there or will go to Kakamega must make sure you have three padlocks for your room.

Thank you, Hon. Deputy Speaker. I ask the Whip to second.

Hon. Deputy Speaker: That is a gentleman from Kakamega. Proceed.

Hon. Washiali: Thank you, Hon. Deputy Speaker. I thank the Leader of the Majority Party for moving this Procedural Motion. I quickly second him because we had exhaustively discussed this.

Hon. (Ms.) Mbarire: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Order. What is it, Hon. Cecily Mbarire? You have an issue? What is it? Let us hear what the iron lady of Embu wants to say.

Hon. (Ms.) Mbarire: Hon. Deputy Speaker, I just want to say that I also felt for the Deputy Governor. Like the Leader of the Majority Party, I felt that he should have fought back, because that is what a man does, especially when you know your family is at stake, your leadership is at stake. You fight back. If I were the one, I would have fought back. The question I ask as a woman is: If it was a woman who was the Deputy Governor, would this narrative be the way it is? Certainly not. That is to show you the double standards that are put between men and women leaders.

Hon. Deputy Speaker: Order, Hon. Mbarire. That is definitely not a point of order. It is just making a point.

Hon. Kilonzo: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it again, Hon. Mutavi Kilonzo? I hope it is nothing to do with Kakamega.

Hon. Kilonzo: Hon. Deputy Speaker, I was just wondering whether the Chair is still with us. The Member who stood on a point of order was actually out of order because the other Member was still seconding a Motion. Members are using opportunities. Because the Deputy Speaker is very kind, they are taking advantage of his kindness to bring their agenda. If you have serious issues with the Deputy Governor of that place I do not want to mention, Hon. Cecily has an opportunity to bring a Motion and we deal with it here.

Hon. Deputy Speaker: I agree with you, Hon. Kilonzo. So let us allow the Whip of the Majority Party to finish seconding the Motion.

Hon. Washiali: Thank you, Hon. Deputy Speaker, for giving me opportunity to second this Procedural Motion and thank the Leader of the Majority Party for moving it. We had exhaustively discussed this in HBC and agreed that we should stay away especially on 2nd May, because of the State of the Nation Address.

Hon. Deputy Speaker, with the current historical handshake, we expect to have a full House because all Members from both sides will be in attendance. We also expect that all the Senators from both sides will be in attendance. Therefore, it is important that we prepare for that day because the current sitting space that we have in this Chamber might not be enough. It is important that we give time to the staff of Parliament to prepare for the afternoon session.

I do not want to go on side shows. You have seen how interesting the conference in Kakamega is. I was there yesterday and there is a lot of security in Kakamega Town and more specifically at Golf Hotel where this action took place.

Hon. Wamunyinyi: On a point of order.

Hon. Deputy Speaker: Order! What is it Hon. Wamunyinyi? There is nothing out of order.

Hon. Wamunyinyi: Hon. Deputy Speaker, I rise to seek your direction and the record must be put straight. This is because the Hon. Leader of the Majority Party has alluded to what is happening in Kakamega. Those videos and whatever reporting that you have seen in social media did not happen in Kakamega. It happened somewhere in Kirinyaga two months ago. Nothing like that can happen in Kakamega. We do not do such things in Kakamega.

(Laughter)

The record must be put straight.

Hon. Deputy Speaker: My difficulty, Hon. Members, is that I am not privy to any information, one way or the other. The Hon. Leader of the Majority Party says it happened in Kakamega and people are fleeing. You are saying it happened in Kirinyaga. That is one word against the other. Hon. Washiali, proceed and finalise.

Hon. Washiali: Hon. Deputy Speaker, I just want to urge the Members that we finalise with this Motion before we have interjections.

Hon. Deputy Speaker: You see even the Majority Whip cannot finish because the Minority Whip is also placing an intervention. What is it again, Hon. Junet? You do not come from Kakamega, neither do you come from Kirinyaga.

Hon. Nuh: Hon. Deputy Speaker, I agree that that matter is of national importance. What happened in Kakamega was extraordinary. However, I agree with Hon. Wamunyinyi. People in Kakamega do it in Muliro Garden.

(Laughter)

Hon. Deputy Speaker: That is a frivolous point of order.

Hon. Nuh: Hon. Deputy Speaker, the way Hon. Wamunyinyi has put it, he looks like somebody who is very much informed on that matter and he needs to record a statement because those people might be part of his gang.

Hon. Deputy Speaker: Hon. Members, let us leave that one. Even if you have been mentioned, Hon. Wamunyinyi, you are the one who elicited this debate. So, what is it?

Hon. Wamunyinyi: Hon. Deputy Speaker, I sought serious direction on this matter because it never happens in Kakamega like that. I also know that this Member, who is an adopted son of the Luo community and a very close friend of Raila Amollo, should not play with me. I do not make jokes just like that. I am usually very serious when I say something. This thing being shown on video did not happen in Kakamega.

Hon. Deputy Speaker: Hon. Members, can we calm down. First, I am not going to issue any communication whatsoever on issues to do with Kakamega or otherwise. Not on this one because this is a matter which is external to the House and secondly, I have absolutely no information and I do not intend to look for information in that direction. Members have spoken about it and I do not think we need to open it up again. Hon. Wamunyinyi said it is not in Kakamega. Somebody else is saying it is in Kakamega. We will leave it at that. Not even if Hon. Wanjala is interested in speaking to this. That is over.

Finalise your seconding.

You are out of order, Hon. Wanjala.

Hon. Washiali: Hon. Deputy Speaker, with all those interruptions, I want Members to be careful when they talk about Kakamega.

Hon. Deputy Speaker: Now you are opening it up again and yet we have sealed it.

Hon. Washiali: Hon. Deputy Speaker, even in the video, the way it was recorded, the people were talking in Kikuyu. The people in Kakamega do not speak Kikuyu. They speak Luhya or Kiswahili if they want to communicate.

Hon. Deputy Speaker: Just second the Motion.

Hon. Washiali: Before I second, we the people of Kakamega County and Western in general are very disappointed with people who are bringing their own characters from out there with the women. Even that lady was not a Luhya.

(Laughter)

We do not want foreign behaviour to be brought in Kakamega. Hon. Deputy Speaker, I wish to second.

Hon. Deputy Speaker: You are completely out of order. The Hon. Leader of the Majority Party.

Hon. A.B. Duale: Hon. Deputy Speaker, you need to declare both Hon. Wamunyinyi and the Majority Whip out of order. This is because they are giving information to the wrong forum. The Parliament police is just about 100 meters from here. The Majority Whip is aware of the colour and the tribe of that lady. The other leader has a lot of information to tell the police. He is even trying to threaten Hon. Junet not to speak his mind. We are not talking about Kakamega, or whether they did it in the forest or not. This one was done in a hotel and he said it was in Golf Hotel.

Hon. Wanjala: On a point of information.

Hon. Deputy Speaker: What is it Hon. Wanjala. The Hon. Leader of the Majority Party is on a point of order. If it is going to be on this one, I am going to...

Hon. Wanjala: Hon. Deputy Speaker, we must put the record straight. In Kakamega we do not have thugs who invade hotels. Whatever was shown in the video was done in Kirinyaga. These people have been extorting money from the Deputy Governor. Now, when he refused to give them more money, they decided to expose him.

Hon. Deputy Speaker: I have already taken the microphone from you because that is definitely a frivolous point of order. Let us get back to serious business. Let us leave issues about Kakamega.

(Question proposed)

(Question put and agreed to)

Hon. Deputy Speaker: Next Order.

I would like to recognise in the Speaker's Gallery Irene Soila, a person living with disability from St. Thomas Barnados Children's Home. She is welcome to monitor the proceedings of the House and learn from it.

Next Order!

CONSIDERATION OF ENERGY BILL IN COMMITTEE OF THE WHOLE HOUSE

REPORT

THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO.50 OF 2017)

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Energy Bill (National Assembly Bill No. 50 of 2017).

(Question proposed)

Hon. (Dr.) Pukose: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Pukose? It has to be specifically on this.

Hon. (Dr.) Pukose: I do not want to speak on the Kakamega issue. The reason is because when somebody is found in such a position he produces adrenaline which prepares him for flight, fright and fight. Only that in this case, the fright was more than the fight.

NOTICE OF RECOMMITAL OF CLAUSE 84

Hon. Deputy Speaker, I beg to give notice of recommittal of Clause 84:

THAT, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the following words, "subject to recommittal of Clause 84."

I ask Hon. Manje to second.

Hon. Manje: I second.

(Question proposed)

Hon. Deputy Speaker: Is there a Member interested on speaking to this?

(Question put and agreed to)

Before we proceed, let me recognise in the Public Gallery, Members of staff from Shikunga High School, Ikolomani Constituency, Kakamega County and students from St. Thomas Barnados Children's Home, Langata Constituency, and Nairobi County. Ordinarily, we

do not recognise individuals in the Speaker's Gallery but I took exemption because the person we recognised earlier is living with disability and her coming here is a good thing. With the able nominee 001, this is something we did as an exceptional circumstance. We normally only recognise dignitaries from other jurisdictions.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Hon. (Ms.) Mbalu) took the Chair]*

THE ENERGY BILL

*(Resumption of consideration
in Committee interrupted on 24.4.2018)*

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Order Members! Those who are leaving the Chamber, please do so with some decorum. Hon. Members, we are in the Committee of the whole House to consider the Energy Bill (National Assembly Bill No.50 of 2017). We will start with the recommitted Clause 84.

Clause 84

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Chair. What is your import on recommittal of Clause 84?

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 84 of the Bill be amended—

- (a) in sub-clause (3) by deleting the word “twice” appearing in the proviso;
- (b) in sub-clause (4) by deleting the words “concerned based on the extent of the investment in each county”.

I propose that Clause 84 be amended as per the recommittal.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): As per the recommittal or Order Paper? It is your recommittal and maybe I can justify for you. In (a) in sub-clause (3) by deleting the word “twice” appearing in the proviso and (b) in sub-clause (4) by deleting the words “concerned based on the extent of the investment in each county”. But the Motion was passed subject to recommittal of the same clause.

Hon. (Dr.) Pukose: We want to delete the 10 per cent and replace with 5 per cent. We also intend to change the capping to 5 per cent for the sub-county.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): We are waiting for the Chair to give us the import of recommittal of Clause 84.

Hon. (Dr.) Pukose: According to the Bill Clause 84(3) states:

“(3) Any royalty received by the National Government from geothermal energy produced under this section shall be paid into the Treasury of the National Government and apportioned between the National Government, County Government and the local community as follows –

(a) the county government’s share shall be equivalent to twenty percent the royalties:”

This will remain. We are deleting:

“Provided that the amount allocated in accordance to this sub-section shall not exceed twice the amount allocated to the County Government by Parliament in the financial year under consideration.”

84(3)(b) reads as follows: “The local community’s share shall be equivalent to five percent of the royalties and shall be payable through a trust fund managed by a board of trustees established by the local community in accordance with the regulations in this Act.”

Now we are deleting the part saying “provided that the amount allocated above shall not exceed one quarter of the amount due to the county government by Parliament in the financial year under consideration.”

So, we are retaining the 5 per cent and the 20 per cent.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you for the explanation on the import of your recommittal.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): I see no intervention on this.

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

(Clause 84 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, that was the only one clause that you were re-committing in the Energy Bill. Let us have the Mover to report.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Energy Bill (National Assembly Bill No. 50 of 2017) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE PETROLEUM (EXPLORATION, DEVELOPMENT
AND PRODUCTION) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we will move to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017) in the Committee of the whole House.

Clause 3

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended—

- (a) by inserting the words “midstream and downstream” immediately after the words “all upstream” appearing in sub-clause (1);
- (b) by deleting sub-clause (2).

This is to align the Bill with the amendments made to Part V of the Energy Bill, which removed midstream and downstream petroleum from the Energy Bill and moved it to the Petroleum (Exploration, Development and Production) Bill as the anchoring Bill for all petroleum operations.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): There is no comment on this by Members.

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

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

(Clause 3 as amended agreed to)

Clause 4

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 4 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “midstream and downstream” immediately after the word “upstream”;
- (b) in sub-clause (2) by inserting the words “midstream and downstream” immediately after the word “upstream”.

The explanation is that this is also to align the Bill with the amendments made to Part V of the Energy Bill, just like the explanation I gave on the previous amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, to make it very clear, there were a number of clauses that we deleted from the Energy Bill, which were referring to the Petroleum (Exploration, Development and Production) Bill. So, all these amendments are just to align it. What we removed from the Energy Bill is being brought back to the Petroleum (Exploration, Development and Production) Bill, where ideally they belong.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Good explanation.

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

(Clause 4 as amended agreed to)

Part II

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the heading of Part II of the Bill be amended by deleting the word “UPSTREAM”.

This is to align the Bill with the amendments which had been made in the removal of Part V from the Energy Bill.

(Question of the amendment proposed)

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

(Part II as amended agreed to)

Clause 5

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 5 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “upstream”;
- (b) in sub-clause (2) by deleting the word “upstream”;
- (c) in sub-clause (3) by deleting the word “upstream”;
- (d) in the marginal note by deleting the word “upstream”.

In this case we are deleting the word “upstream”. This is part of aligning it as per the initial explanation for the removal of Part V.

(Question of the amendment proposed)

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

(Clause 5 as amended agreed to)

Clause 6

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 6 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “upstream”;
- (b) in sub-clause (2) by deleting the word “upstream” wherever it appears;
- (a) in sub-clause (3) by deleting the word “upstream”;

(b) in the marginal note by deleting the word “upstream”.

We are deleting the word “upstream”. This is still to align the Bill with the amendments made to Part V of the Energy Bill, which removed “midstream and downstream” and moved it to the Petroleum (Exploration, Development and Production) Bill as the anchoring Bill for all petroleum operations.

(Question of the amendment proposed)

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

(Clause 6 as amended agreed to)

Clause 7

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 7 of the Bill be amended—

(a) by deleting the word “upstream”;

(b) in the marginal note by deleting the word “upstream”.

The explanation is the same as what I have given to Clause 6. This will affect clauses up to Clause 9.

(Question of the amendment proposed)

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

(Clause 7 as amended agreed to)

Clause 8

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 8 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “upstream”;

(b) in the marginal note by deleting the word “upstream”.

I have given an explanation which covers up to Clause 9.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): What is your point of order, Hon. Washiali?

Hon. Washiali: Hon. Temporary Deputy Chairlady, there were amendments to Clauses 5 and 7 by Hon. Osotsi. I do not know how we have dealt with those amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you, Hon. Washiali. You are very observant. It is good to report to the House that Hon. Osotsi dropped all his amendments. We are sorted. Thank you for being observant.

Clause 9

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 9 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “upstream” wherever it appears;

(b) in sub-clause (2) by deleting the word “upstream”;

(c) in sub-clause (3) by deleting the word “upstream”;

(d) in the marginal note by deleting the word “upstream”.

I had already given the explanation.

(Question of the amendment proposed)

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

(Clause 9 as amended agreed to)

(Clauses 10, 11, 12 and 13 agreed to)

Clause 14

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 14.

This is to align the Bill with the amendments made to the Energy Bill which created a single regulator to deal with energy and petroleum matters. The amendment deletes the Upstream Petroleum Regulatory Authority (UPRA).

(Question of the amendment proposed)

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

(Clause 14 deleted)

Clause 15

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 15.

These deletions will happen from Clause 14 to Clause 40. This is in line with the creation of a single regulator and the deletion of UPRA.

(Question of the amendment proposed)

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

(Clause 15 deleted)

Clause 16

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 16.
I have given the explanation.

(Question of the amendment proposed)

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

(Clause 16 deleted)

Clause 17

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 17.
This is to align the Bill with the single regulator.

(Question of the amendment proposed)

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

(Clause 17 deleted)

Clause 18

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 18.
This is to have a single regulator for both energy and petroleum.

(Question of the amendment proposed)

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

(Clause 18 deleted)

Clause 19

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 19.
This is to align the Bill to have a single regulator.

(Question of the amendment proposed)

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

(Clause 19 deleted)

Clause 20

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 20.
This is to align the Bill with the amendments made to the Energy Bill which created a single regulator.

(Question of the amendment proposed)

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

(Clause 20 deleted)

Clause 21

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 21.
This is to align the Bill with the amendments made to the Energy Bill which created a single regulator.

(Question of the amendment proposed)

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

(Clause 21 deleted)

Clause 22

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 22.

This is to align the Bill with the amendments made to the Energy Bill which created a single regulator.

(Question of the amendment proposed)

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

(Clause 22 deleted)

Clause 23

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 23.

This is still to align the Bill with the amendments made to the Energy Bill which created a single regulator.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): You should just go on record and say you that you are making a deletion.

(Question of the amendment proposed)

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

(Clause 23 deleted)

Clause 24

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 24.

This is a deletion to align the Bill with the amendments to the Energy Bill.

(Question of the amendment proposed)

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

(Clause 24 deleted)

Clause 25

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 25.

This is a deletion to align the Bill with the amendments to the Energy Bill.

(Question of the amendment proposed)

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

(Clause 25 deleted)

Clause 26

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 26.
This is a deletion to align the Bill with the amendments to the Energy Bill.

(Question of the amendment proposed)

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

(Clause 26 deleted)

Clause 27

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 27.
This amendment seeks to align the Bill with the Energy Bill that created a single
regulator.

(Question of the amendment proposed)

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

(Clause 27 deleted)

Clause 28

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 28.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 28 deleted)

Clause 29

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 29.
This amendment seeks to align the Bill with the amendments which have been made.

(Question of the amendment proposed)

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

(Clause 29 deleted)

Clause 30

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 30.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 30 deleted)

Clause 31

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 31.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 31 deleted)

Clause 32

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 32.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 32 deleted)

Clause 33

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 33.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 33 deleted)

Clause 34

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 34.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 34 deleted)

Clause 35

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 35.
This amendment aligns the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 35 deleted)

Clause 36

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 36.
This amendment still seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 36 deleted)

Clause 37

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 37.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 37 deleted)

Clause 38

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 38.

(Question of the amendment proposed)

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

(Clause 38 deleted)

Clause 39

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 39.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

put and agreed to)

(Clause 39 deleted)

Clause 40

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by deleting Clause 39.
This amendment seeks to align the Bill with the Energy Bill.

(Question of the amendment proposed)

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

(Clause 40 deleted)

(Clause 41 agreed to)

Clause 42

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 42 of the Bill be amended in sub-clause (1) by inserting the words
“after consultation with the Advisory Committee” immediately after the words “the Cabinet
Secretary may”.

The amendment provides that the Cabinet Secretary (CS) shall consult with the National
Upstream Petroleum Advisory Committee in constituting blocks.

(Question of the amendment proposed)

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

(Clause 42 as amended agreed to)

(Clauses 43, 44, 45, 45, 46 and 47 agreed to)

Clause 48

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, Clause 48 of the Bill be amended by inserting the following new sub-
clause immediately after sub-clause (2) —
(3) The public shall be informed of the changes of an operator by way of a
Gazette notice, a newspaper of nationwide circulation and a radio of local coverage in the area in
which the operations are being undertaken.

The amendment provides that wherever there are changes of an operator, the public shall be informed of such changes.

(Question of the amendment proposed)

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

(Clause 48 as amended agreed to)

(Clauses 49 and 50 agreed to)

Clause 51

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 51 of the Bill be amended in sub-clause (9)(a)(ii) by inserting the words “of at least twenty-one working days” immediately after the words “sufficient notice”.

The amendment provides that after the Energy and Petroleum Regulatory Authority carries out public participation, it shall ensure that citizens have sufficient notice of at least 21 working days for any decision to be made or permits to be issued which may affect them.

(Question of the amendment proposed)

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

(Clause 51 as amended agreed to)

(Clauses 52 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, and 66 agreed to)

Clause 67

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 67 of the Bill be amended in sub-clause (8) by inserting the words “County Government” immediately after the words “National Government”.

The amendment seeks to include representatives of the county governments in the management of the Decommissioning Fund which is in line with the function of county governments as set out in the Fourth Schedule of our Constitution.

(Question of the amendment proposed)

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

(Clause 67 as amended agreed to)

(Clauses 68, 69, 70, 71, 72, 73, 74, 75 and 76 agreed to)

Clause 77

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 77 of the Bill be amended—

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

(b) in sub-clause (1) by deleting the words “of the contractor’s or sub-contractor’s” appearing in paragraph (a);

(c) in sub-clause (2) by deleting the word “upstream”;

(d) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph(h)—

(i)consultancy services;

(j) construction services;

(k) hospitality services;

(l) transport services;

(m)security services;

(n)clearing and forwarding services;

(o) Inspection services;

(p)other goods, works and services as may be prescribed in the regulations.

(e) in sub-clause (4) by deleting the word “upstream”.

The amendment seeks to enlarge the scope of the local content plans to include, among others, transport and security services.

(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 77 as amended agreed to)

(Clauses 78, 79, 80, 81, 82, 83, and 84 agreed to)

Clause 85

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we have three amendments to this clause. We will move them sub-clause by sub-clause. We start with Hon. James Lomenen. He is proposing to delete the proviso to sub-clause (ii).

Hon. Ekomwa: Hon. Temporary Deputy Chairlady, there are changes we made with the Chairman of the Committee. We agreed that the Chairman should move his amendment first. After he moves the amendment by the Committee, I will then move the second section.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let me consult. You have consulted the Chairman of the Committee, but it is not in the Order Paper. We need to consult. Let us see what the Chairman has to say to that, Hon. Lomenen. You are on record in saying that you consulted with the Chairman.

(The Temporary Deputy Chairlady consulted the Clerk-at-the-Table)

Hon. Lomenen, you had a proposed amendment in the Order Paper and it is on record that you have agreed with the Chairman. It is important to be on record that you have withdrawn the amendment so that the Chairman can take over and move your amendment together with his.

Hon. Ekomwa: Hon. Temporary Deputy Speaker, we had agreed in one section of deletion of the provisos, but I have an amendment on percentages of the revenue. How do we deal with that?

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Is the amendment you have proposed in the Order Paper?

Hon. Ekomwa: Yes, it is in the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): So, are you withdrawing it and letting the Chairman to move or you want to move your amendment?

Hon. Ekomwa: I am withdrawing three quarters of the amendment and leaving it to the Chairman. But I have to move a quarter of the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Which one are you withdrawing?

Hon. Ekomwa: I am withdrawing deletion of the provisos. I have given the rest to the Chairman of the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Which one are you remaining with?

Hon. Ekomwa: I remain with the percentages.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Let it go on record that Hon. James Lomenen has withdrawn the amendment in sub-clause (2) and remaining with the amendment in sub-clause (3)

Hon. Ekomwa: I am withdrawing the provisos in sub-clause (2) and also in sub-clause (3). I am moving the percentages only. The provisos are in both in sub-clause (2) and (3).

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Then you need to go on record that you are withdrawing sub-clause (2) and sub-clause (3).

Hon. Ekomwa: I have withdrawn the sections on deletion on sub-clause (2) and sub-clause (3).

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Those are provisos.

Hon. Ekomwa: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Thank you, Hon. Member. It is on record that Hon. James Lomenen has withdrawn sub-clause (2) and sub-clause (3).

I now call the Chair to move his amendment.

*(Proposed amendment to sub-clause (2) and sub-clause (3)
by Hon. Ekomwa withdrawn)*

Hon. (Dr.) Pukose: I want to move my amendment in an amended fashion.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 85 of the Bill be amended by-

- a) deleting the proviso appearing in sub-clause (2)
- b) deleting the proviso appearing in sub-clause (3)
- c) deleting the words, "Government's Share" appearing in sub-clause (3) and substituting therefor the words, "National Government's Share"
- d) inserting a new sub-clause immediately after sub-clause (4), "Parliament shall review the percentages under this section within ten years."

(Question of the amendment proposed)

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

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): We have an amendment by Hon. Joyce Emanikor. She is not in the House. So, this amendment is dropped.

(Proposed amendment by Hon. (Ms.) Emanikor dropped)

(Clause 85 as amended agreed to)

(Clause 86 agreed to)

Clause 87

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 87 of the Bill be amended in sub-clause (4) by deleting the words "and any other relevant National Government entity" and substituting therefor the words "and any other relevant entity".

The amendment seeks to provide that a person contracted by a contractor to manage disposal of waste arising out of petroleum operations shall not carry out those activities without being registered by the national Government and other relevant entities.

(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 87 as amended agreed to)

(Clauses 88, 89, 90, 91, 92, 93 and 94 agreed to)

Clause 95

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 95 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) —

(4) As far as is practicable, the contractor shall involve the Authority, National Environment Management Agency, the Council of Governors and the relevant local communities in the preparation of emergency preparedness measures.

The amendment seeks to provide that as far as is practicable, the contractor shall involve the Authority, the National Environment Management Agency, the Council of Governors and the relevant local communities in their preparation of emergency preparedness measures.

(Question of the amendment proposed)

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

(Clause 95 as amended agreed to)

Clause 96

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 96 of the Bill be amended —

(a) by inserting the words “County Governments” immediately after the words “National Disaster Operations Centre” in sub-clause (2);

(b) by inserting the following new sub-clause (4) immediately after sub-clause (3)

—
(4) The disaster preparedness, prevention and management unit shall in liaison with the contractor carry out public awareness and sensitisation forums for local communities resident in areas surrounding ongoing Upstream Operations.

(Question of the amendment proposed)

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

(Clause 96 as amended agreed to)

(Clauses 97, 98 and 99 agreed to)

Heading of Part IX

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Part IX of the Bill be amended by deleting the word “UPSTREAM” appearing in the heading of Part IX.

Hon. Temporary Deputy Chairlady, the amendment seeks to align the Bill with the amendments made to Part V of the Energy Bill which removed “Midstream and Downstream Petroleum” from the Energy Bill and moved it to the Petroleum Bill which is the anchoring Bill for all petroleum operations.

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

(Heading of Part IX as amended agreed to)

Clause 100

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 100 of the Bill be amended —

(a) in sub-clause (1)—

(i) by inserting the words “or licensee” immediately after the word “contractor”;

(ii) by deleting the word “upstream”;

(b) in sub-clause (2) —

(i) by deleting the word “upstream” appearing in paragraph (a);

(ii) by inserting the words “an announcement in a radio station of local coverage for a period of two weeks, the Gazette” immediately after the words “nationwide circulation” appearing in the proviso.

The amendment seeks to create clarity on the proviso relating to access to land and provide mechanisms that will ensure access to information where an owner cannot be traced.

(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
be inserted, put and agreed to)*

(Clause 100 as amended agreed to)

Clause 101

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 101 of the Bill be amended by inserting the words “and as shall be prescribed by regulations” immediately after the words “relevant written laws” appearing in the proviso.

The amendment seeks to provide that compensation for any damage to land shall be done in accordance with the law and shall be prescribed by regulations.

(Question of the amendment proposed)

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

(Clause 101 as amended agreed to)

Clause 102

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 102 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “upstream”;

(b) in paragraph (a) by inserting the words “or licensee” immediately after the word “contractor”;

(c) in paragraph (b) by deleting the word “upstream”;

The amendment seeks to include midstream and downstream operations in the provisions relating to development of petroleum operations.

(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
be inserted, put and agreed to)*

(Clause 102 as amended agreed to)

Clause 103

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 103 of the Bill be amended by deleting the word “upstream”.

The amendment seeks to include midstream and downstream operations in the provisions relating to development of petroleum operations.

(Question of the amendment proposed)

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

(Clause 103 as amended agreed to)

(Clause 104 agreed to)

Clause 105

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 105 of the Bill be amended—

(a) in sub-clause (1) -

(i) by deleting the words “the contractor or any person authorised by the contractor may” and substituting therefor the words “the contractor or any person authorised by the contractor or licensee may”;

(ii) by deleting the word “upstream” wherever it appears;

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

(2) Where petroleum infrastructure is removed, the surface of the land shall forthwith be restored to its former condition as far as possible by the contractor or licensee and in default thereof restoration may be carried out by the owner of the land, and the costs thereof shall be recoverable from the contractor or licensee.

(c) in the marginal note by inserting the words “or licensee” immediately after the word “contractor”;

(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 105 as amended agreed to)

Clause 106

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 106 of the Bill be amended—

(a) by deleting the word “upstream”;

(b) by inserting the words “or licensee” immediately after the word “contractor”;

(c) in the marginal note by inserting the words “or licensee” immediately after the word “contractor”.

The amendment seeks to include midstream and downstream operations in the provisions relating to compensation for damage.

(Question of the amendment proposed)

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

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

(Clause 106 as amended agreed to)

Clause 107

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 107 of the Bill be amended—

(a) in sub-clause (1)—

(i) by inserting the words “and any other relevant law” immediately after the words “in this Act”;

(ii) by deleting the word “upstream”; and,

(iii) by inserting the words “or licensee” immediately after the word “contractor”;

(b) in sub-clause (2)—

(i) by deleting the words “Notwithstanding the provisions of any other written law, but”;

(ii) by deleting the word “upstream”; and,

(iii) by inserting the words “or licensee” immediately after the word “contractor” in the proviso;

(c) in sub-clause (3) by inserting the words “or licensee” immediately after the word “contractor”;

(d) in sub-clause (4)—

(i) by inserting the words “or licensee” immediately after the word “contractor”;

(ii) by inserting the words “or licensee” immediately after the word “contractor” in the proviso;

(e) in sub-clause (5) by inserting the words “or licensee” immediately after the word “contractor”;

(f) in sub-clause (6) by inserting the words “or licensee” immediately after the word “contractor”;

(g) in sub-clause (7) by inserting the words “or licensee” immediately after the word “contractor”;

(h) in sub-clause (8) by inserting the words “or licensee” immediately after the word “contractor”;

(i) in the marginal note by deleting the word “upstream”.

The amendment seeks to include midstream and downstream operations in the provisions relating to installation of petroleum infrastructure.

(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 be inserted, put and agreed to)

(Clause 107 as amended agreed to)

Clause 108

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 108 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “upstream” appearing in paragraph (a).
- (j) in sub-clause (3)—
 - (i) by deleting the word “upstream”;
 - (ii) by inserting the words “or licensee” immediately after the word “contractor”;
- (b) in sub-clause (4) by inserting the words “or licensee” immediately after the word “contractor”.

The amendment seeks to include midstream and downstream operations in the provisions relating to compulsory acquisition of land.

(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 be inserted, put and agreed to)

(Clause 108 as amended agreed to)

Clause 109

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 109 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “a regulated” and substituting therefor the words “an upstream regulated”;
- (b) by inserting the following new sub-clauses immediately after sub-clause (3)—

(4) Despite the provisions of sub-section (1) and (2), the Tribunal shall have original civil jurisdiction on any dispute arising out of the bidding rounds carried out under this Act.

(5) The Tribunal shall have original civil jurisdiction on any dispute between a licensee and a third party or between licensees in midstream and downstream petroleum operations.

(6) The Tribunal shall have appellate jurisdiction over the decisions of the Authority and any licensing authority in midstream and downstream petroleum operations and in exercise of its functions may refer any matter back to the Authority or any licensing authority for re-consideration.

The amendment seeks to create clarity on the jurisdiction of the tribunal.

(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 109 as amended agreed to)

(Clauses 110, 111, and 112 agreed to)

Clause 113

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 113 of the Bill be amended by deleting the word “encroaches” in paragraph (a).

The amendment seeks to amend the provision on economic crimes to remove ambiguity on what offence constitutes economic crimes.

(Question of the amendment proposed)

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

(Clause 113 as amended agreed to)

(Clauses 114, 115, 116, 117 and 118 agreed to)

Clause 119

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 119 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (mm) —

(nn) the manner in which information on upstream petroleum can be accessed;

(oo) the method of public consultations and participation;

(pp) a grievance redress process to the Authority.

The amendment seeks to provide additional matters that may be prescribed by the CS.

(Question of the amendment proposed)

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

(Clause 119 as amended agreed to)

Clause 120

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 120 of the Bill be amended —

(a) in sub-clause (2) by inserting the words “privileges, liabilities” immediately after the words “contractual rights” appearing in paragraph (f);

(b) in sub-clause (3) by inserting the words “and the Ministry of Petroleum” immediately after the words “Energy Regulatory Commission established under section 4 of the Energy Act, 2006”.

The amendment seeks to provide clarity on the transitional provisions.

(Question of the amendment proposed)

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

(Clause 120 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Members, we are now moving to new clauses.

New Part VIIA

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new Part after Part VIII.

MIDSTREAM AND DOWNSTREAM PETROLEUM

Licensing

(Question of the new part proposed)

(New part read the First Time)

Hon. Member can only request for recommittal of that clause. You had agreed on which clauses he should drop. So, Hon. Lomenen, we can put your clauses on recommittal. Consult with the Chair since we cannot go back.

Hon. Ekomwa: We had agreed with the Chair that with the provisions, he would own them, then I move the sections on the percentages. However, we did not agree on...

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Since you did not agree, you have your right to recommit and you can do it now.

Hon. Ekomwa: I request the Chair to recommit so that I can move in.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): You will be given the procedure for recommittal, Hon. Lomenen.

We are now on New Part VIIIA. Mover you will move the Second Reading.

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

(The new part was read a Second Time)

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

New Clause 99A

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following New Clause 99A.

Granting of licences.

99A. (1) A person may make an application for a licence, permit or certificate to the licensing authority in the manner prescribed by this Act or the licensing authority.

(2) The licensing authority may, within thirty days of receiving the application—

(a) grant a licence, permit or certificate accordingly, either without conditions or subject to such conditions as the licensing authority may deem fit and shall be accompanied by the prescribed fee; or

(b) reject an application for grant of such licence, permit or certificate.

(3) Where the licensing authority rejects an application for the grant of a licence, permit or certificate, the licensing authority shall give to the applicant reasons for the refusal in writing within seven days of such refusal.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99B

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by inserting the following New Clause 99B.

99B. (1) A person who wishes to—

Requirements of licence for petroleum business.

- (a) undertake refining, importation, export, bulk storage or transportation of petroleum crude or products must have a valid licence issued by the Authority ;
- (b) sell petroleum in bulk to another person for the purpose of export or for retail sale in Kenya must have a valid licence issued by the Authority ;
- (c) use a vehicle for the purpose of transporting petroleum in bulk shall have a valid petroleum permit in respect of that vehicle issued by the Authority; and
- (d) drive a vehicle, or engage a driver, for the purpose of transporting petroleum in bulk by tanker shall ensure that such driver is certified for that purpose by the Authority.

(2) A person who wishes to carry out the supply of petroleum products by means of a retail dispensing station, or of gas through a centralised reticulation system, must have a licence issued by the County Government:

Provided that any retail dispensing station or gas reticulation system complies with section 99N on construction permits and are operated in accordance with National guidelines published by Authority.

(3) A person who contravenes this section commits an offence and shall on conviction, be liable to a fine of not less than—

- (a) ten million shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment if the contravention relates to sub-section (1) (a);
- (b) one million shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment if the contravention relates to sub-sections (1) (b) and (c) as well as (2); and
- (c) two hundred and fifty thousand shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment if the contravention relates to sub-section (1) (d).

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99C

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following New Clause 99 C.

Factors to be considered in reviewing an application

99C. The licensing authority shall, in granting or rejecting an application for a licence or permit, take into consideration—

- (a) the impact of the undertaking on the social, cultural or recreational life of the community;

(b) the need to protect the environment and to conserve the natural resources in accordance with the environmental laws, maritime laws and international maritime treaties ratified by Kenya and other guidelines developed by the Authority ;

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(c) the Occupational Safety and Health Act or other safety and health standards recommended by the Authority in consultation with the relevant statutory body;

(d) compliance with this Act and the relevant Kenyan Standard and in the absence of such standard, any international standard recommended by the Authority in consultation with the Kenya Bureau of Standards;

(e) land use or the location of the undertaking;

(f) economic and financial benefits to the country or area of supply of the undertaking;

(g) the cost of the undertaking and financing arrangements;

(h) the ability of the applicant to operate in a manner designed to protect the health and safety of users of the service for which the licence or permit is required and other members of the public who would be affected by the undertaking;

(i) the technical and financial capacity of the applicant to render the service for which the licence or permit is required;

(j) where applicable the proposed tariff offered; and

(a) any other matter that the licensing authority may consider likely to have a bearing on the undertaking.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99 D

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following New Clause 99 D.

Forms and
conditions of a
licence or permit.

99D. (1) A licence or permit shall be in such form as the licensing authority may determine and shall, subject to subsection (2), contain such particulars or conditions where applicable—

- (a) the provisions for tariffs or charges for the pipeline transport, common user import handling facilities or jetties and storage;
- (b) the duration of the licence or permit;
- (c) the maximum capacity, whether of import handling, storage, or transport;
- (d) the market area segments; and

(e) any other matter connected with the carrying on of the undertaking

(2) A licence or permit issued by the licensing authority shall set out—

- (a) a requirement that the licensee shall comply with all applicable environmental, health and safety laws;
- (b) a stipulation that the licensee is subject to liability under tort and the contract laws; and
- (c) a requirement that all necessary fees associated with the licence or permit shall be paid on a timely basis.

(3) A licence or permit issued under this Act may not be altered, revised or modified, except with the consent of the licensee.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

(Question, that the new clause be added to

the Bill, put and agreed to)

New Clause 99E

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following New Clause 99E.

Renewal of Licences

99E. (1) An application for renewal of a licence, permit or certificate shall be made at least thirty days before the expiry date of the existing licence, permit or certificate and shall be accompanied by the prescribed fee.

(2) If the licensing authority is satisfied that the applicant continues to meet the requirements of the licence, permit or certificate, the licensing authority shall renew the licence, permit or certificate.

(3) Where an application for renewal of a licence, permit or certificate has been made before the expiry of the licence, permit or certificate but has not been approved or rejected by the licensing authority when the licence, permit or certificate is due to expire, the licence, permit or certificate continues in force until the application for renewal is dealt with and any renewal in such a case shall be taken to have commenced from the day when the licence, permit or certificate would have expired before the renewal.

(4) A licence or permit shall specify the nature of petroleum business and the premises at which the licensee may conduct his business and where a petroleum business is conducted at more than one premise, a separate licence or permit shall be required for each of such premises.

(5) A person who conducts petroleum business at more than one premise, without obtaining a separate licence or permit for each of such premises, shall be liable to a penalty equivalent to twenty per cent of the licence, permit or certificate fee to be imposed by the Authority.

I ask Hon. Faith to second.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99F

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Chair, for the sake of the House and the HANSARD, it is good to give us the import of what we have in the *New Clause 99F* **Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following New Clause 99F

Amendment
of licence,
permit or
certificate.

99F. (1) A person may make an application for amendment of a licence, permit or certificate.

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

(3) The licensing authority may amend the licence, permit or certificate and endorse it accordingly.

(4) Where an application to amend a licence, permit or certificate is rejected, the licensing authority shall notify the applicant of the reasons in writing.

(5) A licence, permit or certificate amended under this section shall retain the existing expiry date.

(6) An applicant dissatisfied with the decision of the Cabinet Secretary under subsection (2), may appeal to the Tribunal within thirty days of the receipt of such decision.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99G

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following New Clause 99G.

Environment
liability policy.

99G. An application for a licence shall be accompanied by an environmental liability policy as may be prescribed by the Authority.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99H

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by inserting the following New Clause 99H.

Display of
licences and
permits. 99H. (1) A licensee or permit holder shall cause to be displayed with the premises, the licence or permit, or a certified copy.
(2) A licensee or permit holder who contravenes sub-section (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

New Clause 99I

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairlady, I beg to move:
THAT, the Bill be amended by inserting the following New Clause 99I.

Revocation of
licence or permit. 99I. (1) The licensing authority may suspend or revoke a licence or permit where—

- (a) the undertaking or the execution of the works related thereto has not commenced at the expiry of the period specified in the licence or permit, or at the expiry of any extended period which the Authority may allow;
- (b) it is satisfied that the licensee is either not operating in accordance with the terms and conditions of the licence, permit or the provisions of this Act; or
- (c) the licensee is adjudged bankrupt.

- (2) Unless otherwise specified in the licence or permit, the licensing authority may give a licensee fourteen days' notice to show cause why the licence or permit should not be revoked.
- (3) A notice under subsection (2) shall—
- (a) set out the relevant condition of the licence or permit or the requirement of the Act to which the breach relates;
 - (b) specify the acts, omissions or other facts which, in the opinion of the Authority or the licensing authority, constitute a contravention of the conditions of the licence or permit or requirements of the Act, and the reasons why the licensing authority is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and
 - (c) be served upon the licensee at the licensee's principal place of business and shall take effect from the date of service.
- (4) The licensing authority shall determine the matter within thirty days from the expiry of the notice.
- (5) A suspension or revocation of a licence or permit shall not indemnify the licensee against any penalties for which such person may have become liable under the Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Maybe you can just try to summarise because every Member has the Order Paper. We just want to know the import of the new clauses.

Hon. (Ms.) Gitau: Hon. Temporary Deputy Chairlady, I second.

(Question of the new clause proposed)

(New clause read the First Time)

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

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

(The new clause was read a Second Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Leader of the Majority Party, you have a point of order?

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I stand under Standing Order 134 subtitled “Report of Progress.” I move that we report progress. The reason is that as the owner of the Bill, I feel that I need to do some more consultations on the new clauses which the Vice-Chair is moving and will ultimately change the text of the original Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): The Leader of the Majority Party being the Mover of the Bill, you are rightfully in your place. It is procedural. You can move for reporting.

PROGRESS REPORTED

THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.48 of 2017) up to New Clause 99I and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Deputy Speaker (Hon. Mariru): Chairperson.

Hon. (Ms.) Mbalu: Hon. Temporary Deputy Speaker, I beg to move that the Committee of the whole House has considered the Petroleum (Exploration, Development and Production) Bill No 48 of 2017) up to New Clause 99I and approved the same with amendments and seeks leave to sit again.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I beg to move that the House does agree with the Committee in the said Report and also request Hon. (Dr.) Pukose, the Vice-Chairman to second the Motion for agreement with the Report of the Committee of the whole House and seek leave to sit again.

Hon. (Dr.) Pukose: I second.

The Temporary Deputy Chairman (Hon. Mariru): Order, Hon. Chachu! I appreciate that you are facing that way and you may not have realised...

(Question proposed)

Hon. Members, for obvious reasons, we cannot put the Question. Yes, Hon. Lomenen.

Hon. Ekomwa: Thank you, Hon Temporary Deputy Speaker for giving me this opportunity. Surely, I do not understand what is happening. What we are observing this

afternoon, I have never observed it for the six years I have been in this Chamber. We were proceeding very well. The Leader of the Majority Party has just come in. He was not there when we were processing this Bill, which is very important to us. We have been here following all procedures in passing the clauses. However, while we were in the process of amending the various clauses, Hon. Duale came in only for him to cancel everything that we have done.

Hon. A.B. Duale: (*Off-record*)

Hon. Ekomwa: That is what you have done because those are technicalities and you have not convinced us. Why are you cancelling? Who wants the Report? The House is in the process of doing its work procedurally. We are doing all that we are supposed to do. So, why are you stopping us? We are not yet convinced. There could be people with personal interest in this Bill and they want to sneak in their interests. Kenyans are watching. I am not for that idea. That one needs to go on record. There are people who want to introduce their own interests and they will not succeed!

The Temporary Deputy Speaker (Hon. Mariru): Hon. Chachu, before I come to you, let us have the Hon. Leader of the Majority Party.

Hon. A. B. Duale: Hon. Temporary Deputy Speaker, I want to go on record for the benefit of Hon. Lomenen and for the country. First, the Bill belongs to the Leader of the Majority Party on behalf of the Government. So, I have powers, provided for under the Standing Orders, to withdraw.

Secondly, I have not even withdrawn. I have used Standing Order No.134 which is very clear that any Member can stand on his feet from where he sits and ask the Committee of the whole House to report progress. I have given the reasons that the Vice-Chairman was moving new clauses. One does not need to be in the Chamber to know these things. In my office, there is a communication gadget that reports loudly. I also have a television and I was following the proceedings clause by clause. I had to sit with the research team in my office to ensure I understand the new clauses. They were just introduced in the Order Paper this morning.

We have nothing under the table. It is Hon. Lomenen who has something under the table is as far as this Bill is concerned. We want him to declare his interest. In fact, to the contrary, I am just the custodian of this Bill and I have invoked a legitimate Standing Order. If he thinks I have not invoked any Standing Order, I did and I have only asked for consultation. Tomorrow, the Bill will be brought back. That is the only thing I did and I have no bad intention. Hon. Lomenen, do not read too much into something which is not there.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Lomenen. Do you still want to steer that lane? What is out of order?

Hon. Ekomwa: Thank you for this opportunity, Hon. Temporary Deputy Speaker. The interest I have in this House is the interest of the people who brought me here. That is the interest that every Member of Parliament has here. I have said that this Bill is a very important one as far as the place I represent is concerned. So, as the Hon. Leader of the Majority Party says, indeed, he has powers, but he has no powers to oppress the poor and to deny the people I represent their chance. He has no power to deny me my right to represent my people. He has no power. Being a Leader of the Majority Party, he is also a Member of Parliament for Garissa. I am a Member of Parliament for Turkana. He has no power to stop me from representing my people. He has no power.

The Temporary Deputy Speaker (Hon. Mariru): Okay. I will not allow further that crossfire. Hon. Chachu Ganya.

Hon. Ganya: Thank you, Hon. Temporary Deputy Speaker. I am a very sad person today. Any Member of Parliament under Standing Order 34 has the right to amend any Bill and any clause of a Bill in this House. Hon. Lomenen was exercising his constitutional right to amend a Bill in the interest of his people and many other Kenyans. When he moved this Bill, he was given the permission and he corrected it on the Floor of this House and the HANSARD will bear me out. He said that he was going to leave the clause on provisions to the Mover and the Vice-Chairman of the Committee. He said that he wanted to move the section on percentages and he was allowed. We moved on based on that understanding. Then, from nowhere, the Leader of the Majority Party, out of vested interests.... This is a very weighty issue. As leaders of pastoralists and leaders from this region, unfortunately, Hon. Duale is one of them, are watching.

The whole point of those clauses is to deny the people of Turkana the resource. This is one of the poorest counties in Kenya. Half of the people in those counties live below the poverty line. They are fed on relief food year in, year out. All of a sudden, they have a chance to make a difference in their lives and this Government - I am sorry to say that even though I support this Government - by capping and doing those percentages this Government is trying to deny the people of Turkana the resource that is rightfully theirs. This is an issue we will not agree to. You may have the numbers, but we must have our say. It must go on the HANSARD for Kenyans to know what is happening.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Chachu! What is it, Hon. Wambugu Ngunjiri? You seem to stand on a point of order. What is out of order?

Hon. Ngunjiri: Thank you. I just wanted to know whether it is in order for my colleague, Hon. Chachu, to sound like he is inciting us. My understanding is that every Bill that we bring to this House, we discuss everything. I know the Bill has specific interests to Turkana, but we also need to discuss it with a view of the entirety of the Bill to the rest of us. The reason it is being discussed by all of us is because we have some input to it. When my brother looks like he is inciting that the Government is trying to disenfranchise his people, is that in order?

The Temporary Deputy Speaker (Hon. Mariru): Well, let us go beyond that. I do not think there is any Member who has been incited.

Hon. Chachu, on your tangent, just raise substantive issues on the Motion.

Hon. Ganya: Hon. Temporary Deputy Speaker, I have a lot of respect for Hon. Wambugu. We wanted to debate this Motion and be convinced on the reasons for capping and reducing the percentages. If you look at the Mining Act, 2015, clearly, those provisions are provided for as 70, 20 and 10 per cent respectively. This Bill is inconsistent with the Act. If we are convinced what we are doing is not for the national good, we are wise people. Some of us are ranking Members of this House and we listen. The Leader of the Majority Party should not deny a Member the right to debate and make amendments. That is immoral.

The Temporary Deputy Speaker (Hon. Mariru): Order Members! Order Hon. Lomenen! What Hon. Chachu has said is important. Hon. Lomenen had sought for a recommittal and the Chair had allowed. That right is not lost. This Bill is not closed. Direction was given by the Chair that this Bill will come back again to a Committee of the whole House. Regarding Hon. Lomenen's right, the Chair had already made a decision. He will be given a chance to recommit that specific clause. Hon. Lomenen, it is on record that the Chair made a pronouncement. You will have a right of recommittal on that section. It is not lost. This Bill is not closed.

Hon. Ekomwa: *(off microphone)*

Hon. Kimunya: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Lomenen! What is it, Hon. Kimunya?

Hon. Kimunya: On a point of order, Hon. Temporary Deputy Speaker. I am worried that we are veering off the Motion on the Floor of the House. It is very clear on reporting progress and seeking leave to meet another day in the Committee of the whole House to move on from Clause 99 until the end.

I want to thank the Leader of the Majority Party for having looked at what we are doing. The amendments we are passing are going through Second Reading because they are new clauses. Look at the number of Members who are here. This is the first time they are hearing about this. How many people are here to go through Second Reading together? As 350 Members of Parliament, we should own these amendments.

A number of the amendments are being introduced now and it will be unfair for the people of Kenya because only a handful of us are sitting here this afternoon. We are making a Bill that has monetary and fundamental implications on the future of Kenya. We are a few of us and this matter has not been given proper notice. It is important for Members to learn how to be patient.

Hon. Ekomwa: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Kimunya and Hon. Lomenen! I will give you a chance, but I will not allow crossfire. What is out order, Hon. Lomenen?

Hon. Ekomwa: On a point of order, Hon. Temporary Deputy Speaker. Is it in order for people who were not in this Chamber when we were busy making this law, but were in their offices taking tea...

The Temporary Deputy Speaker (Hon. Mariru): Order!

Hon. Ekomwa: Just listen, Hon. Temporary Deputy Speaker. You know what happened. We were here and Hon. Kimunya...

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Lomenen! You cannot specifically mention a Member.

Hon. Ekomwa: *(off microphone)*

The Temporary Deputy Speaker (Hon. Mariru): You have made your point. Hon. Kimunya, you have the Floor.

Hon. Kimunya: As you can see, we cannot legislate out of ignorance.

The Temporary Deputy Speaker (Hon. Mariru): Proceed beyond that point, Hon. Kimunya.

Hon. Kimunya: We legislate in this House for the good of this country.

Hon. Ekomwa: *(off microphone)*

The Temporary Deputy Speaker (Hon. Mariru): Order Members! Order Hon. Kimunya! Order Member! Order, Hon. Lomenen! Order!

(Hon. Ekomwa stood in his place)

Order, Hon. Lomenen! You cannot be on your feet when the Speaker is on his feet. The Motion I proposed is very clear. We cannot accept to move on a tangent. Order, Hon. Members! I proposed a question, that the House do agree with the Committee in the said Report. If we accept to move on a tangent, we are not going to make progress. Let us confine ourselves to the particulars and the frame of this Motion, so that the House makes a determination and progress.

Hon. Kimunya: Thank you, Hon. Temporary Deputy Speaker. I hope I will not be interrupted again, so that I can finish. My point is that, we all want to be fairly informed about these amendments because they are very fundamental. I would like to see some research concerning their implication on the overall Bill.

I cannot sit here and legislate in ignorance. I do not know the implications of these amendments and I am sure this is the same with every Member. It is very important for us to take this break and let these amendments to synthesis. We should give them to our research officers so that we know the implications. We want to make amendments to the Petroleum Bill because it is very critical for this country.

Wars have been fought in petroleum producing countries because of some of these issues. We do not want to put Kenya in line with other countries where people are fighting over oil because they cannot agree even on legislation. It is very important that this Committee gets time to consult and give us a report. We have amended this Bill so many times that between the new Bill and the original one, you cannot tell the difference. It is important that we get it right this time. I am glad the Committee agreed with the Mover to report progress. I want to ask the House to agree with the Committee. We can set aside a day in the House Business Committee (HBC) to bring this Bill another day, so that people can discuss the amendments from a point of knowledge and reason on the implications of the amendments we are making.

With those words, I beg to support.

The Temporary Deputy Speaker (Hon. Mariru): I will give a chance to a few Members. Hon. Onyango, Member for Muhoroni.

Hon. Oyoo: Thank you, Hon. Temporary Deputy Speaker. I am not prepared to speak on this Motion. My attention has been drawn to the crossfire. The House has been reduced to a shouting match which is not palatable with the honour and decorum that is expected in this House. I would want you to interpret the rules of the game properly and make sure that all aligns.

Thank you, very much.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Wamalwa, Member for Likuyani.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Speaker. I do not understand. We are looking at the new clauses and we did not start from the beginning. We need to be educated and know what is going on. So, we should start from the beginning and not from Clause 99I. That can be explained to us by the Leader of the Majority Party, so that we can understand. Otherwise, we should start from the beginning.

The Temporary Deputy Speaker (Hon. Mariru): I think it is important for me to bring Hon. Wamalwa to speed. Earlier, there was a Motion for the Committee to report progress. The Committee of the whole House took a bit of time. We have spent almost one-and-a-half hours looking at each clause. Procedurally, we finish with the new clauses. For your information, the other clauses had been considered in the Committee of the whole House.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker. I think we need to put this matter to a halt because the Leader of the Majority Party has come up with the reasons as to why he has brought this request. I request my colleague, Hon. Lomenen, that all is not lost. It has not been said that his amendment will not be listened to. Let us appreciate that despite the fact that we have taken quite a while discussing this one before the Leader of the Majority Party came, at least, if he feels as the representative of the Government he needs to readjust it, let it come as it was and we debate it here. If he loses, let him appreciate, and if he wins, it will be okay.

So, let us not have a lot of hullabaloo on this one. At the end of the day, provided that we appreciate that the Standing Orders and the right laws have been used, let it come and let it not take long. Let it come and then we shall dispense it as fast as possible. Hon. Lomenen, take heart. I believe your recommendations will be with us and we shall support you. Thank you.

The Temporary Deputy Speaker (Hon. Mariru): I will give the Floor to one more person. We still have quite a number of other Bills to consider. Hon. Mohamed Sheikh.

Hon. Mohamed Mohamud: Hon. Temporary Deputy Speaker, I will defer my point for now. Thank you.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Members, of course, for obvious reasons, particularly numbers, I will not put the Question on that particular Motion. We will defer that.

(Putting of Question deferred)

We need to get the Report of the second Bill, that is, the Energy Bill.

REPORT

THE ENERGY BILL

The Temporary Deputy Speaker (Hon. Mariru): Let us have the Chairperson.

Hon. (Ms.) Mbalu: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Energy Bill (National Assembly Bill No.50 of 2017) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Mariru): Let us have the Mover.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Washiali, the Whip of the Majority Party, to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Temporary Deputy Speaker, if you allow me, I want to make it very clear that the new clauses introduced by the Committee are very weighty and we need to protect the spirit, intent, purpose and object of the Bill. I am only asking for the House to sit again unless you are telling me this House will never sit again. It has to sit tomorrow. It will sit next Thursday and the same Bills will come. I do not think my colleague should infer improper motive. You know I am the patron of the pastoral parliamentary group. I cannot throw you guys under the bus. The law we are going to make is not going to affect only Turkana. It is going to affect those who produce geothermal and solar energy. Even the guys who supply water to Nairobi will have a say. So, this matter is bigger than Turkana.

Hon. Lomenen, you know you are one of my foot soldiers. I will never throw you under the bus. This Bill is bigger than Turkana County. This is a Bill for posterity and for generations to come. That is why all of us must make legislation when we are sober. That applies to Hon. Lomenen, his colleagues and all of us. Even a resource like the Port of Mombasa ultimately will belong to the people of Kenya. I want to go on record that the county with the highest revenue allocation is Turkana County with Kshs12 billion plus the Equalisation Fund. Under the new Constitution, Members have the powers even in the Equalisation Fund.

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

Hon. Ekomwa: On a point of order, Hon. Temporary Deputy Speaker.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Members! Hon. Lomenen, I will give you the first chance to speak to this Motion. Yes, Hon. Washiali.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. I wish to second.

(Question proposed)

Hon. (Dr.) Pukose: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): I hear there is a point of order. Hon. Lomenen, give me a short while. Yes, what is it?

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, I give notice of re-committal:

THAT, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the following words:

“Subject to re-committal of Clause 84 of the Energy Bill”

I request Hon. Duale to second.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. I second.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Members! There is that particular amendment that has been moved and seconded.

Again, Hon. Members, I cannot put the Question on that particular Motion on the amendment because of the numbers. I am well advised that because we have not disposed that particular proposal for amendment of the recommittal of Clause 84 of the Energy Bill, we cannot go back to the initial Motion because we need to dispense with that. Unfortunately, we cannot put the Question right now. That is kept pending until an appropriate time.

(Putting of the Question deferred)

Next Order!

MOTION

ADOPTION OF REPORT ON NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF COMMERCIAL VEHICLES) REGULATIONS, 2018

The Temporary Deputy Speaker (Hon. Mariru): Let us have the Chairperson of the Committee on Delegated Legislation.

Hon. Murugara: Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the National Transport & Safety Authority (Operation of Commercial Vehicles) Regulations, 2018, laid on the Table of the House on Tuesday, 17th April, 2018, and pursuant to the provisions of Section 18

of the Statutory Instruments Act, 2013 and Standing Order 210 (4)(b) *annuls in entirety the said Regulations.*

The mandate of the Committee on Delegated Legislation is constitutional. It is also established under Standing Order No.210, which gives the power to the Committee to examine all the statutory instruments that are submitted to the House for consideration and to approve or annul. The Committee is expected to gauge whether the statutory instruments are in accordance with the Constitution, the parent statutes and the Statutory Instruments Act. The Committee considered the National Transport and Safety Authority (NTSA) Regulations that were tabled before the House. The tabling was pursuant to the publication of the Regulations that followed, the Statutory Instruments Act, 2013 and the Standing Orders of the House. The Regulations were committed to the Committee, which sat and considered them.

Certain provisions of the Statutory Instruments Act were looked into. The first one was Section 5 and then Section 11(2). Most importantly, and what was considered at length, was the constitutional requirement that every law, including statutes and subsidiary legislation, pursuant to Article 118 of the Constitution, must be subjected to public participation. The public must be fully involved in all new laws that are passed because the law that is made is not just for the current generation, but for generations to come. If we take a tree analogy, the roots of a tree in our lives are the Constitution itself. The statutes constitute the stem while the subsidiary legislation would fit for branches. It is those branches that flower and eventually give fruits.

Regulations that we make under statutes actualise the consumption of the law. It is, therefore, vitally important that when those regulations are being formulated, the citizens of the Republic of Kenya are fully involved, participate and give their views which are supposed to be taken into consideration. It is unfortunate, therefore, that when the Committee on Delegated Legislation retired to consider those Regulations, it was established that there was no adequate public participation. The net effect of that was that the Committee arrived at the decision that members of the public did not give their views. This is with regard to the Regulations of the NTSA on the operation of commercial motor vehicles, which touch on various aspects of the lives of Kenyans. It was felt that it was important for members of the public to be invited to give their views as far as the consumption of those laws is concerned. The Committee arrived at a decision to annul those Regulations in their entirety. What followed, therefore, was a Report, which we have already tabled before the House and is available. It is detailed, well-done and well-considered.

I thank the Members of the Committee on Delegated Legislation for having taken time to come up with this Report and to take a decision which, in the Committee's view, is most suited for this Republic. As I conclude, I am happy to report to the House that the regulation-making authority - the NTSA - last weekend engaged the Committee on Delegated Legislation and the relevant Departmental Committee on Transport, Public Works and Housing on the three sets of Draft Regulations, including this one. There was fruitful engagement and we are hopeful that going forward, the Authority will submit to the House instruments that conform not only to the Constitution and the relevant Acts pursuant to which they are made, but importantly, which have been subjected to public participation and are in compliance with the Statutory Instruments Act. We also encourage other regulation-making authorities to consult the Committee on Delegated Legislation prior to publishing regulations so as to hasten the process of making those instruments, gazetting them when they have been scrutinised and eventually passed by the House.

I beg to move that this House annuls the NTSA (Operation of Commercial Motor Vehicles) Regulations, 2018 in their entirety. We promise that once those Regulations are brought back before the House, we will consider them as appropriate.

With those remarks, I now request Hon. Munene Wambugu to second.

Hon. John Wambugu: Thank you, Hon. Temporary Deputy Speaker. I rise to second the Motion to annul the NTSA (Operation of Commercial Motor Vehicles) Regulations, 2018.

When we retired to consider those Regulations, it became apparently clear that there was no sufficient or even adequate public participation. The issue of public participation is already anchored in the supreme law of the land. It is in the Constitution and is a constitutional requirement. We urge regulation-making bodies or organisations that moving forward, they should always ensure that there is public participation. Even a court of law cannot allow regulations which were passed or done without public participation. What constitutes public participation is also anchored in the Statutory Instruments Act. It is very clear that we have enough materials that can guide public relations bodies when they are making regulations as to what they should consider and how they should reach the public.

In this scenario, we noted that the NTSA only published in the newspaper calling for a public forum for people to come and give their opinions and views. We considered that not to be adequate because there was no report on how many people came, what questions were asked, what the responses were, whether they were considered and how many regions were covered. That was lacking from the NTSA.

With those few remarks, I beg to second and call upon the House to annul those Regulations in their entirety.

(Question proposed)

The Temporary Deputy Speaker (Hon. Mariru): I can only see one Member who has registered interest to contribute to this Motion. Hon. Sankok.

Hon. ole Sankok: Thank you very much, Hon. Temporary Deputy Speaker. I rise to support this Motion, which was moved by the Committee on Delegated Legislation. We have to take care of our citizens. The only way we can do it is to have enough public participation when we are making laws, especially when it comes to the NTSA. We have been having some problems on our roads in the recent past. When NTSA and traffic officers were on our roads, we had two centres of power. Citizens, drivers, owners of public transport and vehicles were not aware of who is more powerful than the other. In that rush to outdo each other, there were a lot of traffic accidents on our roads.

I support that we need enough public participation. Whenever we see laws, policies and regulations that did not get enough public participation, it is the duty of this House to throw them out to the depth of Indian Ocean. We must have enough public participation. These regulations, laws and policies will ultimately affect Wanjiku and individuals from Turkana County, Mpeketoni in Lamu County, public transport vehicle owners as well as *makangas* and drivers. So, we need enough public participation.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): It seems there is no further interest to contribute to this Motion. Member No.001.

(Hon. ole Sankok stood in his place)

Hon. Seroney: I am Member No.001, who is not a sycophant, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): Do not go that route. Hon. Seroney, you have the Floor. Do not go through the route of Member No.001 because you will have a bit of a challenge there.

Hon. Seroney: I know the Member has an extra title that I do not have. I am also Member No.001 in my party. Member No.001 has another additional name which I do not want to mention on the Floor of the House.

I really appreciate this opportunity that you have given me in order to air my views over the same regulations of the NTSA. I sit in the Committee on Delegated Legislation. We went through that proposal of the regulations. Sincerely speaking, without the involvement of the common *mwananchi*, who is the consumer of the regulations, it cannot be acceptable that we pass them for the sake of doing it without the consumers knowing exactly what they contain. Therefore, I support the annulment of these regulations. If you look at them in a broader way, you find that the NTSA has crisscrossed the Kenya Police Regulations and the Kenya Revenue Authority (KRA) Regulations. There must be a clear indication and path of operation with the NTSA. Therefore, we want to urge all those bodies which make regulations to observe and obey the Constitution of Kenya. We must make regulations that respect the motherland's law which is the Constitution of the country. The common *mwananchi* suffers a lot. Before the withdrawal of the alcoblow, the same body was chasing the common *mwananchi* as if he was a thief. This was very wrong. The NTSA must come up with a proper regulation on how to operate in a peaceful way without chasing people as if they are thugs.

Hon. Temporary Deputy Speaker, I support the annulment of those regulations. Thank you.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Hulufu Oda, Member for Isiolo North.

Hon. Hulufu: Thank you, Hon. Temporary Deputy Speaker. I also support the annulment of the regulations. It is important that authorities which are given privilege to consider delegated legislation adhere to provisions of our Constitution. Public participation is mandatory. We know that these regulations are enforceable. It is important to give people who will be affected by the regulations adequate opportunity to contribute towards their formulation. Adverts which are put in newspapers to call for memoranda should not be treated as an adequate form of soliciting inputs from the public for formulation of regulations. It is important for us to note that most Kenyans have no access to newspapers. Therefore, I would like to thank the Committee on Delegated Legislation for establishing that there was no adequate public participation in formulation of these regulations. They arrived at the right decision of calling upon this House to annul the regulations.

I support the annulment. Thank you very much.

The Temporary Deputy Speaker (Hon. Mariru): There is no any other interest to contribute to this Motion.

Hon. (Ms.) Wahome: *(Off record)*

The Temporary Deputy Speaker (Hon. Mariru): Order, Member for Kandara. You know that you must register your interest to contribute in the way that is known.

Hon. (Ms.) Wahome: *(Off record)*

The Temporary Deputy Speaker (Hon. Mariru): I know you are a Member of this Committee. In that case, it is unusual for me to do that. Member for Kandara, you have the Floor.

Hon. (Ms.) Wahome: I am most obliged, Hon. Temporary Deputy Speaker for giving me permission to support the annulment of these regulations.

When the NTSA appeared before the Committee, it was clear that public participation came out strongly as a matter that they had not exhausted thoroughly. Many statutory regulatory authorities have been taken to court for failure to simply conduct public participation. It is important that Kenyans know what is ahead and before them by way of regulations. In this particular case, there were various issues that further followed other than failure to conduct public participation. One, the fees that were proposed by these regulations were punitive to licence holders, most vehicle owners, drivers and instructors.

So, the Committee felt strongly that the public must know about the inspection and driving fees because it is them who will bear the cost.

Hon. Temporary Deputy Speaker, further, the Regulations were a critical case because they require every owner of a private vehicle or driver of a private motor vehicle to undergo fresh driving course every 10 years. We found that unusual in terms of experience and training. We would want to persuade the House that subjecting every owner of a private vehicle to training after 10 years means that even Hon. Members of this House are going to be subjected to a driving test. You can imagine the implication and the impact it would have on persons who have been driving for 20 or 30 years and ordinary owners of motor vehicles in our communities being subjected to new driving lessons. It does not appear reasonable. Therefore, that was a major reason by the Committee in rejecting the Regulations.

There is the creation of new centres of inspection in these regulations. The Committee was quite concerned that as the new centres are being created, it is not clear about who should secure the licences and authority to run them. Currently, inspection of motor vehicles is done by the Government. Therefore, that is a matter that needs critical evaluation. We need to know whether it is likely to build capacity or whether it is likely to impact positively or negatively the manner in which licensing of motor vehicles in this country is done.

Finally, the instructors, according to these Regulations, were required to apply afresh irrespective of whether they were running their businesses or not. There were stringent conditions in terms of the manoeuvring area and space within which the owners were required to manage their businesses. It appeared to us abstract as a Committee, and as a Member of that Committee, I found that if we went by the regulation, an owner of a driving school must secure premises of about two acres. We wondered whether driving schools, even the ones in Nairobi which have been in business for a long time, would easily comply.

Regulations are meant to facilitate and not to be prohibitive or punitive. They are meant to facilitate, encourage and support Kenyans in ensuring that good behaviour, discipline and managing of our public affairs are all conducted within the law. Therefore, I was persuaded, as a Member of the Committee, to support annulment of these Regulations. Thank you.

The Temporary Deputy Speaker (Hon. Mariru): Member for Laisamis.

Hon. Arbelle: Thank you, Hon. Temporary Deputy Speaker. I wanted to contribute to the Coast Guard Service Bill. Thank you.

The Temporary Deputy Speaker (Hon. Mariru): In that case, there is no further interest in that Motion. I call upon the Mover to reply.

Hon. Murugara: Thank you, Hon. Temporary Deputy Speaker. I wish to thank Hon. Members for their very positive contribution towards this Motion and Report. The Report was

made in utmost good faith as explained. We have also explained that we had a session with the NTSA and went through their proposed regulations. We assisted them where they needed assistance and we believe what will be brought to the House after being subjected to thorough public participation will be regulations that will serve Kenyans well and regulations that will be for posterity.

In these circumstances, I urge the House to adopt the Report.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Members, we shall defer putting the Question on the Motion. That will be done at another appropriate time.

(Putting of the Question deferred)

Next Order!

BILL

Second Reading

THE KENYA COAST GUARD SERVICE BILL

The Temporary Deputy Speaker (Hon. Mariru): Let us have the Mover.

Hon. Koinange: Hon. Temporary Deputy Speaker, I beg to move that the Kenya Coast Guard Service Bill (National Assembly Bill No. 45 of 2017) be read a Second Time.

The Kenya Coast Guard Service Bill (National Assembly Bill No.45 of 2017) was committed for consideration to the Departmental Committee on Administration and National Security. It seeks to provide for the establishment, functions, discipline, organisation and administration of the Kenyan Coast Guard Service. The Service shall have the mandate of law enforcement and security in Kenya's internal and territorial waters.

The Service's vision shall be part of a multiagency and is a product of a mid-term plan by the Government of Kenya to explore the blue economy. The Bill is a product of extensive consultation from all key stakeholders within the blue economy. The Bill contains provisions touching on the establishment of the Service.

Clause 5 of the Bill establishes the Service while Clause 6 provides that the Service will be composed of three components, namely, disciplined, uniformed and civilian component. The disciplined and uniformed components shall be composed of persons recruited from national security organs while the civilian component shall comprise of persons recruited from the public service.

The National Security Council will regulate the size, operational and support units and formations in accordance with the provisions of Clause 7 of the Bill.

Clause 8 of the Bill provides that the Service will be deployed to the territorial waters of Kenya and shall do all that is necessary and connected to:

1. Enforce maritime security and safety.
2. Enforce pollution control;
3. Enforce sanitation measures;
4. Prosecute maritime offenders; and,
5. Enforce protection of archaeological or historical objects or sites and be deployed to support the Kenya Defence Forces in times of war.

Clause 10 of the Bill establishes the Council of Kenya Coast Guard Service. The Council consists of:

1. The Cabinet Secretary responsible for matters relating to internal security who shall be the chairperson, and the Cabinet Secretaries responsible for matters relating to finance, defence, transport, fisheries and environment;
2. The Attorney-General;
3. The Chief of the Kenya Defence Forces;
4. The Inspector-General of the National Police Service;
5. The Director-General of the National Intelligence Service ; and,
6. The Director-General of the service established under Clause 15 of the Bill will be the secretary to the Council.

Clause 11 of the Bill provides that the Council shall:

1. Be responsible for the overall policy, control and supervision of the service;
2. Receive and act on reports submitted by the CS, the Director-General and technical committee;
3. Upon application, review the penalties imposed on members of the service;
4. Receive and consider budget estimates;
5. Recruit, transfer or promote members of the service;
6. Approve the appointments, posting or promotions of senior officers of the service;
7. Commission research related to the protection of territorial waters;
8. Commission research related to the better functioning of the service; and,
9. Advise the President on any matter relating to the service.

Clause 13 of the Bill establishes the technical committee of the service which consists of:

1. The Principal Secretaries in the ministries responsible for matters relating to internal security who shall be the chairperson, finance, defence, transport, fisheries and environment.;
2. The Chief of the Kenya Defence Forces;
3. The Inspector-General of the National Police Service;
4. The Director-General of the National Intelligence Service;
5. The Solicitor-General;
6. The Director of the Kenya Maritime Authority;
7. The Managing Director of the Kenya Ports Authority;
8. The Director of the Kenya Wildlife Service; and,
9. The Director-General of the service established under Clause 15 of the Bill shall be the secretary to the technical committee.

Clause 15 of the Bill provides that the council will:

1. Advise the Council on policy and financial matters relating to the service;
2. Oversee the management and administration of the Service;
3. Receive and act on the reports of the Director-General;
4. Advise the Director-General on request; and,
5. Make recommendations to the Council on matters relating to the functions of the Council.

Clauses 15, 16 and 18 stipulate that the Director-General of the Service will be a State officer and shall serve for a term of four years. The Director-General will be responsible for:

1. The daily administration, control and management of the Service;
2. Command of the discipline and uniformed members of the Service;

3. The effective utilisation of the Service;
4. The training, education and deployment of the members of the Service;
5. Reporting to the Council on the activities of the Service;
6. Overseeing implementation of policies of the Service; and,
7. Submitting budget estimates of the Service to the Council.

Clause 17 provides that a person is qualified to be appointed a Director-General of the Service if he or she:

1. Is a Kenyan;
2. Is a member of national security organ;
3. Has not served as a Member of Parliament, a county assembly or as a governor;
4. Has not been convicted of a criminal offence ;
5. Has not been dishonourably discharged from a national security organ;
6. Has not been dismissed from any public office; and,
7. Has not been discharged as bankrupt.

Part III contains provisions relating to disciplinary offences, penalties, recovery of fines by deduction from salary, desertion and absence without leave of members of the Service.

Part IV contains provisions relating to offences concerning the Service, which include obstructing an officer, assisting in the desertion of a member of the Service, unlawful purchase of service store, unauthorised dealing in paraphernalia relating to the service, interference with aids of navigation, prohibition on the use of words “Kenya Coast Guard Service” by non-members of the Service.

Part VI of the Bill contains provision touching on the limitation of fundamental rights and freedoms of the members of the Service, including the right to privacy, access to information, association, assembly, demonstration, picketing and petition, labour relations, economic and social rights.

Part VII contains provisions relating to uniforms of the Service, exemption from execution of public property, next of kin of members of the Service, retaining uniforms and decorations as well as properties of the Service, convening a board of inquiry, secondment of personnel, temporary holding areas, regulations, making of Service standing orders and saving provisions.

There are four schedules. The first schedule contains the ranking structure of the Service. The second schedule contains provisions relating to the conduct of business and affairs of the Council. The third schedule contains the oath of office and the fourth schedule contains offences against indiscipline.

The Committee conducted public participation as a well as extensive stakeholder consultation. To that end, the Committee noted the following issues:

(i) Section II defines territorial waters to include inland waters, internal waters, territorial sea and contiguous zone of Kenya. Inland waters, territorial sea and contiguous zone of Kenya are not defined.

(ii) Who has ministerial responsibility for implementation of the Bill?

(iii) Should the Service be in charge of drug prevention?

(iv) How will the Service harmonise its ranking structures of its members against other persons joining from other public organisations?

(v) Whether there is constitutional grounding to set up a paramilitary force parallel to the Kenya Defence Forces and the National Police Service.

(vi) Will the Service man internal waters such as lakes and rivers?

The Departmental Committee on Administration and National Security resolved as follows:

(i) To amend the Bill by inserting definitions of Section 2 to include definitions of inland waters, internal waters, territorial sea and contiguous zone of Kenya.

(ii) To amend the Bill to clarify that ministerial responsibility lies with the Cabinet Secretary responsible for matters relating to internal security.

(iii) To amend the Bill to provide for inclusion of prevention of smuggling of drugs and firearms among the functions of the Service.

(iv) To amend the Bill to provide for regulations to the harmonisation of ranking structures.

(v) Article 239 of the Constitution empowers Parliament to establish a military, paramilitary or similar organisation that purports to promote and guarantee national security.

(vi) The name was adopted as in accordance with the prevailing international tradition of naming the same by similar organisations around the world, such as the ones in the United States of America, Pakistan and Bangladesh. The Service will man internal water bodies.

We will be moving amendments during the Committee stage to buttress and address specific aspects within the Bill in order to ensure the overall objectives are attainable upon enactment and operationalisation.

Hon. Temporary Deputy Speaker, I beg to move and ask Hon. Arbelle to second.

The Temporary Deputy Speaker (Hon. Mariru): Yes, Hon. Member for Laisamis.

Hon. Arbelle: Thank you, Hon. Temporary Deputy Speaker. I rise to second the Motion on the Kenya Coast Guard Service Bill.

This Bill requires the establishment of the Kenya Coast Guard Service, whose mandate will be to patrol our territorial waters for purposes of safeguarding them. Currently, you may have observed that we do not have anyone patrolling, safeguarding or trying to keep a hawk's eye on our territorial waters. In fact, this country has been under the mercy of God that we have not had external attackers using our territorial waters as an avenue to attack the people in Kenya. In a place like Lake Turkana, you will realise we are bordering Ethiopia. There is no single person who the Kenya Government has posted to that part of the world to keep an eye on the external aggressors who might use that route to come into Kenya. Many arms are being smuggled into the country through that route. Many drugs come into this country through that route. Large amounts of ammunition which is used to kill innocent Kenyan citizens, particularly my community because Lake Turkana falls under Laisamis Constituency, comes through that route. Recently, there was an attack on my people in Loiyangalani. The attackers are believed to have come from across the border.

With this Bill in place where we will be able to have Coast Guards posted to patrol our rivers, lakes and even the Indian Ocean, we will not have foreign aggressors using our rivers, lakes and oceans to come into our country.

With those sentiments, I beg to second the Motion.

The Temporary Deputy Speaker (Hon. Mariru): Very well.

(Question proposed)

I see a number of Members have registered interest to speak to this. I will use the index of registered interests. The top-most is Hon. Hulufu Oda, Member for Isiolo North.

Hon. Hulufu: Thank you Hon. Temporary Deputy Speaker for giving me the opportunity to speak to this Bill.

I support this Bill. As the Chairman of the Departmental Committee on Administration and National Security has stated, this is a very important Bill. As a country, we have a very long coastline along the Indian Ocean. We also have other inland lakes like Lake Turkana which my colleague Hon. Marselino has mentioned. These water bodies are not policed. This is posing security threats to our nation. Most developed countries have multi-agency coast guards. We ought to have had this force. The establishment of this force is constitutional. If we look at the Report of the Committee, especially the presentation by the Ministry of Interior, the Ministry of Defence and so on, it is very clear that the establishment of a military or a paramilitary force for purposes of promoting national security can only be established in accordance with the Constitution or an Act of Parliament. Of course, there is a relevant Article in the Constitution. But, as Members of this august House who have the cardinal responsibility of providing legislation when it is required, it is our responsibility to support this Bill so that we facilitate our security organs, the Ministry of Interior, the Ministry of Defence and the National Intelligence Service to come up with a force which is going to safeguard our coastlines.

The manning of our coastlines by a disciplined force like the one proposed in this Bill is something that we ought to have formed a long time ago. Fortunately, we are not the only ones who do not have coast guards, particularly in our continent. Even some advanced countries which we normally look up to when we do benchmarking are yet to establish theirs. I have had an opportunity of trying to find out where coast guards exist in the African Continent. In countries like Egypt, for example, it exists but it is part of the navy.

The good practice internationally is to have a multi-agency force whose members are drawn from different wings of military or security organs like the army or the police. The Bill also provides clear provisions for the establishment, functions and appointments of Director-General. The functions are clearly specified and they relate to security challenges that we face as a result of unmanned seafront. For example, in the recent past, we had an instance where terrorists attacked tourist resorts in Lamu County. By the time the security organs were responding, the damage was already done and we ended up losing tourism which is a major foreign exchange earner for our country. We also know that our territorial waters are rich in biodiversity, which is part of our heritage. We also have people who illegally do bio-prospecting. They do prospection of our biological resources and extract them without the knowledge of our Government simply because our coastline is not manned or policed. Due to this situation in our coastline, there could be instances where illegal firearms can find their way into our country. As my brother has said, once those firearms enter into our country, they pose a very serious threat to lives and properties of our people.

With those few remarks, there are a number of issues which I have noted require amendments. I am glad that some of them have been flagged out by the Committee. Once we get to the Committee of the whole House stage, we will propose some amendments.

I support. Thank you, very much for the opportunity.

The Temporary Deputy Speaker (Hon. Mariru): Next on line is Hon. ole Sankok.

Hon. ole Sankok: Thank you very much, Hon. Temporary Deputy Speaker. This is a very important Bill that we really need to support. This Bill should have been in Kenya since 1963. For sure, our coastline is quite vast. When you talk of a coastline that is vast and quite bushy in some places, then you will find terrorists taking advantage of those loopholes to enter into our country. As other Hon. Members have said, they enter into a country not empty-handed,

but with weapons of mass destruction which have cost lives and economic muscles especially in the tourism sector. They also enter our country with some very hard drugs like heroine that have really destroyed our young generation. If you go to the Coast, you will be shocked at the amount of drugs being sold in the streets of Mpeketoni, Lamu, Nyali and all those towns in our coastline.

We have also heard another type of terrorism that deals with cattle rustling around Lake Turkana. Those terrorists enter our country through those waters. Since Lake Turkana is not manned, terrorists come in large numbers, get prepared and attack our citizens without anybody noticing. When they go away with those animals, they set us back economically because cattle are the economic lifeline of most of the communities that border Lake Turkana. Those people come with weapons. Some of our pastoralist areas especially around Lake Turkana Region have been disarmed because we believe it is one tribe of Kenya fighting another tribe of Kenya. We have failed to realise that it may be terrorists coming from our neighboring countries with weapons, while we have disarmed our own citizens. When our people are made armless with people who are armed to the teeth, they take our cattle even during daytime. Now we are blaming our citizens for what happened in Suguta Valley where police officers were killed. We do not know whether those police officers were actually killed by the Pokot, the Samburu or the Nandi cattle rustlers. They could have been people from Ethiopia or Sudan or elsewhere.

We also have another very important lake called Lake Victoria. It borders Tanzania and Uganda. We have a problem with Migingo Island. We do not have armed officers on our side. Therefore, our own citizens were being terrorised by policemen from the other country. Since we do not have our own, they take over the island that they believe is useful economically and do it by force because they have a force and we do not. That is why for me, the Coast Guard Service is an idea whose time has come. We also have part of Lake Victoria bordering Tanzania through which we have had mass influx of persons with disabilities who have been brought to our country to beg. Most countries know that Kenyans are very good at giving. That is why our streets are dotted with persons with disabilities who are being used in a borrowing kind of pyramid scheme. They are dropped in strategic areas in our towns and cities to borrow for the benefit of some tycoons and some cartels that use them as borrowing tools. I have tried to assist people living with disability especially when I was in the National Council for Persons with Disability but it used to be challenging. We cannot use Kenya's taxpayers' money to assist citizens of Tanzania because this is not one of the agreements of the East African Community (EAC).

So, I really do support that we man our ocean and territorial waters including the inland waters. At times, you can have a lake with an island in the middle. That island in the middle can be used as a source and as a store for drugs and weapons. In the past, countries' islands have been used as a telecommunication center to destabilise the whole country. Some countries have used those islands to destabilise the countries that host those islands through telecommunication by giving out classified information and sending back to the enemy country. So, it is just through the mercies of God that we have not heard of major incidences in which our country's security and existence has been threatened by territorial waters that we have not been able to man.

So, I really commend this Committee for having been progressive in their thinking ahead and safeguarding the security of our future generations. Therefore, I beg to support.

Thank you very much for giving me that opportunity.

The Temporary Deputy Speaker (Hon. Mariru): To my left now, Hon. Atandi Onunga.

Hon. Atandi: Thank you, Hon. Temporary Deputy Speaker. Let me say that this is what I would call Godsend legislation. I would have loved to see my colleagues from the Luo Nyanza

side being in this Chamber to be able to support this legislation. Our territorial waters have become dens for criminal activities. If you want to look at our coastal region, drug business is one of those businesses thriving there. I am told that when those people in drug business want to sneak in drugs into our country, the drugs can be kept in the waters for as long as one year before they are sneaked in. You also find that things like abduction where tourists or people enjoying themselves in the hotels along the beaches are being abducted. This is facilitated because of our porous border territorial waters. You can enumerate many of these criminal activities happening because of lack of a specialised force in charge of our territorial waters. This is something for which we must applaud the Committee for doing a very good job.

All of you are aware, and I thank Hon. ole Sankok for highlighting the issues along the lake, that our people have been dehumanised. Efforts by our Government to intervene and talk to Uganda have not been able to bear conclusive fruits. Recently, we had cases where Ugandan police officers invaded Migingo Island and, sometimes, they force our fishermen to eat raw fish. They do all manner of things that really dehumanise our people. Our police force at one point was also captured in this process. If this Bill is providing for a specialised unit that is basically going to ensure that our people are protected from those aggressors, we have no reason not to give it the maximum support that is needed so that we can allow our people to live dignified lives in our country.

You will also find that there are cases where those foreigners come in and they set base. There are cases where those Ugandans have been found to be raping our women. The saddest thing is that, sometimes, we are considered a country that is very weak. I know that if you go to Somalia today, you will find that the African Union Mission to Somalia (AMISOM) forces consisting of Kenyans, are there fighting *Al Shabaab*. They are ensuring that this war succeeds. But when you come to Kenya, you find that we are so weak because we do not have a system. So the Chair of this Committee and members have really done a good job.

Without wasting time, I would like Parliament to fast-track this Bill without amendments. I have gone through it; I do not think there is anything that really we should amend. The force that is going to be constituted is going to be well trained. It is going to focus on ensuring that our security along those areas is well taken care of.

I also want to talk about Turkana because Lake Turkana is also in the north and it borders Sudan. Even in that region, we have aggressors coming in and interfering with our people along those borders. So, this is our answer. As Parliament, we want to wholeheartedly support this Bill and ensure that it is passed so that it is swiftly implemented for the good of our people.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): Next in line is Hon. Murugara Gitonga.

Hon. Murugara: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill and term it as very timely. I believe we should have done this earlier than we have but better late than never. I am sure Kenyans out there are wondering what it is we are trying to establish. In very simple terms, the Coast Guard Service is going to resemble the Kenya Wildlife Service (KWS), which protects our wild animals; it is also going to resemble the Kenya Forest Service (KFS), which protects our forests. It is a uniformed, disciplined force which will take care of both our coastline and inland waters. Kenya deserves this and, therefore, I stand to support that we fast-track the passing of this Bill with a view to making Kenya a better place in terms of its territorial waters.

One thing I have liked about the Bill is that it says that the officers will also take care of the environment of our waters. We deserve clean coastlines, where our tourists can visit without any stigma of saying they will find the coastline dirty and, therefore, unattractive. We need a clean environment as Kenyans. When tourists, both local and international, visit those areas, they actually get the recreation which they go for.

I am also happy to note that the Bill has been subjected to public participation and there were very positive comments that came from the citizens of Kenya. This is what this House has been emphasising that we must at all times put into force Article 118 of the Constitution. Every law we pass must be subjected to public participation so that the public is aware of what the House is doing. That is because these laws are for the consumption of the citizens.

Inland waters need protection as much as we do to territorial waters. The case of Migingo Island in Lake Victoria cannot be over-emphasised. When it was geographically established that Migingo Island is in Kenya, we were met with such contemptuous statements like: “The Island can belong to you but the fish is ours. So what are you going to do with the island?” The reason we were told this is due to the fact that we never had security in that area. There were a few policemen who were getting overwhelmed and as a result, possibly, there was technically a takeover of a territory that belonged to our Republic.

The same applies to Lake Turkana where there is a lot of fishing by fishermen from Loiyangalani, Kalokol and other areas. When they go into the deep lake to fish, they are not guaranteed of any security. I believe and I am convinced that with that coast guard, those fishermen will be protected. They will not be harmed by other forces from other countries who also share with us Lake Victoria. Eighty kilometres of territorial waters into the ocean or sea belong to us, but we have no one to guard that area. Our fish is taken away by foreigners who come and do it brazenly and wantonly; without caring what we are going to do because they say, “You do not have security.”

The last two reasons I support this particular Bill is that I foresee it creating employment in our country. Possibly, young men and women will be recruited into the force. They will be trained and will earn a living. That alone is what exactly the country is gearing into: creating employment for its own citizens as we make our economy grow and as we make our security apparatus better than they are now.

Unfortunately, we do not have any inland waters in Tharaka Constituency; not even in my County of Tharaka Nithi, Meru, Kitui and others. However, in the offing, we are just about to create one of the largest man-made lakes in Kenya, Africa and possibly in the world, that is, High Grand Falls Dam. Once we do this, possibly, we will have inland water which we will require to be protected because we will have tourists coming over. We will have a lot of economic activities, including fishing. The area that lake is going to cover would warrant protection from such a Board. For those reasons, I support that we pass this Bill. Let us enact it into law and bring it into operation as quickly as possible. We should be invited to forward young men and women who are going to serve in that force.

I support.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Wafula Wamunyinyi.

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill regarding the establishment of the Coast Guard in our country.

I am also a member of the Committee in charge of administration and security in the country. My Chairman ably moved this Motion. It has been clearly stated what the objects of the

establishment of the coast guard in our country are. I would like, for purposes of my contribution, to re-state and emphasise the importance of the Kenya Coast Guard Service Bill. This Bill seeks to provide for the establishment, functions, discipline, organisation and administration of the Kenya Coast Guard Service and for connected matters. It shall have the mandate of law enforcement and security in Kenya's internal and territorial waters.

It is important for all of us to note that law enforcement and security in Kenya's internal and territorial water is such an important aspect of our security. We have a coastline which we are all aware of. We have inland lakes and colleagues contributing have made reference to all of them, that is, Lake Victoria, Lake Turkana and the Indian Ocean in Mombasa. Unless there is a proper arrangement and efficient way to manage the security in these areas, it becomes very difficult for the country... In fact, one of the things which are mentioned in the Bill is the management of the aqua culture and fish management. People steal fish every day in our waters, including Lake Victoria. The dispute over Migingo Island is about fish. Our fish is deliberately stolen every day.

At the coast in Mombasa, sailors come from as far as Portugal and Spain to the East African coast to steal fish and other sea food. They get away with it because there has not been a specific unit assigned with the duty to prevent theft of our resources. So, this Bill is very timely because currently we are expected to grow our economy and help our people secure the waters of our country and even prevent invasion by terrorists.

Terrorists come in many ways. We have heard the case of pirates operating in the deep seas. They do their planning on land, enter the waters along the coast line, commit crime and eventually come back to land. So, if you have an organised unit such as the one that is being proposed... We have learnt from countries with long established coast guards that they have been very successful in the management of the challenges we are facing as a country. So, this is not only going to establish a unit that will be responsible for the management of the waters, but it has a wide range of functions which will go a long way in benefitting the country at large.

The Bill also provides for the enforcement of maritime security and safety. It also addresses the issue of pollution control and sanitation measures. It provides for prosecution of maritime offenders. We have had challenges in the recent past where pirates were arrested in deep waters and no country was willing to prosecute them. No country was ready to receive those pirates who were arrested in the waters, but Kenya took the risk. We did not have adequate law and eventually many cases were lost because we did not have proper law on prosecution and enforcement of offenses committed along that line. So, this is going to ensure that we have a law that clearly provides for the way in which we will manage the maritime offenders. It shall also be responsible for the port and coastal security.

The military's mandate is clearly provided in the Constitution and the Act. However, the military, given the circumstances and how it operates, it is very difficult to undertake an internal security affair. This is because; deployment of the military is different. One has to determine the circumstances under which they could be deployed in the country to areas such as Lake Victoria and Lake Turkana. However, for the coast guard, it will be a unit responsible for management of security within these areas and so it will be very easy. It will be under the command of the Director-General (DG) and the men on the ground will ensure that the functions are undertaken uninterrupted and without difficulty.

The proposed law also provides for protection of maritime resources, including fisheries. Those are some of the important functions which are clearly provided in the Bill. Human trafficking has been a matter that has been on the increase and one of serious interest

internationally. It has been happening in Libya and some other countries in the north where human beings... You and I, when we were in Port-au-Prince in Haiti, during the African Caribbean Pacific- European Union (ACP-EU) Conference, know that the matter about trade in human beings came up seriously.

A very serious matter came up about human trafficking. People are being ferried from Africa to be sold for labour elsewhere. They go through the waters at the coast and end up somewhere in some countries in Europe. I am sorry to say that even the *mzungu* is responsible for some of these offences and therefore we must prevent this.

Drug trafficking and illegal movement of weapons is among those offences which must be dealt with head on. If a country does not prevent the use of drugs and movement of illegal arms it is exposed to risks. Generations will be lost, people will be insecure and the country will not move forward. This Bill is very important. Since my time is up, I wish to state that the amendments our Chairperson talked about have been considered by the Committee...

The Temporary Deputy Speaker (Hon. Mariru): Very well, Hon. Member. You have made your point quite conclusively. Hon. Konchella, Member for Kilgoris.

Hon. Konchella: Thank you, Hon. Temporary Deputy Speaker. I support this Bill and congratulate the Chair and the Committee for doing a good job. The title of the Bill is “Kenya Coast Guard Service Bill”, and one of its functions will include guarding internal waters. The Chairman needs to relook at this title to take care of the internal waters because it is confined to the coast.

This Bill is good because of many factors, as my colleagues have said. In Mombasa we have the Tourist Police who protect tourists against terrorists and the jobless youth who harass them. For economies with coastal waters like us they have a big number of coast guards to protect the tourists and guard the waters. This is one of the functions which I believe the Coast Guard Service is going to undertake. Therefore, the police can be withdrawn to perform other functions.

Another importance is that we have coral reefs which protect us from sharks and other animals which are harmful to human beings. The natural habitat where the coral reefs grow should not be polluted. Pollution will kill them and sharks will find their way and harass tourists, fishermen or children playing in the ocean. This is a function which is very crucial. They need to ensure that our water is not polluted and ships carrying pollutants are not allowed near the coast. Also raw sewage from the towns and cities should not be disposed off into the ocean. This must protect the ocean to ensure that the ocean remains clean and the coral reef grows and protects our people from calamities.

Another crucial issue concerns overlap of functions. We have the Kenya Maritime Authority and the Kenya Navy. We know that our territorial water extends to 12 nautical miles. We have a problem of manning all that water and protecting our fish. Ships from major economies can come and camp 100 kilometers away and we can see them harvesting all the fish and processing them to sell in the Port of Mombasa as if they are from China or another place. Yet, these are fish from our own waters.

Let us allow the Kenya Navy to patrol about 12 nautical miles into the sea to protect our fish while the coast guards take care of our internal waters and help in searching and rescuing our fishermen who get stranded and other people who get into trouble. I know this will require a lot of resources. There should be a clear definition of roles and functions. The Kenya Maritime Authority (KMA) should not interfere with the role of the Coast Guard Service. They should

work together with the Kenya Navy. There must be a law where the Kenya Navy can be called upon to assist where they need manpower and capacity to rescue.

Coming to inland waters, we have many lakes in this nation and some of them have a lot of flora and fauna which is not found anywhere else in the world. The way to protect them from poachers is having an authority or service to protect them. For example, look at Lake Bogoria, and other lakes in this country there are many enzymes being extracted by foreigners pretending to be doing research. They are extracting enzymes which biologically are used to develop other products. They take them to their country and make billions. We must have a patent right to protect anybody doing out research. The Coast Guard Service plus other Government agencies can play this role to ensure we do not lose what God bestowed upon the people of Kenya. It should earn revenue for the Government and the people of this country.

Thank you, Hon. Temporary Deputy Speaker. I support this Bill. We will look at the amendments during the Committee stage to enrich this Bill so that it supports this country in moving forward.

The Temporary Deputy Speaker (Hon. Mariru): I thought we had at least one lady Member who wants to contribute. It looks like the interest is not there anymore. Hon. Maanzo, honestly! She had removed her card but she has the Floor, Member for Vihiga County.

Hon. (Ms.) Adagala: Thank you, Hon. Temporary Deputy Speaker for noticing me. *Pole* Hon. Maanzo your time is coming, ladies first. I support this Bill because just like my colleagues.

Apart from the Coast region where the Kenya Coast Guard Service Bill is being talked about, we also have a similar case in Lake Victoria, the way other Members of Parliament have said, that is, the Migingo issue. The Migingo issue became very hot and we were wondering why our territories are being invaded by our neighbours. I got to a point where I wondered whether our fishermen would stop going to the lake to fish. The women could not get their daily food. The children could not get food just because our waters are not protected.

I wish to commend the Committee led by the Chair for the good work they have done. At least, we are very sure that our territories will be protected. Lake Turkana and Lake Baringo will be protected. The Coast has been a problem. Most of the drugs are being brought in through the sea and hidden in boats from other countries through the coastal region. The drugs are coming in and they get their way from coast to other areas at the far end of Kenya like Vihiga, Busia and Kakamega, which cause a lot of havoc to our youth. You will find drugs like cocaine and kuber finding their way upcountry. This is becoming a big issue. Right now we have to establish rehabilitation centres just because of these conduits passing through the waters to our country Kenya.

This Bill has come at the right time. I urge each and every Member of this Parliament to support this Bill for it to be passed very fast so that these areas are protected and we can save our children, fathers and even women who are vulnerable. There is a lot of insecurity. There are so many illegal guns in the country which are being brought in through the ocean using those boats. So, once this Bill is passed, we will be very safe. We know the areas will be closed. There will be close monitoring of our boundaries and territories and I am very sure we shall not have influx of those weapons that spoil our country. Once weapons are brought in a funny manner like that, they land into bad hands. That is why you find insecurity all over. The weapons may enter through Mombasa, but they will come and cause havoc in Vihiga, Busia, Bungoma and all over Kenya.

This Committee did a commendable job. They took their time to go through this Bill up to where it is. I support this Bill. Thank you very much.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Maanzo Kitonga, for sure you now have the Floor.

Hon. Maanzo: Thank you, Hon. Temporary Deputy Speaker. I really support this Bill. First and foremost, many other countries which are surrounded by seas and oceans and have a lot of internal waters have a coast guard service. It is very useful in this era whereby we need to secure our territory and territorial waters. The beauty about it is these are specific officers who are trained in a specific manner to handle police work among other works while protecting our territory. Of course, the mandate of Kenya Navy is quite clear and you can see from the Bill that they will deal with both internal and external waters. Territorial waters mean inland waters, internal waters, sea and contiguous zones of Kenya. When it comes to the protection of the cleanliness of our waters to ensure that they are safe, it means the source of pollution will be determined. That has been one of our biggest problems when we want to stop pollution of our oceans and rivers by sewage and other pollutants. It is one of the challenges which have been hard to execute. We want to stop pollution of our oceans and rivers by sewage and other pollutants. It has been one of the challenges and now we have found the answer on how best to deal with it. We will make sure that first and foremost, our waters are clean and they provide a clean environment.

In the same breath, you will find that those particular officers are drawn from among officers who may have retired early from the Navy, public service or police. They are people who can be easily trained and can handle this service very well. They have specific skills on how to use boats which could have ammunition or to fire in the event of making an arrest on a vessel which is escaping on water and most importantly, people who come to steal our fish in Lake Victoria and the coastal region.

Mgingo Island was quite an issue in the 10th Parliament. It was such a mess because we did not have a proper mechanism of establishing exactly where the borders were. Eventually, Kenya spent a lot of money. We now know that Mgingo Island is in Kenya. We need to protect our territory and this sort of service is important. It will be based in different parts of the country. As the Member for Tharaka said, we will have the Grand High Falls Dam, which will be a huge dam. There is also the Thwake-Athi Dam in Makueni County. All those large bodies of water will definitely attract tourists and a lot of activities. They will need protection. You need officers who are specific and who work in that region.

The passage of this Bill into law will create employment for a lot of our youths. That has been one of the challenges in Kenya. It will also create employment for people who have a passion in this area, and who come from the coastal region, the Lake Region or rivers and are good swimmers. The swimming exercises and lessons that we give children in school can now be useful when we have divers and people can do other works other than the ordinary.

One of the biggest challenges currently is security. We will now have proper officers to guard our ferries at the coast and any other vessels. When they need escort, they can be escorted by experts who have a mandate emanating from a law. I, therefore, want to thank the team of Hon. Paul Koinange, which put this Bill together. In fact, it will pass with very minimal amendments. A serious job has been done on it. The balance is such that it will serve all parts of the country and especially where there are borders with lakes or the ocean. It will stop people who come to fish, take our fish and later on sell it to us. We will be able to manage all that.

Establishment of the Coast Guard Service is long overdue in this country. This Bill should be passed as soon as possible. Its commencement will be upon the approval by the Cabinet Secretary after the President has assented to it. That means the Cabinet Secretary will have the necessary time to put all the mechanisms together. It will become part of our budget because there will be a cost. I believe that this service will generate income in one way or another so that it can also support itself. It is parallel to what is happening with the Kenya Wildlife Service. They are uniformed, armed, trained and specific to what they guard. This will also improve our tourism because it will secure our coastal region and any other tourist attractions which involve water. That will mean tourism will get a boost in the country and create more employment. When hotels have no tourists, there are layoffs and a lot of young people lose their jobs. Hotels are built in the coastal region. That means that more young people in Kenya will be employed. This is a very good piece of legislation which is very useful to the country. We all look forward to being implemented. I urge the rest of the Members to support this important Bill so that we can pass it. When we do that, we will help our country, make it strong and make the citizens feel free and good to serve our country.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Murwithania, Member for Buuri.

Hon. Rindikiri: Thank you, Hon. Temporary Deputy Speaker. I join the rest of the Members to support this beautiful legislation. Like my colleagues have alluded, this Bill comes at the right time, particularly when there are a lot of security threats both from external and internal forces. Kenya requires coordinated security operations in conjunction with the international security operations, particularly in the sea.

In many occasions, we have heard of the pirates and *Al Shabaab* who are a threat to our internal operations, trade and tourists. In specific areas, you find that response mechanisms are not appropriate because the people who are concerned rely on the regular police force and the armed forces. The Bill seeks to establish a well-coordinated security force. As a country, we are now focusing on the blue economy which is in the Indian Ocean, Lake Victoria, Lake Turkana, Lake Naivasha, Lake Nakuru and all the lakes that we have. When we have a well-trained Coast Guard Service, this economy will be preserved. The threat of water pollution, people who take advantage of our heritage and what the country has in the Indian Ocean and lakes... We will make sure that this Coast Guard Service will offer support services to ensure that there is security and preservation of our heritage.

I know that we have serious ports which are coming up like the Lamu Port- South Sudan-Ethiopia Transport Corridor (LAPSSET). There is also expansion of Mombasa Port and the Shimoni Port which are coming up. We need a back up service which is very well coordinated. This legislation comes at the right time. There is a lot of drug peddling which is a serious concern to our youths and generally the entire population. The drugs are easily sold along the coastline. There is a free area where tourists come in and people go and relax. From statistics, coastline has been identified as the area where there is a lot of drug peddling.

There is also the export and smuggling of ivory from the interior to the Coast. Poaching has become a serious threat. Some of these animal products which are exported by sea pass through our coastline. This legislation focuses on providing security and protection of our territory. Our economy is the best thing that we can support. In any case, we are creating jobs for our young people.

I urge the House to support the Bill. It is very important because it is going to enhance our economy, provide safety and protection to help in coordination with international organisations in preventing bad activities that take place along the seas and lakes.

I support this legislation and look forward to its implementation as soon as possible. Thank you.

The Temporary Deputy Speaker (Hon. Mariru): Member for Butere.

Hon. Mwale: Ahsante Mhe. Naibu Spika wa Muda. Nimesimama kwa heshima kuunga mkono Mswada huu. Kumekuwa na shida kubwa sana katika eneo la Pwani haswa karibu na Bahari Hindi. Kwa hivyo, najulisha Wakenya kwamba Mswada huu ungeletwa mapema zaidi ili tupate njia ya kulinda maziwa yetu.

Kwa upande wa usalama, watalii wamekuwa wakisumbuliwa na magaidi. Mtalii mmoja alitekwa nyara na magaidi wakampeleka Somalia. Baadaye Serikali ilijaribu kumtafuta na baadaye Rais Kibaki aliyekuwa madarakani alituma wanajeshi Somalia kwa sababu ya huyo mgeni kutekwa nyara akiwa eneo la Pwani. Kwa hivyo Mswada huu utasaidia sana kuangalia vile eneo letu la Pwani na maziwa mengine yataangaliwa kiusalama.

Tumekuwa na shida ya kuchafuliwa kwa Bahari Hindi na Ziwa Victoria. Tukipitisha Mswada huu uwe sheria, tutapata njia ya kulinda maziwa yetu ili watu wasiyachafue na wadhuru mazingira.

Tuko na vijana nchini ambao hutumia madawa ya kulevya. Tukipitisha Mswada huu uwe sheria, utazingatia jinsi tutalinda eneo letu la Pwani ili madawa ya kulevya yasiletwe nchini Kenya.

Kwa hivyo, naunga wenzangu mkono ambao wamechangia na wakasema ya kwamba Mswada huu upitishwe uwe sheria. Naunga mkono na naeleza Wakenya wenzangu ya kwamba tukiwa na Mswada huu, tutakuwa na nafasi nyingi za kazi kwa Wakenya. Tukiwa na hiyo sheria na zinginezo, tutapata ujuzi kutoka nchi ambazo zimejaribu kulinda pwani yao kama vile nchi za Ujerumani, Uhisipania na Japani.

Kwa hayo machache, naunga mkono Mswada huu na naomba Wabunge wenzangu wauunge mkono pia.

Ahsante sana.

The Temporary Deputy Speaker (Hon. Mariru): There is additional interest.

Hon. Members, this is a very critical Bill. There is a lot of interest from Members. Clearly, they will have more time on this particular Bill. The House Business Committee, obviously, is the one that slots time. I have seen there are tentative items on the Order Paper for tomorrow morning and afternoon. The HBC will issue a specific time the debate on this Bill will resume.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Mariru): Hon. Members, the time being 6.51 p.m., this House stands adjourned until Tomorrow, Thursday, 26th April 2018 at 9.30 a.m.

The House rose at 6.51 p.m.