

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 6th October 2021**

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, we are slightly short of the numbers required to start business. Therefore, I order the Bell to be rung for ten minutes.

(The Quorum Bell was rung)

Hon. Deputy Speaker: Hon. Members, you can now take your seats. Now that we have the required quorum, we can start business.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, Members! Take your seats!

(Hon. (Ms.) Beatrice Nyaga stood in her place)

Member for Tharaka Nithi County, take your seat.

PETITION**FAILURE BY MINISTRY OF HEALTH TO PAY FOR
ANTI-MALARIA EQUIPMENT AND DRUGS**

Hon. Deputy Speaker: Hon. Members, Standing Order No.225 (2) requires the Speaker to report to the House any Petitions other than those presented by Members. Further, Article 119 of the Constitution provides for the right of any member of the public to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation. In this regard, Hon. Members, I wish to report to the House that my office has received a Petition signed by Mr. Diviesh I. Patel of National Identification No.8752685 on behalf of Equip Agencies Limited C/O P. O. Box 1809300200 Nairobi.

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The Petitioner is concerned that the Ministry of Health has violated the company's rights by refusing to pay the company for supply of anti-malaria equipment and drugs made between 1995 and 1997. The Petitioner avers that on 14th July 1995, Equip Agencies Limited entered into a lawful supply contract with the Ministry of Health, on behalf of the Government of Kenya, to supply anti-malarial drugs and equipment for a contract period tenable until June 1997. On the basis of the said contract, Equip Agencies Limited promptly delivered the goods as per the specification set out in the supply contract and all deliveries were acknowledged by the various officials from the Ministry of Health.

Hon. Members, the Petitioner further avers that during the contract period, the company supplied anti-malarial equipment and drugs worth Ksh1, 157,846,150 to various Government institutions in the country. According to the Petitioner, the Ministry of Health went ahead to renege on its contractual obligations and is yet to pay the company a single dime for the supplies made since 1995 despite the numerous follow-ups over the past 20 years. This has adversely affected the company's financial sustainability given that it had legitimate expectation to recover the money used to source for the supplies on being paid by the Government.

The Petitioner states that the company sought redress in the High Court to compel the Government to pay the money and in December 2011, the High Court awarded the company Kshs1, 862, 302, 792.50 plus compound interest of 18 per cent per annum. He affirms that even though the Government contested the award in the Court of Appeal, in December 2017, the Court of Appeal upheld the decision by the High Court and issued orders of *mandamus* compelling the Principal Secretary in the Ministry of Health to pay Equip Agencies Limited a sum of Kshs1, 862, 302, 792 and 18 per cent interest accrued from March 1999.

Hon. Members, the Petitioner claims that the Ministry of Health defied the decrees of both the High Court and the Court of Appeal and therefore the decree amount has risen to over Kshs80 billion as at February 2020. The Petitioner claims that in a bid to settle the matter amicably, the company voluntarily negotiated with the Ministry of Health, the National Treasury and the Office of the Attorney-General and offered an irreducible sum of Kshs15.25 billion plus costs down from the decree amount of Kshs80 billion due to the decree holder. To the Petitioner's astonishment, after the company sacrificing to waive Kshs65 billion of debt, the Government neither accepted the offer nor demonstrated commitment to conclude the negotiations and the said payment is still in abeyance. The Petitioner asserts that the Government's refusal to pay the debt is a blatant affront to the company's rights and has continued to expose the proprietors to uncertainty and bankruptcy. He avers that the company has since suffered irreparable financial harm and is incapable of bankrolling its operations and meeting its tax obligations, which is in arrears of Kshs3.6 billion inclusive of penalties.

The Petitioner has clearly demonstrated that the company's assets are currently listed for auction by financial lenders who are demanding repayment of loans and interest accrued on loans the company borrowed to procure and deliver goods to the Ministry of Health and threat of collapse is imminent. In addition, the company is unable to pay its overseas supplier's credit totalling to Kshs9 billion.

The Petitioner is therefore concerned that if the matter is not immediately resolved, Equip Agencies Limited risks being rendered insolvent yet the company supported the Government's initiative to make Kenya a malaria free country by supplying anti-malarial equipment and drugs in good faith.

Hon. Members, the Petitioner is seeking the intervention of the National Assembly, through its relevant Committees, as the company's last resort to:

(i) inquire into this matter with a view of establishing circumstances under which the Ministry of Health has for over 25 years refused to pay Equip Agencies Limited for goods supplied as per supply contract of 14th July 1995 in spite having acknowledged receipt of the goods that met the specifications of the contract;

(ii) intervene to cause the Ministry of Health and the National Treasury to pay Equip Agencies Limited the sum of Ksh80,522,464,880, being the principal debt owed since 1995, interest and cost thereof as decreed by the High Court in 2011 and upheld by the Court of Appeal in 2017;

(iii) recommend, if necessary, budgetary allocation to the Ministry of Health to settle the decree amount owed to Equip Agencies Limited as debt caused and interest accrued thereof at the earliest opportunity;

(iv) makes any other recommendations it deems fit in securing the Petitioner's property and economic rights.

Hon. Members, having determined that the matters raised by the Petitioner are well within the authority of the House, pursuant to the provisions of Standing Order No.227 (1), I order that this Petition be committed to the Departmental Committee on Health. The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order No.227 (2).

Thank you.

I see there are quite a number of Members who want to speak to this. Unfortunately, I am not able to pick because the interventions are 18. That tells you that roughly 18 Members want to speak to this particular one. Hon. Murugara, do you want to speak to this one or the other one?

Hon. George Gitonga (Tharaka, JP): Hon. Deputy Speaker, I wish to speak to this.

Hon. Deputy Speaker: Okay.

Hon. George Gitonga (Tharaka, JP): Thank you, Hon. Deputy Speaker. When I was in active practice, I used to represent Equip Agencies Limited and do their debt collection. This is a company that has done great supplies to many entities in the country and it has been quite around for a while.

It is extremely unacceptable for the Government to fail to satisfy judgements that are passed against it. We know that under the Government Proceedings Act, we cannot attach the property of the Government. Instead of the Government enjoying that privilege it has been given by the law, it is actually abusing it by not honouring judgements. As we speak today, the unsatisfied judgements against the Government are about to hit Kshs1 trillion. This House has been allocating money so that most of those judgements are satisfied, but the Treasury, as usual, has been knocking off whatever provision the House makes so that the judgements remain unsatisfied.

It is high time that the House considered whether we should amend the Government Proceedings Act and expose the Government to the remedy of execution by way of attachment. Today, if you have a judgement against the Government, you have to go through the whole process of mandamus and notices to show costs. To some extent, even where the Principal Secretaries (PSs) are summoned to court to explain why they are not satisfying judgements, they simply do not appear. Warrants of arrest would then be issued against them but the Inspector-General of Police would not execute them. It is like they are telling the court: "What are you going to do if we do not satisfy the judgement?"

It is high time that we woke up to stand with Kenyans.

Hon. Deputy Speaker: Hon. Murugara, you have debated. You will have the opportunity to go before the Committee. You are supposed to make some few comments in not more than a minute. You have already finished yours.

Hon. George Gitonga (Tharaka, JP): Thank you, Hon. Deputy Speaker. As I conclude, it is high time that, as a House, we stood with Kenyans so that their judgements against the Government are satisfied. This Petition is timely and we should help this company recover its money.

Thank you.

Hon. Deputy Speaker: Member for Nandi Hills, Hon. Keter.

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Deputy Speaker. I rise to support that Petition. It is very unfortunate that some Government officials do not respect the rule of law. It is important to treat the court orders with respect. Court orders are not opinions or suggestions. They are court orders which demand every State officer who has taken an oath of office to respect the rule of law.

It is very unfortunate that some investors are trying to support Government in some cases, but it is not supporting them. That is the reason why, in Africa, and to be specific, in Kenya, we are failing. Unless there is law and order, there is no investor that can invest because the confidence will be lost. That is the reason why we do not compare with Dubai or many other first world countries. Some of these countries do not have resources that we have, for example, the wildlife to attract tourists, but instead, they have artificial ones. However, they prosper because of good leadership, law and order. That is the only thing that we need to bring on board.

Thank you.

Hon. Deputy Speaker: Let us have Hon. Majimbo Kalasinga.

Hon. Members, please relax. I will allow quite a number of Members because this is the only Petition that we have this morning.

Hon. Majimbo Kalasinga (Kabuchai, FORD - K): Thank you, Hon. Deputy Speaker. This trend should be capped and controlled. If we allow this back-and-forth movement and disturbance to very good companies that have won contracts and performed, then we are going to discourage investors in this country. I believe that this trend has forced some banks to auction very good companies that have done business with the Government.

I support this Petition because it is going to bring sanity not only in the national Government but even in some county governments that have the same problems. Therefore, this Petition is quite in order before us.

Hon. Deputy Speaker: Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Deputy Speaker. This House must rise to the occasion and support Kenyan investors. We cannot allow the Government to steal from Jack Ma, from COVID-19 dying patients in the name of "COVID-19 billionaires" and to also kill local businesses. These businesses are employing so many Kenyans and they are paying a lot of taxes. Now, the Government does not even obey court orders when they are supposed to pay this Equip Agencies Limited its dues. As a House, we must rise and force the Government to pay, in totality, the Kshs80 billion that is owed to the company.

These companies have confidence in Kenya unlike other companies or individuals who take our money into offshore accounts. They have decided to invest in this country and are paying taxes and employing Kenyans. What are the companies with offshore accounts doing to Kenyans? They are neither paying taxes nor employing Kenyans. The Government must pay.

Hon. Deputy Speaker: Your minute is gone.

Let us have the Hon. Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD - K): Thank you, Hon. Deputy Speaker. First and foremost, I empathise with the Equip Agencies Limited. It is very unfortunate. Article 10 of the Constitution outlines the national values and principles of governance. Under sub-article (2)(a), there is rule of law. The Government is obliged to obey court orders. We are calling upon the relevant Cabinet Secretary to move with speed and settle this amount owed to Equip Agencies Limited.

As you commit this matter to the relevant Committee, it is important that the Budget and Appropriations Committee gets involved so that it can be sorted out amicably bearing in mind the time value of money. In this country, we still have problems with malaria which is still the number one killer particularly during pregnancy and for children under five years. Equip Agencies Limited has demonstrated that they had supplied the goods and were given satisfaction in terms of the specification. So, it is important that the Government of Kenya moves with speed to settle this matter.

The “Kenya Medical Supplies Authority (KEMSA) billionaires” have already been paid yet it was just the other day. So, why it is that Equip Agencies Limited that has supplied goods since 1995 has not been paid up to now? We want this matter to be solved once and for all. The Departmental Committee on Health and the Budget and Appropriations Committee must move with speed and bring a report on the Floor of the House.

Thank you.

Hon. Deputy Speaker: Hon. Mwadime.

Hon. Andrew Mwadime (Mwatate, ODM): Thank you, Hon. Deputy Speaker. I support the Petition. This time round, we should bring sanity to such kind of complaints. This is self-interest. Just as the Member for Kiminini has said, KEMSA suppliers were paid their monies and it just the other day, but this investor has not been paid since 1995. It has been such a long time. There are many such kind of complaints and it is high time that we brought sanity.

Thank you.

Hon. Deputy Speaker: Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. Listening to the Petitioner, having going through the High Court process since 1995 and the Court of Appeal having upheld that he supplied lawfully to the Ministry of Health, it is very unfair for the Government to dilly-dally with paying Equip Agencies Limited.

Recently, we have seen people supplying KEMSA and they were paid promptly. The same people end up even transferring that money to Panama or the British Islands. This Government is an embarrassment. It should take responsibility and pay Equip Agencies Limited.

When the Committee is preparing the report, the Ministry of Health should have money for Equip Agencies Limited, in its budget items in the next approval.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Okay. Hon. Wangwe.

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

I rise to support that Petition but want to seek that we have an approach in terms of policy on two issues. One is the issue of court orders. As the Committee investigates, let the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning jointly come up with a policy on how to pay court orders which are already pending before various ministries. Also, let the issue of pending bills be a policy. Let us also have a document to suggest how we are going to pay all pending bills. This is just one who has gone to court but there are so

many. Some have already died and some have been auctioned yet they supply the Government. So, it is important we have a policy on that matter.

Hon. Deputy Speaker: As I give a chance to other Members, I think the last two Members have contributed in a line that is acceptable. They are asking the specific Committee to add a few things to their investigation. Some Members here are speaking directly as if we are already in the Departmental Committee on Health. So, as I give you an opportunity, Hon. Members, please, let us see what we can do to add value to what the Departmental Committee will be doing. So, let us have Hon. Cheptumo.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Deputy Speaker. From 1995 to 2021, that is 27 years moving closer to 30 years, it is clear that this money is to Equip Agencies Limited. I acted for this institution when I was practising law. When I was chairing the Departmental Committee on Justice and Legal Affairs, this issue of pending bills had really been a major discussion. I think we need to look at this thing nationally. Kenyans are really suffering. As we address the Equip Agencies' claim, it is important, and I even propose that the Solicitor General, be called before this Committee and share the billions and billions. From where I sit, I think Kenyans are owed close to Kshs1.3 trillion. So, it is a bigger issue. This is just one. I support the proposal that the Budget and Appropriations Committee, the Departmental Committee on Justice and Legal Affairs and even the Departmental Committee on Finance and National Planning should come together and address this issue.

Finally, the President has on many occasions been making public announcements that there is need to settle public and pending bills but it is a declaration that has never been complied with. It is important that the Government speaks and acts on those issues it has agreed to do. So, I support the Petition and propose that Equip Agencies be paid their more than Kshs80 billion. Look even at the situation where they should have saved Government.

Hon. Deputy Speaker: Okay. That should be enough, Hon. Cheptumo. That is okay. Hon. Atandi.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker. I join my colleagues in supporting this Petition.

I want to say that when you supply Government and it fails to pay you and you seek justice in court and you again win in court and again the Government fails to pay you, I think that is really like murder. You have been murdered by your Government. Therefore, it is immoral. It is bad. It is criminal for the Government to fail to pay a supplier for over 25 years. I am aware of this matter because my colleague spoke to me about it. This House must rein in ministries in the area of pending bills.

Hon. Deputy Speaker: Okay. You have finalised, Hon. Atandi. Let us go to the Member of Imenti South, Hon. Kathuri. Order, Hon. Dawood. I know there are many Imentis but the one I have given an opportunity is Hon. Kathuri.

Hon. Kathuri Murungi (South Imenti, Independent): Thank you, Hon. Deputy Speaker. Before I execute my support, I am really surprised because Hon. Atandi has said he has been briefed about this Petition by colleagues in this House. So, is it predetermined or it is something which has come through the back door and Members are already aware of this Petition. I think that is not in order for us as a House. It is not in order to bring Petitions which are already determined by Members.

The Departmental Committee on Health...

Hon. Deputy Speaker: Let us stop there, Hon. Member of South Imenti. You are having a problem with the source of information that Atandi gets. As far as I am concerned, that has

nothing to do with the Committee. Colleagues can discuss amongst themselves. The matter is here. I do not think there is anything untoward on that direction. So, you should have gone to your comments. Sometimes you must choose whether you want to press the intervention button or the other one but I give you your time anyway. Members, please contribute on this.

Hon. Kathuri Murungi (South Imenti, Independent): Okay. Hon. Deputy Speaker, I want to say that there must be a reason this contract was not paid. I request the Departmental Committee on Health to really look into these details: how is the contractual arrangement? How was the procurement done? There must be a reason the ministry officials did not pay. There are so many other contracts, especially on the lease equipment, which were clandestinely awarded to some people and the National Treasury is still really suffering and struggling to pay those tenders. So, the Committee should do their work thoroughly. They should also summon the Attorney-General, if possible, so that they can determine the real position of this matter.

Hon. Deputy Speaker: I go to the Hon. Olago Oluoch.

Hon. Olago Aluoch (Kisumu West, FORD-K): Hon. Deputy Speaker, it is Olago Aluoch. Oluoch is another one.

Hon. Deputy Speaker: I am extremely sorry, senior. The problem is from our orientation. We have always been brought up to imagine that it is the other gender when you start with an "A". That is my small problem.

(Laughter)

But if you say it is Aluoch, I am happy with it.

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you, Hon. Deputy Speaker. I want to assure you that I am not the other gender.

(Laughter)

I hear Members lamenting about what needs to be done but I want to say this: As long as we have the Government Proceedings Act in the way it is in Kenya, our ministries will continue with impunity to disregard court judgments - whether they come from the Supreme Court, the Court of Appeal or the High Court. In other countries where there are similar provisions, those Governments honour court judgments and they pay. In Kenya, they do not.

In the 10th Parliament, I brought amendments to the Government Proceedings Act. What I brought was very wise to do but the Attorney-General had a long meeting with me, three meetings in fact, and pleaded that if those amendments were approved by the House, then the Government would be bankrupted. I slowed down but I think time has now come for this House or one of us, I will do it myself, to look at the Government Proceedings Act once again and amend it in a way that can offer some protection to the ministries but at the same time give Kenyans who have court judgments the capacity to attach Government assets, if necessary.

I urge my colleagues this morning that, as we leave this in hands of the Departmental Committee on Health, let the Budget and Appropriations Committee look at it. Also, our Departmental Committee on Justice and Legal Affairs should look at it and find out if it is possible to amend that Act.

Hon. Deputy Speaker: Okay. Dr. Tecla Tum.

Hon. Dr. Tecla Tum (Nandi CWR, JP): Hon. Deputy Speaker, I stand to support this Petition. The contractor gave malaria equipment at Kshs1 billion in 1995. In 2021 it is Kshs80

billion. The Government should pay because the High Court awarded the contractor to be paid in 2011. So, this money is accruing an interest of 18 per cent every year. The President gave a directive that all pending bills be paid. Even in the counties, there should be prompt payment and the counties should receive their money because there are quite a number of contractors in our counties who have taken loans. They are stressed because their plots and *shambas* are being sold. The Government uses the people to provide and equip but they are not being paid. Let this company be paid their Kshs15 billion.

Thank you.

Hon. Deputy Speaker: Okay. Hon. Adagala Kahai.

Hon. (Ms.) Beatrice Adagala (Vihiga, ANC): Thank you, Hon. Deputy Speaker, for giving me this chance to speak to this Petition. I support it. Our people suffer because of delayed payment of tenders. This extends to county governments, where pending bills are a big problem. They also do not follow court orders. There are many court orders against both the national and county governments that are not being honoured. It discourages investors from investing in this country. If somebody can supply goods worth that amount of money to the Government and it takes almost 30 years without being paid, what do you expect?

Hon. Deputy Speaker: Hon. Kiarie.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much, Hon. Deputy Speaker. I rise to boldly say that this House can do more than just read from the book of lamentations. My contribution to this Petition is that as the Committee prosecutes this matter, it should also look for provisions in law that we should amend or new laws that we should create so that we are able to assign personal culpability on individuals, because the Government is a faceless agency. People get away with this kind of stuff because the Government is not an individual. If people are culpable personally, they will take it upon themselves to make sure that suppliers are paid.

The case we are looking at today also has to do with money. This Parliament, in the next Budget, can interrogate all pending bills and set aside monies to pay the pending bills we have been mourning about. In the matter at hand, this company is suffering double injustice.

Hon. Deputy Speaker: That is the end of it. Let us go to the next order.

(Loud consultations)

Order Members. I hear more Members want to speak to this matter, so I am giving opportunity to four Members who will speak for 30 seconds each. There are still other 15 interested Members. Let us start with Hon. Kilonzo.

Hon. Charles Kilonzo (Yatta, Independent): Thank you, Hon. Deputy Speaker. If you want to die slowly, supply to the National Government. If you want to die quickly, supply to the county governments. I support this Petition. I request that the Committee comes with recommendations on what we need to change in the law so that when you supply the national or county governments, you get paid.

Thank you.

Hon. Deputy Speaker: Hon. Ogutu Abel.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Hon. Deputy Speaker, I stand to support this Petition. I also request the Committee to investigate whether there have been previous allocations for specific pending bills. It is unfortunate to have a Government which is meant to create jobs killing jobs. A Government that is supposed to support the weak is killing even the strong. I support this Petition.

Hon. Deputy Speaker: Hon. Mwamkale Kamoti.

Hon. William Mwamkale (Rabai, ODM): Asante, Mhe. Naibu Spika. Hii ni Ombi muhimu na imefika wakati wake. Lazima Serikali iwajibike isifilishe wananchi wake. Lazima serikali za kaunti pia ziwajibike. Watu wanachukua mikopo na vitu vyao vinanadiwa. Baadaye hawalipwi na inakuwa Serikali ndio inafilisisha watu wake. Hii ni mbaya. Serikali lazima ijipange. Kabla haijafanyiwa kazi, iwe na pesa. Waige mfano wa CDF. Pesa inatengwa ndio kazi ifanyike. Sio watoe kazi na pesa hawana.

Hon. Deputy Speaker: Hon. Hassan.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Deputy Speaker. I would like to support the Petition. I think it is criminal. It is an abuse of power. It kills our entrepreneurial skills and companies. The Government should look at this issue seriously. The Committee should investigate it. Why do they pay international criminals like Anglo Leasing architects but want to kill local companies and agencies? The Committee should take this up very seriously and make sure that these companies are paid on time.

Hon. Deputy Speaker: Thank you. Sorry, Hon. Members, to those who have not spoken. Next Order.

PAPERS LAID

Hon. Deputy Speaker: Under this order, we have the Whip of the Majority Party.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. On behalf of the Leader of the Majority Party, I beg to lay the following Papers on the Table of the House:

Annual Report and Financial Statements of the Power of Mercy Advisory Committee for the Financial Year 2020/2021 from the Office of the Attorney-General and Department of Justice.

Annual Report for the Financial Year 2020/2021 from the Public Service Commission.

Hon. Deputy Speaker: Members who are leaving, kindly give time to other Members. There are quite a number of very serious matters to be transacted this morning: putting of questions on two Bills and the Sugar Bill.

Hon. Emmanuel Wangwe (Navakholo, JP): Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30th June 2019 and the certificates therein:

- (a) Msambweni;
- (b) Kisauni;
- (c) Mbeere North;
- (d) Igembe Central;
- (e) Mwea;
- (f) Isiolo South; and
- (g) Likoni

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Order.

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: Under this Order, we will start with Questions. To start us off is Hon. Josphat Kabeabea, Member for Tigania East.

*Question No. 387/2021*MEASURES TO CUSHION RESIDENTS OF
TIGANIA EAST AGAINST BITING DROUGHT

Hon. Josphat Kabeabea (Tigania East, PNU): Thank you, Hon. Deputy Speaker. I rise to ask Question 387 of 2021 with regard to the biting drought situation, which has made many families to stay without food and many school children unable to learn because of starvation.

Hon. Deputy Speaker: This is to you and any other Member who wants to ask a question, please ask the question. You can raise the rest of the issues in the Committee. Proceed to the Question straight, Hon. Kabeabea.

Hon. Josphat Kabeabea (Tigania East, PNU): Noted, Hon. Deputy Speaker.

What measures has the Ministry for Devolution put in place to ensure that residents living in arid and semi-arid areas of Tigania East Consistency, who are on the verge of starvation due to the ongoing drought, are urgently supplied with relief food and water?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is the Member for Westlands, Hon. Wanyonyi. The first Question will be replied to before the Departmental Committee on Administration and National Security.

Question No. 392/2021

PROVISION OF TEXT BOOKS TO PRIMARY AND SECONDARY SCHOOLS

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Deputy Speaker. I ask Question 392 of 2021 to the Cabinet Secretary for Education:

- (i) Could the Cabinet Secretary provide details of all agreements, contracts or memoranda entered into with book publishers for the distribution and supply of textbooks to secondary and primary schools as well as schedules of payments so far made to each publisher with respect to the Financial Year 2019/2020 and the current financial year?
- (ii) Could the Cabinet Secretary explain the criteria informing the frequency of supply of textbooks to a particular secondary or primary school?
- (iii) Could the Cabinet Secretary explain the Ministry's policy regarding choice of a particular textbook, its usage in schools, editorial and review by independent education experts?
- (iv) Could the Cabinet Secretary provide a schedule of expenditure for the Ksh22,000 per secondary school student capitation funds, enumerating the amounts directly disbursed to each school per constituency and the percentage set aside for textbooks and learning materials per student?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question is committed to the Departmental Committee on Education and Research.

Next is a Question by Nominee 001, Hon. David ole Sankok.

Question No.400/2021

LAND WHICH IS CLAIMED TO BE OWNED BY THE DEPUTY PRESIDENT

Hon. David ole Sankok (Nominated, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

Could the Cabinet Secretary provide specific details of the parcel of land located in Laikipia County which he claimed is owned by the Deputy President during his appearance before the Departmental Committee on Administration and National Security on 1st September 2021, including the Land Reference Numbers, size, date of acquisition and the previous ownership?

Hon. Speaker, a buffoon can lie anywhere else but we cannot allow him to lie in this House under the HANSARD. No, we cannot.

Hon. Deputy Speaker: Hon. Sankok, you will say all you have to at the Committee level. The Question is to be replied to before the Departmental Committee on Administration and National Security.

Next is the Member for Dagoretti South, Hon. K.J. Kiarie.

*Question No.401/2021*NON-OBSERVANCE OF LABOUR LAWS BY
M/s. WPP SCANGROUP COMPANY PLC

Hon. John Kiarie (Dagoretti South, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Labour and Social Protection the following Question: -

- (i) Could the Cabinet Secretary confirm whether M/s. WPP Scangroup Company PLC, which is a full-service creative transformation company engaged in marketing, communication, brand stewardship, media investment management and consumer research, complies with the labour laws and regulations in its operations?
- (ii) Could the Cabinet Secretary explain why the Company has particularly since the onset of the COVID-19 pandemic been replacing majority of Kenya's top creative minds and staff with foreign personnel, most who are coming from employment agencies, for example Mystic Monks; and could he undertake to take action whether legal or administrative against the company for the injustices against the affected Kenyan personnel?
- (iii) Could the Cabinet Secretary explain why the said publicly listed company has been allowed to fraudulently engage and retain foreigners for decades to undertake work that can effectively be handled by Kenyan professionals while at the same time placing its locals staff under strenuous and inhuman working conditions including working overnight without due compensation.

Thank you very much Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question is committed to the Departmental Committee on Labour and Social Services.

Hon. Members, if Members insist on including some off-the-cuff remarks while asking Questions, we might change the mode of asking Questions so that you state that you are asking a Question as it appears in the Order Paper. So, Members, please, when we give you an opportunity, just stick to what you have written. If you want to write more, you have time to do so. Let us be much disciplined on that aspect. Let us have the Member for Kinango, Hon. Tayari. I am sure the scout, Hon. K.J has heard that clearly.

Question No.402/2021

REPLACEMENT OF DEFECTIVE TRANSFORMERS/DAMAGED
ELECTRICITY POLES IN KINANGO

Hon. Benjamin Tayari (Kinango, ODM):Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Energy the following Question:

- (i) Could the Cabinet Secretary explain why defective transformers and damaged electricity poles in various areas of Kinango Constituency are yet to be replaced despite the numerous calls to have them replaced?
- (ii) When will the said transformers and electricity poles be replaced to avoid perennial interruption of power in the constituency?

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Energy.

Next Order.

BILLS

Second Readings

THE KENYA DEPOSITS INSURANCE (AMENDMENT) BILL

(Hon. Rahim Dawood on 18.8.2021)

(Debate concluded on 22.9.2021)

Hon. Deputy Speaker: Hon. Members, I confirm that we have the requisite numbers for putting the Question on this Bill.

(Question put and agreed to)

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

THE KENYA FOOD AND DRUGS AUTHORITY BILL

(Hon. (Dr.) Robert Pukose on 22.9.2021)

(Debate concluded on 22.9.2021)

(Question put and agreed to)

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

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Chairlady (Hon. (Ms.) Jessica Mbalu) took the Chair]

THE SUGAR BILL

(Several Members walked out)

Hon. Chairlady (Hon. Jessica Mbalu): Hon. Kaluma, I heard you from far even though you are not on record.

Please give him the microphone.

Hon. Peter Kaluma (Homa Bay Township, ODM): It was me, Hon. Temporary Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Deputy Chairlady, I was musing that you are as elegant as Ambassador Orie Rogo Manduli, who we are sending off. We are grateful for that elegance, both in body and mind, but more so in mind.

I thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, thank you for the comments.

Hon. Members, we are in the Committee of the whole House. We are going to debate the Sugar Bill (National Assembly Bill No. 68 of 2019).

Hon. Members, we have no amendment to Clause 3.

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, we have an amendment to that clause. Can we have the Chairperson to move the amendment proposed?

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

THAT, Clause 4 of the Bill be amended in in subclause (2) by inserting the following new paragraphs immediately after paragraph (m)—

- (ma) enforce and monitor compliance with standards along the sugar value chain;
- (mb) facilitate value addition and product diversification in the sugar sub-sector;
- (mc) formulate and implement a strategic plan for the sugar sub-sector at least once every five years;
- (md) formulate guidelines on an efficient and economical transportation of sugar;
- (me) conduct local and international sugar market intelligence and advise stakeholders accordingly;
- (mf) establish linkages with various government agencies and research institutions to enhance quality assurance and research;

The amendment seeks to enhance the function of the board to enhance monitoring, compliance, and linkages with other stakeholders in the sector.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, please, move your amendment. Members will take it up from there.

(Loud consultations)

Hon. Silas Tiren (Moiben, JP): It is on Page 1,218 of the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, I could hear Hon. Millie from far away. New clauses are moved at a different point. Move the proposed amendment to Clause 4 as it is on the Order Paper, and then give its justification.

You are doing very well.

Hon. Silas Tiren (Moiben, JP): The justification is such that the amendment seeks to enhance the function of the board to enhance monitoring, compliance, and linkages with other stakeholders in the sector.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Can we have the proposed amendment by the Chairperson now that you know how to do it? Give him the microphone.

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

THAT, Clause 5 of the Bill be amended—

(a) in sub-clause (1) by—

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

“(b) five representatives elected by growers from each sugar catchment area as per the First Schedule”

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

“(c) one representative elected by sugar millers who is knowledgeable in sugar technology and value addition;”

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

“(d) the Principal Secretary in the Ministry for the time being responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;”

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

“(e) one person nominated by the Council of County Governors who is knowledgeable in extension services and management of farmer institutions;”

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

“(f) the Principal Secretary for the time being responsible for National Treasury or a representative nominated by the Principal Secretary in writing;”

(b) by deleting subclause (2);

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

“(4) The members under subsection (1) (b), (c) and (e) shall be appointed by the Cabinet by notice in the Gazette.

(5) A person shall not be appointed as a chairperson of the Board of Directors unless the person holds at least a degree or its equivalent in any discipline from an institution recognised in Kenya and has relevant experience in the sugar sector.”

(d) by deleting subclause (3);

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie is on a point of order.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Please, request the Chairman to sit down. That is the procedure of the House.

The Chairman is my good friend. I just wanted to enable us move faster because before, we did not know where the clauses were. Now that we have found the clauses, there is no need to read for us clause by clause like we are nursery school children. Just give us the justifications. We already have Clause 5 and we can see what it is about. Those who have not got it, just go online and read the Kenya National Assembly Order Paper. At the end of the Order Paper, you will find it there.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. (Ms.) Millie, you have made your point, but we can be here until tomorrow to follow the procedure. Let the Chair settle down. Please, allow me to give him time to settle down, for the sake of clarity.

Hon. Chair, when you move an amendment, you must justify it for the Members to understand. For those who do not understand, you can still seek clarification. Thank you, Hon. (Ms.) Millie.

Hon. Silas Tiren (Moiben, JP): The justification for Clause 5 is that it is important to have key stakeholders on the board. New paragraph b(6) seeks to include representatives from each catchment area as members of the board. The proposed new paragraph (c) seeks to include a representative of the millers from each catchment area.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Kiminini, Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. The Committee of the whole House is very critical. This is where legislation takes place. I want to differ with Hon. Millie Odhiambo. It does not harm if the Chairman does the way he was doing, namely, explaining or highlighting an issue. The issue of saying, “as per the Order Paper” at times needs clarity. The Chairman was doing very well for purposes of bringing everybody on board. Not all Members have had opportunity to go through it online. So, the Chairman was doing very well and let him continue highlighting whatever the amendment is and continue giving the justification.

On that matter, I support the Chairman’s justification because we have different segments and it must have full representation.

So, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let me give a chance to one more Member, the Member for Mumias East, Hon. Washiali Jomo. He is not interested in speaking to this one.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Chairlady, my microphone was off. This is a House of records, and some are physical and others on the Hansard. Therefore, I want to support what the Chair has said because the *Hansard* will bear us witness in the processing of this Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Members, allow me to put the Question.

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

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

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

(Clause 5 as amended agreed to)

(Clauses 6, 7, 8 and 9 agreed to)

Clause 10

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment by the Chairperson. You need to highlight your proposed amendments and give justification for the same.

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

THAT, Clause 10 be amended by deleting subclause (2) and substituting therefor the following new subclause—

- “(2) A person shall be qualified for appointment under this section if the person—
- (a) holds a relevant degree from a university recognised in Kenya;
 - (b) has at least ten years’ knowledge and experience from a relevant field;
 - (c) has at least five years’ experience in a position of senior management;
- and,
- (d) meets the provision of chapter six of the Constitution.”

This is to provide for qualifications for the members of the board.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Chairperson! Just propose the amendment as per the Order Paper.

Hon. Silas Tiren (Moiben, JP): I propose to move Clause 4...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are in Clause 10 and not Clause 4, for record purposes.

Hon. Silas Tiren (Moiben, JP): Sorry for that. We are in Clause 10. I beg to move Clause 4.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Clause 10, Chair.

Hon. Silas Tiren (Moiben, JP): I beg to move Clause 10. I do not know why my head keeps going back to Clause 4.

The justification is to provide for the qualification of the board members.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I think this is a good provision that requires we have people with expertise. At least five of them must be in senior management positions.

I want to insist that I have been here for a long time and this is not the way to go in the Committee of the whole House. If we have amendments going to 40 pages and he is made to read every single line, we will be here for 40 years. All he needs to do is say “as per the Order Paper” and then explain. He is doing the same thing twice! Otherwise, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Odhiambo, we have heard you, but that is not the procedure and I must correct you. Let the Members be heard. You are senior and you know the Standing Orders very well. Let the Chair’s justification be heard. This is a very important stage of the Bill. We are making a law and every Member must be aware of what is being done.

Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady for allowing me to contribute to the amendment to Clause 10. I think it is a good amendment

considering the five years' experience for a person in senior management position, who should hold a relevant degree.

I know the Member lacks experience on this stage of the Bill. It will be good for us to take him slowly, so that we are all on board. We will ask our senior colleague, Hon. Millie, to be a little patient. Where the Chair is able to say "as per the Order Paper", it will be good because all of us can read and we can move with speed. So, let us accommodate each other.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. From where I sit, please, allow me to give the Chair time to plan himself. We are doing very well as far as the process, procedures of the House and our Standing Orders are concerned. Chair, you are protected. We are making a law here. This is a very critical stage and I know Hon. Millie Odhiambo wants us to move very fast now that she is a senior Member of this House.

Member for Kanduyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I have listened to the observations and contributions by Members in respect of the manner in which the Chair of the Departmental Committee on Agriculture and Livestock is presenting his amendments and I think it is important for us to recognise the fact that the Committee of the whole House is the time when every clause, as part of legislation, is scrutinised. In other words, it is time for scrutinising everything. So, let us not hurry. I am the sponsor of this Bill and would like you to recognise that, so that when I place an intervention, I should get a chance. Let us allow the Chair to take Members thorough the amendments slowly.

Hon. Temporary Deputy Chairlady, I agree with you, that everybody should be on board so that we do not make mistakes, but a good law.

I want to confirm I support this proposed amendment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): *(Spoke off-record)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, with the sponsor of the Bill having supported, Hon. Millie has conceded off-record. So, let us move on.

*(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 10 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Before we move to the next clause, please, allow me to give the Chair some time to do his business.

(Clauses 11, 12 and 13 agreed to)

Clause 14

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, please, move your amendment to Clause 14.

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

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THAT, Clause 14 be amended—

- (a) in subclause (1) by inserting the words “upon recommendation by the relevant county government” immediately after the word “Board”;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of a licence granted under this Act commits an offence and shall be liable on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or to a fine not exceeding ten million shillings, whichever is the higher, or to imprisonment for a term not exceeding five years, or to both.”

The amendment to sub-clause (1) is to provide for the incorporation of county governments to play the role of making recommendations to the board with regard to licensing of millers. The new sub-clause (2) is to provide a penalty against a person who carries out milling business without a licence.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Funyula

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. Just to put it on record, we are here because of the process of winnowing. Most of the issues have been thrashed out by those who are interested in making amendments. It is important that we incorporate county governments because agriculture is a devolved function and some aspect of the business of production and selling of sugarcane are devolved. Some aspects of trade are devolved too.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me give the last opportunity to the Member for Igembe South, Hon. Mwirigi Paul. This is a very straightforward amendment.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you, Hon. Temporary Deputy Chairlady. I support this amendment since it will curb the illegal business carried out by dealers. There will be no illegal dealers in this business.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Tinderet, do you have a different opinion?

Hon. Julius Melly (Tinderet, JP): Hon. Temporary Deputy Chairlady, it is not a different opinion, but county governments are part and parcel of sugar growing in this country. Agriculture is devolved. Therefore, this clause is very important.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Who has a different opinion? Hon. Sankok, do you have a different opinion? Let me hear from Nominee 001, Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): He is saying I am not in the sugar growing belt, but we have the Kilgoris Sugar Factory.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What is your different opinion?

Hon. David ole Sankok (Nominated, JP): My different opinion is a question: Which licence are we talking about? There is a business licence that is issued by county governments and the licence that is issued by the national Government. We must be specific on the issue of licensing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, there is a way out. You must request for information. Committee Chair, can you, please, clarify the issue of licensing?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady. I just want to advise Hon. Sankok that this is an operating licence. It is not for anything else, but to it allows one to run a sugar mill as indicated on Page 1064 of the main Bill.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me teach Hon. Nominee 001. Hon. Sankok, there is a way of doing it as a matter of procedure of the House. If you want to give information, you must seek an opportunity to give it and then the Member will either accept or decline it.

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

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

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

(Clause 14 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment to Clause 15. Chair, please, be brief on your proposed amendment and the justification.

Hon. Silas Tiren (Moiben, JP): I will try but I also recommend that the Hon. Member reads the Bill. It explains what he is asking. The answers to the questions they are asking are in the Bill. Members need to go through the Bill so that it becomes easier for us to make progress.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members have already read the Bill. Please, move the amendment.

Clause 15

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

THAT, Clause 15 of the Bill be amended—

(a) by renumbering the sub-clauses appearing after sub-clause (2) as (3), (4), (5), (6), and (7);

(b) by inserting a new sub-clause immediately after the renumbered sub-clause (7) as follows –

“(8) A person shall not import or export sugar without a valid licence issued by the Board.”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I want to support. This amendment is basic. Actually, it is just renumbering and adding one extra sub-clause (8), which is that “A person shall not import or export sugar without a valid licence issued by the board”.

Hon. Temporary Deputy Chairlady, in this country, the sugar subsector has been abused. It has been used to look for money for campaigns. We have at times seen the National Treasury issuing direct licences. What the Chair is trying to emphasise here is that the licence can only be issued by only one entity, which is the board. So, this amendment is basically renumbering the clauses and introducing subclause (8), which must be followed. Nobody should be allowed to import or export sugar without a licence that has been issued by the board.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Godfrey Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairlady, on this amendment, we need clarity because it refers to a licence issued by the board and the definition of a licence in the Bill refers to licence issued to millers. So, the Chair needs to be very clear. What does it, therefore, imply? Does it imply that import and export of sugar will only be done by millers? That is the clarification that the Chair needs to give us.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, please, give that clarification very briefly, so that we can move fast.

Hon. Silas Tiren (Moiben, JP): It is very clear. You have to be registered because we are trying to control how sugar will be getting into the country. You have to be registered through a procedure, so that you are licensed to import.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. I support the amendment by the Chair of the Departmental Committee on Agriculture and Livestock because what this amendment is doing is just renumbering the clauses. In addition, it says that you cannot export or import without a valid licence from the board. It is giving the board the power to make sure that anybody who will be exporting or importing sugar has a valid licence. This is because people might obtain licences that are not from the board. People may go to the Cabinet Secretary or somebody else to try and get a licence. You must get it from the board.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from the Member for Tongaren before I put the Question.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Chairlady, I think the query from the Member was about the definition of “licence”. The definition of “licence” in the Bill refers to a milling licence while in the body, it is referring to an import licence. Therefore, we need a consequential amendment in the definition of “licence”. When we get there, the Chair should ensure that there is a consequential amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well said. Thank you. Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Temporary Deputy Chair, just for clarity on renumbering as raised earlier by Hon. Chris, when you look at the mother Bill, Number

2 has been repeated twice. So, the Committee is just re-aligning it properly. Instead of going to 3, they went to 2. This is just a clean-up.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one to speak on this is the Chair. Clarify before I put the Question.

Hon. Silas Tiren (Moiben, JP): I think it is okay. We will do the definition at the end because of time. As the Whip has said, it is just a correction on numbering.

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

(Clause 15 as amended agreed to)

Clause 16

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

THAT, Clause 16 of the Bill be amended by—

(a) deleting sub clause (2);

(b) inserting the following new sub clause immediately after sub clause (4) —

“(4B) In issuing certificates of registration under subsection(3), the Board shall satisfy itself that the premises upon which milling may be carried out meets the environmental standards set by the National Environmental Management Authority and the miller has been issued with a certificate of safety by the relevant county government.”

(c) inserting the following new sub clause immediately after sub clause (6)

—

“(7) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.”

The justification is to ensure that the environmental standards are adhered to by milling companies as required by the law.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

(Clause 17 agreed to)

Clause 18

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

THAT, Clause 18 be amended—

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

“(1) The Cabinet Secretary may, in consultation with the Board, by order in the Gazette, impose a levy on domestic sugar and a ten per centum of CIF value on imported sugar to be known as the Sugar Development Levy.”

(b) by inserting the following new subclauses immediately after subclause (6)—

“(7) The Sugar Development Levy collected under subsection (2) shall be apportioned as follows—

(a) fifteen per centum shall be applied by the Board for income or price stabilisation for sugar growers;

(b) twenty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board;

(c) twenty per centum shall be remitted directly to the Institute;

(d) forty-five per centum shall be applied for infrastructure development in the sugar subsector on a pro rata basis.

“(8) the funds provided for under subsection (7)(a) shall be used to provide for sustainable, affordable credit and advances to farmers for all or any of the following purposes—c

(a) farm improvement;

(b) farm inputs;

(c) farming operations; and

(d) price stabilisation.

The justification for sub-clause 1 gives the Cabinet Secretary powers to impose the levy on domestic sugar and the 10 per centum of CIF value on imported sugar to be known as the Sugar Development Levy. The amendment to subsection 7 is to appropriate the Sugar Development Levy to provide for the amendment to cap the percentage of various components. The new sub-clause 8 is to provide for components upon which funds under sub-clause 7(a) may be utilised.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I wish to support the bulk of these amendments, because one of the things that we have faced is a crisis in the sugar sub-sector. Farmers have been suffering. With these levies, we see a focus not just on the producer, but the farmers as well, through farm improvements, farm inputs, farm operations and price stabilisation. This is welcome. It is a very good amendment.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chair, the import of this amendment is to bring stability in the sugar industry and probably drive towards a minimum return for a farmer in the sugar industry. Also, as you have seen the price of fuel sky

rocketing, we need to have a stabilisation fund to stabilise the prices so that either party, be it the consumer or the producer, does not suffer undue price hikes.

Thank you, Hon. Temporary Deputy Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Member for Kiminini, I can see we have a lot of interest in this Bill.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Like is the case with other crops, this is a provision for the stabilisation fund which will add value in the industry, particularly the 45 per cent that goes to infrastructure. We have seen a lot of destruction caused by trucks when carrying sugar. For the many Members of Parliament who have tried to improve roads in their constituencies, the 45 per cent allocated will add value in terms of improvement of roads. When we leave it to the Cabinet Secretary, is it the Cabinet Secretary in charge of agriculture or the one in charge of the National Treasury? That clarity is very important. It has been abused before. I wish there was that clarity.

Then there is the usage of the word ‘may’. We have been in this country and the usage of the word ‘may’ could be discretionary. At times, it gives room for abuse where, say, the Cabinet Secretary in charge might not even consult the board. As we move forward, we may need to think through. Do we say “the Cabinet Secretary may” or do we say “the Cabinet Secretary shall”? This issue has been raised on the Floor of the House in terms of whether consultation is in concurrence or not. Since these words are being used here, as we move forward, we can think through and see how they can be cleaned. Otherwise, I support. It is important that we have this passed because it will help in ensuring that there are minimum returns to the sugarcane farmer.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I appreciate that this Bill has a lot of interest. The public must understand that this is the law making process. The Member for Tinderet, Kibiwott Melly.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Chairlady. This amendment will impact the farming community in this country, especially the road network and farm applications. I support Hon. Wamalwa on the clause. We are supposed to make it mandatory by using the word “shall” not “may”, so that at the end of the day, the Cabinet Secretary is bound by law. It is not a choice.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me give a chance to the Nominated Member. I cannot see you on the request list.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairlady, I have a problem with the first part of the amendment where it says that the imported levy on domestic sugar and 10 per cent of CIF value. The Chair has to explain to us the economic justification for this amendment given that 10 per cent of CIF of imported sugar is still going to make it easy for importers of sugar to bring sugar into this country. So, it is not helping us. If we compare that against Hon. Wamunyinyi’s proposal, it is left open so that in times where there is too much imported sugar, the Cabinet Secretary can charge a higher percentage of the levy.

The Chair has to give to this House the economic justification of the 10 per cent on imported CIF value of sugar.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from Wafula Wamunyinyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you very much, Hon. Temporary Deputy Chairlady. We all supported this amendment when we had discussions with the Committee. The question of “may” or “shall” could have been an oversight on the part of the

clerking team or it could as well be a typo. We agreed on that even in our discussion during winnowing. This should be corrected, then we proceed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, it is on record that it should be corrected. That is from the Chair.

Hon. Silas Tiren (Moiben, JP): That should be corrected. It should be corrected to read thus “the Cabinet Secretary shall in consultation with the board”. That is in order. I want to add something regarding what the Member said that we should leave it open. We have seen the challenges which have faced the sugar subsector. Leaving it open will not help us. It is time we helped farmers.

An Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me give a chance to another Member.

(Loud consultations)

Let me have Hon. (Dr.) Nyikal, first. Hon. Chris Wamalwa, let me hear Hon.(Dr.) Nyikal and then I give you a chance to raise your point of order.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, there is a small point which is important. It arises from what Dr. Oundo was saying which is to stabilise income for farmers. Now, (a) says that 15 per cent shall be applied for the board for income or... I am unhappy with “or” because of what we have just seen with the Petroleum Levy where the money was used for something else. Here we are saying that it is the income of the board and it may choose whether to stabilise the farmers or not. It is important because under (b), the board still gets some money. Part (a) gives the option to use the money for stabilisation on the sugar growers while (b) gives them their money. My suggestion is that probably, we need to remove “income for” and just say “for the board for price stabilisation for sugar growers.”

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Please, allow me put the Question.

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

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

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

(Clause 18 as amended agreed to)

The Chair is now in order. Hon. Chris Wamalwa, I will give you a chance. Now that the Chair is in order, allow me, as a matter of procedure and for record purpose, to put the Question that Clauses 4, 5, 10, 14, 15, 16 and 18 as amended are agreed to.

Hon. Member for Navakholo, I know the sugar industry...

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady. I was voted for by farmers. Anything that touches on cane farmers, we cannot sit and wait. The issue of Clause 18 is very important especially the figure of 10 per cent. We should allow the movement of the 10 per cent to the cabinet secretary. Now that the Chair has agreed on the use of “may” as opposed to “shall”, let us allow the volatility of 10 per cent. The minimum should be 10 per cent, but allow the cabinet secretary to adjust it upwards from that percentage. So, it is important that we re-commit that one now that we have voted for it, so that we can look at it thereafter.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We hear you, Member for Navakholo. You know the process of the House.

Let me hear from Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. The Committee of the whole House is the heart of law making. When it comes to Clause 18(1)(a), we had an opportunity to discuss and we agreed on the word “shall”. Such a mistake was, maybe, done by design. How I wish the Chairman could move an amendment right now so that we amend the word “may” to “shall” because we are likely... Any time we pass laws here, they go to the Government Printer and then we see the mistake we made by allowing to recommit at an appropriate time.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa and the Member for Navakholo, thank you. Hon. Members, you know very well the procedure of the House. Hon. Chris Wamalwa, you are at liberty to re-commit Clause 18 and the House will take a vote on the same. You know the Standing Orders very well. As the Chair, I may not have a lot. The Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairlady, as you re-commit Clause 18, I also wish Clause 15 to be re-committed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I have not said that we are re-committing. You must follow the process and procedure of the House.

Let me have the Member for Mumias East.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Temporary Deputy Chairlady. I am really grateful for what I have heard from Members. How I wish they would have been there when we were doing the winnowing. Why this clause uses the word, “may” is because as a country, we have signed international agreements. The cabinet secretary must act in line with international agreements that we have signed. In the Common Market for East and Southern Africa (COMESA), there is the aspect of imposing tax and that would deny other countries doing fair trade. That is why we used the word, “may” as opposed to the word, “shall”.

Thank you, Hon. Temporary Deputy Chairlady. “Shall” is conditional.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I really hear you, but from where I sit, you know the procedure of the House. If it is a re-committal, you know how to do it. You know how we pass laws and the public is watching. We must take a vote on the same.

Allow me to put the Question to Clause 18. Before I do that, there is interest. Hon. Members came here to represent others.

Proceed, Hon. Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Chairlady, it is just a matter of correction and addition in Clause 18. We come from the sugar belt, and it has been mentioned in Clause 18(7)(d) that 45 per centum shall be applied for infrastructure

development in the sugar sub-sector on a *pro rata* basis. I want to add the words “and maintenance” after the word “development,” because you can develop but not maintain. We have a lot of infrastructure problems. We should, therefore, add the word “maintenance” as well so that we develop and maintain.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Those are the proposed amendments that you can still make. Of course, we had already put the Question to Clause 18. At my discretion, I have just given you a chance to highlight that aspect.

Hon. Members, as a matter of advice and information, you can still recommit your clauses. What matters is that the House takes a vote on the same. The Chairperson may not decide.

Let us go to the next clause.

(Clauses 19, 20 and 21 agreed to)

Clause 22

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by the Chairperson. Please try to be brief.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, the Bill be amended by deleting Clause 22.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Tinderet.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairlady, do I need to make the justification?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, please. Do it a bit fast.

Hon. Silas Tiren (Moiben, JP): The justification for the deletion is that the clause gives power to the Board to invest surplus money in securities. The Committee is of the view that the power to invest surplus money by State Corporations has been a source of inefficiency in service delivery across the country. State Corporations have been keen to invest funds instead of first rendering services to Kenyans.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that import as proposed by the Chairperson, let me give a chance to the Member for Tongaren. I can see a lot of interest. We will all speak to this. Please, let us be patient.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Chairlady, I support that amendment because historically, the previous sugar board is on record as having lost hundreds of millions of shillings by depositing funds in the collapsed Euro Bank. We should curtail that kind of behaviour. In fact, if the Board has a fund levy, it is supposed to be utilised by the sugar sector. Where will they get surpluses from? If they create surpluses, it will mean that they are not delivering the services. We should not give them any leeway to invest that money in anything.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Tinderet.

Hon. Julius Melly (Tinderet, JP): Hon. Temporary Deputy Chairlady, I support this amendment. As a Member of the Departmental Committee on Agriculture and Livestock, the onus of the Board is to look at farming issues and not investments, securities or any other thing. The Hon. Member for Tongaren has just put it clearly. It is a loophole that will make directors siphon money from farmers.

I support that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from other Members before I give an opportunity to the Mover of the Bill. Hon. Wamunyinyi, I will still give you a chance because we are here to make laws.

Let us have Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairlady, we also have the Trans Mara Sugar Belt. The Board is supposed to serve sugar farmers. It is not advisable to invest the money in God knows what. They can even decide to invest with a bank that they know will collapse the following week because they have a hidden agenda with the proprietors of that bank. That is not possible at all. They should only invest in the farmers.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is noted for the debates. Let us have the Member for Mandera West.

Hon. Yussuf Adan (Mandera West, EFP): Thank you, Hon. Temporary Deputy Chairlady. I stand to also support the deletion of that Clause because from experience, boards have invested money outside their core businesses. Ultimately, some of those investments became personal investments for some of the board members who have stayed there for years. Therefore, from that experience and farmers having lost a lot of money before, we should not allow that to continue anymore.

I support that we delete that Clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Kimilili.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Temporary Deputy Chairlady. I support this very important amendment because, most times, when auditors go to audit the mismanagement of such funds, if they have been given leeway to invest elsewhere, they will speak a lot of “English” regarding where that money has gone. The amendment will ensure that those funds only go to the intended purpose of developing the sugar sector in this country.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I see a lot of interest in this. Let us have Hon. Joshua Kutuny, Member for Cherangany.

Hon. Joshua Kutuny (Cherangany, JP): Thank you, Hon. Temporary Deputy Chairlady. I support the proposal by the Chairperson.

I want to give you an example of Kenya Tea Development Agency (KTDA). The reason why KTDA is going down and farmers are suffering is because they have several private holdings where they invested the money they took from farmers and deliberately mismanaged it so that the holdings can be put up for sale and they buy most of them.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Do you support the amendment or not?

Hon. Joshua Kutuny (Cherangany, JP): Hon. Temporary Deputy Chairlady, I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let us be brief, Hon. Members. Let us have the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, while it might be in vogue to support the deletion of that Clause, let us paint a very practical situation. The Board will collect funds, but it will not expend them immediately. There will be a time lag between when the funds are collected and expended. Keeping that money in the bank is even riskier than putting it in Government securities which are gilt-edged and have zero risk of failure in recovering the money. We need to rethink about it; it might be popular and driven by historical fear. But the fact of the matter is that keeping billions of shillings sitting idle in an account is very tempting for mandarins to steal the money. However, putting the monies in Government securities is a safer way to protect them.

I submit.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. Hon. Members, I can see a lot of interest. Let us have the nominated Member, Hon. Osotsi Godfrey. Just make a comment before I put the Question.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairlady, I concur with Hon. Oundo. If you look at the proposal in the Bill, the National Treasury will give the approval. Previously, there was no approval from the National Treasury. So, that is a very important point, namely that we allow the Board to invest the money, but with the Treasury's approval. We have had cases where boards have been allowed to sit on money, like the Communications Authority of Kenya under the CIF. Billions of monies are sitting there doing nothing. In fact, it is earning interest for board members.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Your point is noted. Hon. Barasa, please switch off your microphone. Thank you. There is a different view from Hon. Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, Ford-K): I quite disapprove of this because the Bill, if you look at this Gazette Notice...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Are you not supporting the amendment? What do you have to do? Hon. Wanyonyi...

Hon. Ferdinand Wanyonyi (Kwanza, Ford-K): No, I support that amendment. What I am saying is that I think this must be deleted because already the National Treasury has...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You are already debating.

Hon. Ferdinand Wanyonyi (Kwanza, Ford-K): Therefore, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, you had already supported. Please, Hon. Members, let us observe the procedures of the House.

The Hon. Member for Kanduyi now, please; the Sponsor of the Bill, make your comments and I put the question.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. Initially, in the original draft of the Bill, this would have catered for surplus funds where we have funds that cannot be expended immediately. With the approval of the National Treasury, the board would then invest the funds in securities like Government treasury bonds, and so on. But I have since been convinced by colleagues and the Committee. Given past experiences, let the funds that are available be utilised to the farmers so that you sustain and help production. I, therefore, support this amendment.

(Applause)

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

(Clause 22 deleted)

(Clauses 23, 24 and 25 agreed to)

Clause 26

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

That, the Bill be amended by deleting Clause 26 and substituting therefor the following new clause—

Quality, safety and
health control
measures.

26. (1) All sugar millers and importers shall ensure that all sugar produced locally or imported into the country meets—

(a) safety and quality standards as set by the body for the time being responsible for setting standards;

(b) safety and health standards for food handlers as set by the body for the time being responsible for public health; and,

(c) environmental issues as set by the body for the time being responsible for environment.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction—

(a) to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding seven years, or to both; and,

(b) the court may, where a person is convicted for an offence, make a further order that the persons' licence be withdrawn.

The justification is that this amendment seeks to proscribe safety standards that millers ought to comply with.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. (Dr.) Nyikal, do you want to say something?

Hon. (Dr.) James Nyikal (Seme, ODM): No, it is trivial, but the amendment is talking of safety and health standards for food handlers. We are then just talking of food handlers. Is that what we mean, or is it for food and food handlers? What if it says it is food handlers so that the standards are set for food handlers? What it means is that the people who are handling the sugar are the people who will be tested. What about the health standards for the sugar itself?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): This is very important. Hon. Member for Kanduyi, Hon. Wamunyinyi Wafula, do you want to...

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Temporary Deputy Chairlady, to address that, if you look at clause 26(1) in the proposed amendment, all sugar millers and importers shall ensure that all sugar produced locally or imported into the country meets safety and quality standards as set out. So, that question is addressed. We also have agreed that this amendment should go through. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. With that comment, of course, I know the Hon. Member has had.

Members, for us to move fast, Hon. Member of Tinderet, can you just make a comment? I know we have a lot of interest in this.

Hon. Julius Melly (Tinderet, JP): I just wanted to bring it to the attention of Hon. Nyikal that it is actually the sugar itself. The other day...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member, you know the process. Hon. Nyikal, do you want to be informed? You should seek the information.

Hon. (Dr.) James Nyikal (Seme, ODM): That in 26(1)(a), the safety takes care of the sugar and the second one now takes care of the handlers as well.

(Hon. Julius Melly and Hon. (Dr.) James Nyikal stood in their places)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Both of you cannot be up standing. Just finish your comment as I put the question. Just summarise.

Hon. Julius Melly (Tinderet, JP): The amendment is quite okay. It has come to our attention that importers at times bring in raw, unhealthy and poisonous products in the name of sugar. So, when we put this, it will put a stop to that, especially on raw sugar.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. As a matter of procedure, Hon. Members, you must inform me when you want to get or give information. There is point of order in your Standing Orders through which you can seek to get information or to inform a Member. I think we are doing very well. This is a very important Bill.

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

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

(Clause 26 as amended agreed to)

Clause 27

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

THAT, the Bill be amended by deleting clause 27 and substituting therefor the following new clause—

Safeguard
measures.

27. (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.

(2) Despite subsection (1), the Board shall ensure that—

(a) sugar shall be imported in the country only when there is sugar deficit on a quarterly basis and for a specific tonnage; and,

(b) importers report to the Board on their imports, sales and stock on daily basis.

(3) The Government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

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(4) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): In the interest of time, now I know every Member or most of them have the Order Paper. We also have our computers and we are online in Parliament. You can just say “as per the Order Paper” and then in your justification or the import of the amendment, you can just summarise that.

Hon. Silas Tiren (Moiben, JP): Thank you very much, Hon. Temporary Deputy Chairlady. Since I had proceeded, I can just go directly to the justification.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): But you must state “as it is in the Order Paper”.

Hon. Silas Tiren (Moiben, JP): The amendment is as per the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairman, say you propose amendments as per the Order Paper, and then you can give us the import in summary.

Hon. Silas Tiren (Moiben, JP): Thank you. I beg to propose amendments to clause 27 as per the Order Paper:-

THAT, the Bill be amended by deleting clause 27 and substituting therefor the following new clause—

Safeguard measures.

27. (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.

(2) Despite subsection (1), the Board shall ensure that—

(a) sugar shall be imported in the country only when there is sugar deficit on a quarterly basis and for a specific tonnage; and,

(b) importers report to the Board on their imports, sales and stock on daily basis.

(3) The Government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

(4) A person who contravenes the provision of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both

The justification for the amendment is that it seeks to limit imports to when it is necessary only, upon the approval by the Board.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You have an interest, Hon. Oundo?

Hon. (Dr.) Geoffrey Odanga (Matayos, ODM): Hon. Temporary Deputy Chairlady, I support the amendment, but maybe at the re-committal stage, I will propose a further amendment. I would wish that when we talk about importation being limited to the deficit, we should include the word ‘sugar-cane.’ This is because it is also imported from neighbouring countries and it affects sugar-cane farming in this country. We also want its importation to be limited to the deficit.

Thank you, Hon. Temporary Deputy Chairlady.

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

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

(Clause 27 as amended agreed to)

(Clause 28 agreed to)

Clause 29

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by the Chair.

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

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

- (a) in paragraph (c) by inserting the words “in consultation with stakeholders,” immediately after the words “agricultural produce”;
- (b) in paragraph (e) by deleting the word “impose” appearing after the words “to the Board to” and substituting therefor the word “enforce”; and,
- (c) in paragraph (f) by deleting the word “imposition” appearing at the beginning of the paragraph and substituting therefor the word “enforcement”.

Please give me time to look for the justification. I cannot see it here. There must be a mix-up somewhere. Or we can come back to it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No, we cannot do that. Please just look for the justification. We will give you time. It is really a long Bill.

Hon. Silas Tiren (Moiben, JP): I need to check on this. I think there is a mix-up here. It is like the justification was left out.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, you are protected. Please consult the Committee Clerk. The Committee members are also here. Hon. Melly, you cannot do the work of the Chair. He speaks on behalf of Committee Members.

Hon. Silas Tiren (Moiben, JP): The justification is to include other stakeholders in the industry.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, the proposed amendment to Clause 29 is to include other stakeholders in the industry. Hon. Chris Wamalwa, let me propose the question and then Members can speak to it.

(Question of the amendment proposed)

Hon. Chris Wamalwa, now you can speak to it.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. As you said earlier, the Committee of the whole House is the heart of legislation. The Chair has mentioned that this amendment is for inclusivity. But when you look at the words he is changing, it is not. Justification is subject to the words being amended. For instance, you propose deletion of the word 'impose' appearing after the words 'the Board' and substituting therefor with the word 'enforce'. In terms of context, the word 'enforce' does not add up unless there is still some confusion. So, justification needs some more specificity.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Chris Wamalwa. This is a very important process in law making. Before you respond to that, let us have the Member for Tinderet.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Chairlady. The import of this amendment is actually to provide clarity to agreements made between the grower, the producer and the miller. You realise that there are certain issues that will come into play as the farmer enters into an agreement with a miller. In the event the miller undercuts the farmer, the Board will have power to impose and enforce the law in the interest of the farmer. In paragraph (c), the amendment seeks to delete the word 'imposition' appearing at the beginning of the paragraph and substitute therefor with the word 'enforcement'. This is to ensure that the agreement entered between the farmer, the miller and the grower is respected and the Board will act as a regulator. So this amendment is quite in order, and I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I will give the Chair the last opportunity to clarify to Hon. Wamalwa. Let us have Hon. Godfrey Osotsi. I can see you want to make a comment.

Hon. Godfrey Osotsi (Nominated, ANC): No, Hon. Temporary Deputy Chairlady; I did not want to speak to this. I think I pressed the button by mistake.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, the amendment is a composite one, so to speak, involving several sub-sections. The issue of pricing under the pricing committee involves consultation with stakeholders. It has nothing to do with being out of context as my colleague from Trans Nzoia was trying to insinuate. It clearly relates to matters that require consultation with stakeholders. We are giving the Board the power to enforce.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member for Nambale, Hon. John Bunyasi.

Hon. Sakwa Bunyasi (Nambale, ANC): Hon. Temporary Deputy Chairlady, sorry, I do not know whether I will be taking us back. It is not just a matter of English. It also includes issues that have been underlying in the sugar industry. Some of the stakeholders, including millers, have been the biggest stumbling blocks. So, that consultation with stakeholders needs to be a bit more specific, but it is not. If we pass it as it is, we may introduce further complications.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Members are noting for their voting.

Let us hear the Member for Matayos, Hon. Odanga Makhoha.

An Hon. Member: (*Off-record*)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You must be on record. Member for Matayos, you have caught my eye. If you have nothing to say, you can still be on record.

Hon. Geoffrey Odanga (Matayos, ODM): I do not desire to make a further comment on this one.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You do not desire to make further comments on this one. It is good to be on record.

The last Member to speak to this one is the Member for Kanduyi. Just give a comment.

Hon. Wafula Wamunyinyi (Kanduyi, ANC): Thank you, Hon. Temporary Deputy Chairlady. This amendment is touching on very important clauses in this Bill. They are to do with agreements even to do with pricing. They are not just amendments that we want to brush about or that are not well thought out. First, it takes away the need to ensure that the Board consults; that it is given power to act without consulting. I think this is what is not coming out clearly. So, given the importance of this Bill, I thought there would have been consultations also, but because of the need to ensure compliance and to ensure that farmers benefit where a decision that favours farmers is taken, I support this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, Member for Kanduyi, Hon. Wamunyinyi.

Members, please allow me to put the Question to this amendment.

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

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

(Clause 29 as amended agreed to)

Clause 30

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, Clause 30 of the Bill be amended—

(a) by deleting the marginal note and substituting therefore with the following—
“Rights of growers in a privatised company”

(b) in paragraph (b) by deleting the word “milling” appearing after the words “directors of” and substituting therefor the words “privatised company.”

This is to ensure that the rights of the growers are safeguarded where a public milling company is privatised.

Thank you.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Tongaren, Hon. (Dr.) Eseli Simiyu.

Hon. (Dr.) Simiyu Eseli (Tongaren, FORD-K): Hon. Temporary Deputy Chairlady, I admit that I am not a financial expert, but on the issue of privatisation, when we say 51 per cent shareholding by the public, looking at that, we might be defeating the privatisation process. If I

have money to invest in any of the sugar factories and I am only limited to a shareholding of only 49 per cent, I am not sure whether I would be interested. I must have a controlling shareholding of at least 51 per cent to even control the directorship. In this case, this is not privatisation. We need to be careful not to defeat the whole purpose of privatisation, especially given the fact that the Government has failed to effectively run those sugar mills. It is a fact that the Government has failed. So, if we are going to privatise them, we might be shooting ourselves in the foot with this kind of amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for the clarification, Member for Tongaren.

I will give the Floor to the Departmental Committee Chair to just make a comment on the same. It is important for Members to be satisfied with the import of the amendment before they vote.

Member for Tinderet.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairlady, the amendment of this Clause is very clear. It is indicated on the marginal note that it seeks to protect the rights of growers in a privatised company. On the issue of 51 per cent public shareholding, this relates to state-owned sugar mills that will be turning private; it is not on a wholly privately-owned sugar mill. You cannot put a 51 per cent public shareholding on a sugar mill that is 100 per cent owned by an individual. It is on state-owned sugar mill that is being privatised. I rest my case there.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, probably, the import of the amendments to the parent Bill and the amendments here is...

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Are you a member of the Committee?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I am not a member of the Committee, but I attended the winnowing session. I, therefore, more or less own some of these amendments as a group.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, the import of the amendment is to basically make a policy statement to the effect that since sugar-cane farmers become the main sufferers in the event of any mismanaged company or any publicly owned company being privatised, we give our local farmers 51 per cent shareholding and the rest of the shareholding can be taken up by anybody else. It is a policy consideration aimed at empowering farmers because they are the owners of sugar-cane and the land. Therefore, they must benefit from their sweat and hard labour.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Point noted. Member for Kiminini, just a comment.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Temporary Deputy Chairlady, I am seated next to Hon. Wamunyinyi, who has explained to me the context in which Hon. Osotsi has clearly said what he has said. However, considering what Hon. Eseli has said, it is true that when it comes to privatisation, the company law is there to protect you if you have a majority shareholding. However, in this case, the amendment is saying that if it is a public entity that is going to be privatised, whoever comes in should not be given a majority shareholding. However, in business there is the principle of willing-buyer, willing-seller; unless the county governments or whichever government stakeholders comes and intervenes to ensure that a 51 per cent

shareholding remains in the hands of the public. If a Government entity goes private and someone wants to invest in new technology to improve the efficiency of the plant, but he dictates that he must have a majority shareholding of, say, 51 per cent, as Hon. Eseli has said, because this is a very delicate balance; then this provision will negate the principle of privatisation and may not attract new investors.

However, based on the context of Mumias, for purposes of safeguarding the interests of farmers, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Your point is noted.

Members, I can see a lot of interest in this Sugar Bill. Hon. Nyikal, you have not caught my eye. This one goes to the Member for Kibwezi West, Hon. Patrick Musimba. Let me hear your comments.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Thank you, Hon. Temporary Deputy Chairlady. I rise to just give a caveat on this particular clause. I think we need to be cognisant of the matter that has been raised by Hon. Eseli. The minute we give our farmers – as much as we want to protect their interest – 51 per cent shareholding, and we know that companies do make losses, we could be exposing farmers to further grief and also exposing the sugar mill.

Hon. Deputy Chairlady, there are also instances when a company has further capitalisation, ending up having impact of delusion of your shareholding *in lieu* of them covering whatever liabilities are in place. As one of the Members has mentioned, if it is an issue of policy, this can be captured within the Articles and Memorandum of Association as opposed to expressed shareholding as parts of the conditions of privatisation as opposed to trying to limit it with shareholding percentages. So, the House needs to note that particular import.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Seme briefly.

Hon. (Dr.) James Nyikal (Seme, ODM): Mine will be brief but it is important. We might be dealing with a situation that may be transient. Now, we have public companies that are being privatised. When we put law in perpetuity, there will come a time that they are all affected. So, it may be better to clarify that companies that were public and are being privatised. Then that law ends when you have finished the privatisation process. We are talking about only four or five companies. Do we put a law for that?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members will take a vote on the same.

Let us have the Hon. Member for Nambale. Hon. Bunyasi.

Hon. Sakwa Bunyasi (Nambale, ANC): Hon. Deputy Chairlady, this is a very fundamental principle that we are dealing with. We need to be clear on this one. An example of Mumias Sugar factory also has a lesson on this. They had a shareholding; I think it was 30 per cent. However, because of the principle... the Hon. Member from Kibwezi East...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I am the Member from Kibwezi East, the other one is Member for Kibwezi West, but it is good just to note my constituency.

Hon. Sakwa Bunyasi (Nambale, ANC): That is right just in case you changed positions. My good friend, Hon. Musimba, that is a very important principle.

Farmers were disgruntled because their shareholding dropped by a fundamental amount. When they see their share of value dropping, they want to get rid of them. Aggregators came along and bought out those shares, and essentially the farmers got disenfranchised. This is a basic

economic principle; that you cannot force someone to hold onto an asset they are losing. So, we have to find another way. Somebody has suggested that maybe we should have a trust for the farmers so that it is so collective that individual farmers cannot make a decision to get in and out. If we do it like this, we will have the same. Those aggregator...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, are you supporting the amendments or not?

Hon. Sakwa Bunyasi (Nambale, ANC): No. I am not supporting. It will not have the effect we want to have. It will have the outcome that Hon. (Dr.) Eseli has said. Why should somebody who is putting in 49 per cent be interested with that kind of control?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. We always take a vote on every clause. Can I give Hon. Washiali from Mumias Constituency and then I will put the Question?

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Chairlady. When Mumias Sugar Company was being privatised, farmers were given an opportunity to buy five per cent. They did that for three years and they could not manage because they could not raise that amount of money. Let us help companies that want to be privatised to do that smoothly. This is because if farmers were to be asked to raise 49 per cent, it will take much time because many of those companies are worth billions of monies. It becomes a challenge for farmers to raise billions. Therefore, we need to be careful with this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, you will take a vote on the same. Let us have the Member for Kanduyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Deputy Chairlady. I think we need to get the facts clear. What is before the House is not largely what the Members have commented about! What is before the House is an amendment to Clause 30, which seeks in (a) to delete the marginal note and substituting therefore with the following—

“Rights of growers in a privatised company”

This is what we are talking about. It is the correction. That is exactly what we are looking at and what we are going to vote on, and not anything else.

In paragraph (b) by deleting the word “milling” appearing after the words “directors of” and substituting the words “privatised company”

“Privatised company” is merely giving an express clarification that this has ceased to be public and it is privatised and not therefore representing the directors elected by farmers or those appointed in a public firm.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Noted. We are all representatives of the people. Thank you for such clarifications.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Members have been talking about percentages, which is not before the House.

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. We all represent the people and I can see the interest from the sugar zone. On Clause 30, we are proposing to delete the marginal note and substituting therefore with the following—

“Rights of growers in a privatised company”

In paragraph (b) by deleting the word “milling” appearing after the words “directors of” and substituting the words “privatised company.”

So, with that import that has been given by the Chairman. I will put the Question.

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

put and agreed to)

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

(Clause 30 as amended agreed to)

Clause 31

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment. Chair, please move your amendment. It is important to give the right import so that we can move fast.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Deputy Chairlady. I beg to move:
THAT, the Bill be amended by deleting Clause 31.

The import is that it has been taken care of by the New Clause IV Part A.

I thank you.

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Can we get more clarification on the import for Members to take a vote. Why are we deleting in a summary?

Hon. Silas Tiren (Moiben, JP): It has been taken care of by the New Part IV A. Sorry, it is a mistake.

Hon. Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairman, please get organised. We are not in a hurry. This is a very important Bill. You can see the interest by the Members. You must convince the Members why we are deleting Clause 30.

Hon. Silas Tiren (Moiben, JP): I want to refer you to the Order Paper; it talks about the establishment of a Sugar Tribunal on page 1228. I think that is what I was looking for. Are we together?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members can comment when contributing to this.

Hon Chairperson, your proposed amendment to Clause 31 is deletion of the same. Allow me to propose the Question. Member for Mumias East, you need more time to check on this? Hon. Members, you cannot speak to the same amendment before I propose the Question, I will give you time. Chairperson, can you give the import of your amendment because you are not together with Members.

Hon. Silas Tiren (Moiben, JP): We are proposing to establish a Sugar Arbitration Tribunal.

Hon. Members: Why?

Hon. Silas Tiren (Moiben, JP): Let the Members of the Committee assist.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, before you are assisted, let me have the proposed amendment as an asset of the House. There is no way we can debate the proposed amendment if it is not an asset of the House.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The indication is a deletion and I open debate. Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, mine is a point of order on sequencing. It looks like we are deleting Clause 31 and replacing it with New

Part IV A. My issue is how we delete before passing the New Part. It would have been better if we passed it first, and then this becomes a sequential amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal, you have been in this House for long. A new clause will always come after.

Hon. (Dr.) James Nyikal (Seme, ODM): How about if it passes and it has been deleted?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is up to the House to take a vote on this. If you decide to negate the amendment to Clause 31, you are at liberty to do so. Let me have Hon. Godfrey Osotsi. Hon. Members will speak to this Bill because it is very critical.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Chairlady. I think the point raised by Dr. Nyikal is very crucial. One of the things I am asking is: We are deleting Clause 31 and introducing a new clause altogether. Why can we not have it under Clause 31 as it is?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is what is on record as proposed amendments by the Committee.

Hon. Members, I will still give the Chair a chance to clarify on the same. Let us hear from the Member for Kiminini, Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. We have the technical team in this House, that is the Clerks and normally there is a procedure for amending.

For instance, I am an active Member when it comes to the Committee of the whole House. There should be proper justification from the Chairman why we are deleting Clause 31 in totality. This is because if we want to improve on it, we do an amendment. In this case, we are deleting in totality and coming up with totally another new clause. Both are talking about the Arbitration Tribunal. That is why Members are asking for the justification because this is very critical for making a decision. Unless justified, it should be rejected.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Can I hear from the Member for Tinderet? Chairperson, I am sure you are noting the interest of the Members.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Chairlady. I think there is a fundamental issue that has been raised on procedure. I want to bring to the attention of Members that, as at now, we all know tribunals are *quasi-judicial* bodies. That is why we are bringing the new clause and need to follow it procedurally.

This will ensure the appointment of membership to the board is in line with the requirements of the Judicial Service Commission (JSC). That is why in New Part IV A on the establishment of the Sugar Arbitration Tribunal, the Committee looked into this issue to make it in line or in tandem with the requirements of the Tribunal by the JSC and, at the same time, follow the procedure as laid out. To add to this, if you look at the earlier one, it was not in line with this. So, the only issue arising here is to ensure that the new clause follows the sequential order as per the Standing Orders of the House.

I submit.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Before we all comment on this, I would like to give information on record. That, as a matter of procedure, there is no way we can go to a new clause before we deal with Clause 31. So, Members, it is up to you to take a vote on the same. I think you would rather be prepared. If you really want to convince the Chair, you have the liberty. Let me hear from the Member for Tongaren.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I think this is not very neat. Before introducing new Clause 24A, we should delete Clause 31 as the Chair is proposing and substitute it with new clause 24A. This is neater than what we are doing now.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Correct! Now you are answering yourselves. You have heard from an experienced Member

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): I do know if the Chair is listening. I think it is neater for us to delete Clause 31 and replace it with new clause 24A without having to rename it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair is consulting. Members you can still take a vote on the same or recommit. Let the Chair consult with the Clerks because, at the end of it, the Members will take a vote. But before this, can I give the Member for Funyula a chance to comment on the same.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. As the Chair continues to consult, let me admit that I sat in the winnowing process. This was our thinking and the Member for Tinderet was very clear. The general practice in this country is that any tribunal belongs to the JSC. Here we are hostages of our own procedures. I totally agree with my colleague that if we delete this particular clause and the new clause we are proposing does not go through, what happens?

The flip side is this: If we leave it the way it is and then we pass the new clause, what will be the import of such kind of an approach? Here is a leap of faith. We delete and hope and pray that we pass the new clause. In the event that we do not pass it, there is a provision of re-committal. The reason is that the tribunal is so critical to the sugar industry. The treatment given to it in the parent Bill in Clause 31 is so shallow, narrow and against the common practice now. It does not serve the purpose it was intended to serve. That is why the wisdom of the winnowing team was to expand it and have a complete clause for it. So, we can deal with all matters requiring to be dealt with under this issue in dispute resolution, Alternative Dispute Resolution (ADR), and the rest of the things. I urge my colleagues to agree as we are in a conundrum because of the procedure. But let us take a leap of faith. Let us delete, accept the amendment by the Committee and proceed to pass them as contained in the new clause that has been introduced.

I humbly submit.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Before I make my last comment and put the Question, Hon. Nyikal says you plead with them. Maybe, you should have finished by pleading with them. As the Chair, I have no vote from here.

Member for Kanduyi, just comment.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Temporary Deputy Chairlady, it is also wrong for my colleague who has just spoke...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Funyula, please, resume your seat. Member for Kanduyi is upstanding.

Thank you.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): This was not part of what was agreed during the winnowing. It would not have been on the Order Paper brought by the Chair of the Committee. What I want to say is that Clause 31 is very clear. It provides for the establishment of a tribunal. It clearly states that the person to be appointed chair of the tribunal must be one that is qualified to be a judge of the High Court. Therefore, this is not an ordinary person. He is a lawyer and an advocate who can be a judge of the High Court of Kenya. It goes ahead to make those

provisions. I have not been told why this is being deleted so as to introduce a separate clause paragraph under Clause 24(a). What is wrong with Clause 31? That is what I want to understand.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear the Member for Kiminini. This is a law making process and we must all be heard as we make a decision. Today we are taking a bit long in the Committee. From the other clause, we may move a bit faster.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. Hon. Oundo needs to know that whether an issue went through winnowing or not, this House carries precedence. A committee can bring an amendment and this House can reject it. So, it is upon the Mover of that particular amendment to convince the plenary. I want to agree with Hon. Wamunyinyi. We want to be convinced why the proposed amendment should be deleted because ordinarily, in terms of process, it should have been amended and where there is inadequacy as provided for in this Clause 31, we can put an amendment that we are doing it in line with the Judicial Service Commission and the tribunals. Now it is *quasi-judicial*. That should have been the case but the issue of deletion and coming up with a new clause is totally in contradiction with the procedure and the process of parliament proceedings.

I am member of that Committee and this is where the legal team in the Departmental Committee on Agriculture and Livestock is supposed to have advised. The Chairman looks to be not well advised when coming to this. So, we cannot delete this in assumption that we are going to pass a New Clause 21. When you bring new clauses, the guidelines are totally different. Maybe, you can use your discretion under Standing Order No. 1 and allow the proposal so that we delete and replace and then that one is okay. However, we cannot delete with an assumption that we are going to have a new clause coming in. That is not the procedure. I want Hon. Oundo to note that. Even anticipation of debate is not allowed in line with our Standing Orders. So, we can only delete and replace with that clause that must be there. I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I must thank you for your expertise in the House but, as a matter of procedure of the House, let me hear from the Chair.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Temporary Deputy Chairlady. Just for the Members to know, I wanted to explain that initially, the tribunal was established under the miscellaneous part of the Bill. When the Committee was looking into this thing, through our own wisdom as Members, we thought it will be better to establish a substantive Part IV(A) which is establishment of the tribunal. However, if Members feel agitated on that, we can still recommit and then we will deal with it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, this is your proposed amendment and we must go through the whole procedure. If it is about re-committal, you can still bring it as a matter of procedure. So, Hon. Members, allow me to put the Question. If I were you, I would have discussed with the Chair but, I do not want to get into the debate. Let me put the Question to Clause 31 then from there, you can bring your further amendment because, as far as I am concerned, I have not received any further amendment on my desk. Please, it is up to the House to make a decision. If you want it for re-committal, you know the procedure and the process.

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

(Clause 31 deleted)

(Clause 32 agreed to)

Clause 33

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chairperson. Please move your proposed amendment.

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

THAT, Clause 33 of the Bill be amended—

(a) in sub clause (1) by inserting the words “shall be in consultation with the Board” immediately after the word “Secretary”;

(b) in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (a) —

“(ca) the establishment of weigh bridges;

(cb) standards on grading, sampling and inspection, tests and analysis, specifications, units of measurement, code of practice and packaging, preservation, conservation and transportation of sugar and sugar by-products to ensure safety and proper trading;

(cc) production and import of sugar to ensure adequate sugar availability in the country;

(cd) guidelines on general industry agreements between growers and millers and between parties in the sugar industry;

(ce) minimum period within which farmers are to be paid for sugar crop delivered and penalties for delayed payments; and,

(cf) cane harvesting and transportation;”

(c) by inserting the following new subsection immediately after subsection 3)-

“(4) Without prejudice to the generality of this section, the Cabinet Secretary shall make the regulations necessary to operationalise this Act within twelve months from the date of commencement of this Act.”

Hon. Temporary Deputy Chairlady, the justification is to give more powers to the Ministry to make Regulations.

The justification for sub-clause (4) is to ensure that the Regulations are made within one year from the enactment of this law.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Wafula Wamunyinyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Temporary Deputy Chairlady, this is another amendment I am contesting. I do not like it when we have agreed on something and then you change it. We had agreed that the time allowed for the Regulations to be put in place is six months but now, you put it to 12 months.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Are you a member of the Committee?

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): That is what we agreed during winnowing, but now it has been changed to 12 months. The amendment is good, save for the...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Wamunyinyi, where we are, it is not lost. It is up to the House to take a vote on it. You can bring your proposal. You can exercise your powers as a Member of Parliament and have it changed.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairlady, the proposal for six months was from Hon. Washiali, if I may remember well. However, the Committee members met and took note that six months is too short and agreed to adjust it to 12 months. This was something that was agreed and was not changed. Hon. Wamunyinyi, do not say we changed anything. This was an agreement of the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, he needs to go on record and that is an area that we had a lengthy debate on during the winnowing meeting. The issue is practicability. I clearly said that I sit in the Committee on Delegated Legislation. I know the procedure of making subsidiary legislation. Even as we stand here, I am almost certain one year is not adequate to complete the process of stakeholder engagement, public participation and bringing forth the regulations. That is why I am willing to go for one year because it puts pressure on the regulatory making authority to move with speed and bring the relevant regulations to the House for purposes of enactment. Six months is not practical. We need to be practical.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from a very common name in the sugar area. Member for Mumias East.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Chair. Indeed, I am the one who brought this amendment. Unfortunately, my name does not feature anywhere. I agree that when we looked at the period, even after the enactment of this Bill, there will be that period of identifying the board members. There will be elections and other things. It will take some time. That is why we agreed in the winnowing meeting that we change it to 12 months so that we allow for proper identification of board members who will help in coming up with the regulations. Therefore, we agreed 12 months after the enactment of this Act.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. The Member for Tongaren, Hon. Dr. Simiyu Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Chair, sometimes, the Government functionaries delay matters for no reason. So, perhaps, we should have started with six months and then when the six months are over, the Cabinet Secretary will come and ask for extension. That will put him under pressure. Otherwise, when they are not under pressure, sometimes, they do not function. The sugar industry is in dire need. Any day we delay with this Bill, the sugar industry is getting worse. So, if regulations get delayed for any reason, we will suffer even more. Sometimes, it is good to play sort of tough with them. That will push them to act faster.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I quite agree. Let us go with this proposal of six months so that we put them under pressure. In sugar areas, there is a lot of talk. We are better of passing this today because back at home, our supporters are very uneasy about this. Let us put this at six months instead of 12 months.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. It is up to you as the House to take a vote on this. As a Chair, I do not have a vote. Let me have the Member for Bumula.

Hon. Mwambu Mabongah (Bumula, Independent): Thank you, Hon. Temporary Deputy Chairlady. I wanted to speak on almost three clauses, but I may not have caught your eye. My proposal is that I agree totally with Hon. (Dr.) Eseli, Member for Tongaren that, at times, we have to put the Government to task. If we leave it open the way it is, I would propose to the Chair that we have a minimum period of six months and a maximum of one year. If we are specific that way, we will know exactly that they are working within a framework that is agreeable. But if we leave it open, after one year they will definitely seek for an extension.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, with that, allow me to put the Question.

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

(Clause 33 as amended agreed to)

(Clauses 34 and 35 agreed to)

Clause 36

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Dr. Ojiambo Oundo, MP.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady, I seek your guidance because I want to move it in an amended form.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have not seen the amended form and we may not want to allow you move from that point without the relevant offices looking at your proposed further amendment.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Let me move it as it is and then you will give me guidance because it was just a typo that we noticed today, but we did not have time to make the necessary changes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I have not seen it and I am sure the Clerk would have looked at it and approved it.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Bill be amended by deleting Clause 36 and substituting therefor the following new clause—

Transfer of staff.
No. 13 of 2013

“36. (1) Upon the commencement of this of this Act, a person who was a member of the staff of the former Kenya Sugar Board before the commencement of the Agriculture and Food Authority Act, and current staff of the Sugar Directorate not being under any notice of dismissal or resignation shall, upon commencement of this Act and subject to subsection (2), become a staff of the Board on their current improved terms and conditions of service.

(2) The pensions of staff under the provident fund of Agriculture and Food Authority- Sugar Directorate shall, on the commencement of the Act, vest in the Board.

I want to put in record that there were some typos which we thought we could correct. The typo is on the first sentence under 36(i) of this. It was not the intension after the word “Act on the second last sentence. We intended to remove “and subject to subsection 2” because it has no relationship at all to number one. So, those are the tidying up issues I seek your indulgence. But if you say that it is not possible due to procedure, probably you can talk to the Chair. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Hon. Mwashetani. *Pole sana, tumeona umeumia lakini*, you are out of order. *Pole umeumia lakini huwezi vuka ovyo ovyo*. Please, do the necessary *hata ingawa umeumia*.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairlady that is how I wanted to move it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You must have respect. Thank you, Hon. Mwashetani. *Pole sana*. We wish you a quick recovery. Hon. Member for Funyula, thank you for your proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I want to direct that the issue of typos be looked at from the Clerk’s Office. If it is just a mere typo! That is how we always do. So, you should take note that you would be advised accordingly. That one is always very welcome.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I see no interest.

(Hon. Silas Tiren spoke off-record)

Chairperson, do you want to make a comment?

Hon. Silas Tiren (Moiben, JP): Yes, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me first have the Member for Yatta, Hon. Kilonzo Mutavi.

Hon. Charles Kilonzo (Yatta, Independent): Sorry, Hon. Temporary Deputy Chairlady. I wanted to contribute on an earlier matter, but now that I have the microphone, I am totally in agreement that those typos need to be corrected. There was a follow-up after the winnowing session with the Committee that should have been corrected at that stage rather than bringing it as an amendment. I support your position that the Clerk’s Office be advised accordingly.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You have used the best words. Member for Navakholo, Hon. Emmanuel Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady. I wish to indulge Hon. (Dr.) Oundo. His amendment is good but the situation on the ground could be a bit different. He could add maybe just one word to align everything. What are we doing about those members of staff who are now in Agriculture and Food Authority (AFA), but are not in the Sugar Directorate and are employees of the former Kenya Sugar Board?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Wangwe, if it is a major amendment...

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Temporary Deputy Chairlady, that is why I said that I wish to indulge him. I am supporting his amendment but I want to enrich it

because the reality is that there are those members of staff who are not currently in the Sugar Directorate, but were members of the Kenya Sugar Board. He might want to look at it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Wangwe, you can consult with the Member for Funyula. We are happy to direct that we have a consultation room. Regarding any proposed amendments, you always know the procedure.

Let us have the Member for Seme. Today, we are moving a bit slowly because of the interests that we have in the Sugar Bill. Please just make a comment.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, we are dealing with almost three groups of members of staff and we are making a very major decision on people who are employed. I would ask Hon. Oundo to be clear on the staff he is talking about. This is because there are staff that came before the Act, those that worked for the Kenya Sugar Board and those that are in the Authority. That should be simplified just like what Hon. Wangwe is saying. We need to be very clear about the staff we are talking about before we pass this. I want to seek that clarification.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Osotsi before I come to the Chairperson, who will be the last one to comment on this.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairlady, I support this amendment by Hon. Oundo on the basis that we have those employees who were working for Kenya Sugar Board, taken to AFA and dispersed to various departments which are not under the Sugar Board. We even have information that there is internal reorganisation in anticipation of this Bill so that new people are employed. We want to say that the staff that used to work for the Kenya Sugar Board, whether they are now working for Tea Directorate or wherever, should all be absorbed in the Kenya Sugar Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear the Member for Tinderet, Hon. Kibiwott Melly. Just make a comment on the same.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Chairlady. This amendment is quite in order and I support it because some of the staff were experts in particular fields, especially on sugar issues. If we are going to just move them anyhow, then we are going to negatively impact on the sugar sub-sector. So, let those members of staff go back and do their work in an expert way and then we proceed with the new Sugar Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Wamunyinyi, you can just make a one-minute comment on the same because I want to put the Question. I think Members have had their debate.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I am supporting this amendment for two reasons. One, it captures the staff currently under the directorate, which was not originally seen by the draft.

Secondly, it also captures the aspect of pension and benefits that have been accruing in the directorate which should be vested in the Board. That will protect the workers' interests.

For those two reasons, I support this proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, with that debate and justification, I will put the Question.

Hon. Silas Tiren (Moiben, JP): Hon. Temporary Deputy Chairlady, you were to give me a chance. I think you forgot.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, you changed your sitting position. Just make a comment then I put the Question.

Hon. Silas Tiren (Moiben, JP): The Committee had reservations. So, I thought it would be wise to hear what the Committee had noticed.

It is imperative to note that the Kenya Sugar Board was transited to the Agriculture, Fisheries and Food Authority (AFFA), with all its assets under the AFFA Act, 2013. The First Schedule of the AFFA Act provides that “former institution” means any institution established by the Repeal Act or invoked Legal Notice existing immediately before the appointment day and include the Coconut Development Authority and others” under which the Sugar Board falls.

The Sugar Act, 2001 was in essence repealed by the AFFA Act. Therefore, what is in existence and governing the former staff of the Kenya Sugar Board is AFFA and a transition ought to take place in that context to ensure that it does not only anvil beyond that which is currently existing, but also take cognisance of the fact that amendments by Parliament should be procedural, consistent and reasonable. The proposal in this Bill under Clause 36 has been done in the same manner that the House did the Tea Act.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. That is from the Chair. Hon. Members, with that import, allow me to put the Question. It is now for the House to make a decision. Member for Kwanza, you have just one minute.

Hon. Ferdinand Wanyonyi (Kwanza, Ford-K): It is just a minute, Members. You know, there are members of staff who are under AFFA and, maybe, they are now being promoted to certain positions. Those who were there may go to the Sugar Board but you cannot force them to go. There are those who were there and maybe they have even got better positions. So, it should be acted on. The word should be “may” rather than forcing them to go to the Sugar Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, this is a House of debate. With that comment, I put the Question on Clause 36. It is up to you to decide.

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

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

(Clause 36 as amended agreed to)

(Clauses 37 and 38 agreed to)

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Hon. Members, in the interest of time, we will report progress of the Committee of the whole House. Can we have the Mover?

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Sugar Bill (National Assembly Bill No. 68 of 2019) up to clause 38 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. Jessica Mbalu) in the Chair]*

PROGRESS REPORT

THE SUGAR BILL

The Temporary Deputy Speaker (Hon. Jessica Mbalu): Can we have the Chairperson to report?

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Sugar Bill (National Assembly Bill No. 68 of 2019) and approved the same with amendments.

(Question proposed)

Oh! You have not moved. Chairperson, you are asleep. As a matter of procedure, let us have Hon. Wamunyinyi moving the Motion for agreement with the report.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the House do agree with the Committee in the said Report. I request Hon. Wangwe to second.

The Temporary Deputy Speaker (Hon. Jessica Mbalu): Hon. Wangwe to second.

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

(Question proposed)

(Question put and agreed to)

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): On a point of order, Hon. Temporary Deputy Speaker. You made reference to the “sleeping” Chair. I do not know whether it was a slip of the tongue or you meant the Chair was asleep?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I was waiting for the Chair to report. It was not you.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Temporary Deputy Chairlady, the Chair does not sleep in the House.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes, you are supposed to know that as a matter of fact. Can the Chair report to the House now? It was not you.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): You need to correct that, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. It is true. Chair, you are protected. He was consulting.

(Loud consultations)

As a matter of procedure, I expected the Chair to move the Motion for reporting to the House but, of course, the owner of the Bill was Hon. Wamunyinyi. Chair, you are protected.

Hon. Members of the Committee of the whole House, we are supposed to do reporting to the House on Order No.10, which is the Sugar Bill (National Assembly Bill No.68 of 2019) moved by Hon. Wafula Wamunyinyi. However, because of time constraints, we are not in a position to proceed with the reporting.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 12.59 p.m., the House stands adjourned until this afternoon at 2.00 p.m.

The House rose at 12.59 p.m.