

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th June 2017

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Can the Quorum Bell be rung?

(The Quorum Bell was rung)

Hon. Deputy Speaker: Members, let us settle down. We can begin business.

MESSAGE

PRESIDENTIAL MEMORANDUM ON THE FINANCE BILL, 2017

Hon. Deputy Speaker: Hon. Members, I have a Message on the referral by His Excellency the President of the Finance Bill, 2017.

You may recall that on 30th May 2017, the National Assembly passed the Finance Bill, 2017. Thereafter, the Bill was presented for assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, H.E. the President, by way of Memorandum, has since referred the Bill back to the National Assembly for reconsideration, pursuant to the provisions of Article 115(1)(b) of the Constitution.

Hon. Members, H.E. the President has expressed reservations to the deletion of Clauses 26, 27, 28 and 29 of the Bill concerning the Betting, Lotteries and Gaming Act (CAP 131). Consequently, the President has recommended amendments to the clauses.

You may recall that Section 41 of the Public Finance Management Act and Standing Order No.245 provide that the Finance Bill shall be considered and approved not later than 90 days after the passage of the Appropriation Bill. Further, Standing Order No. 154 requires the National Assembly to consider the President's reservations within 21 days. In this regard, the memorandum stands committed to the Departmental Committee on Finance, Planning and Trade for consideration.

Cognisant of the scheduled *sine die* recess of the House, the Committee should table its report on or before tomorrow morning 15th June 2017. In considering the Memorandum, regard will be given to the guidance given by the Speaker in a Communication delivered on 28th July 2015 concerning Consideration of Presidential Memoranda and amendments thereto.

I wish to remind the House and the Committee that only the clauses of the Bill that have reservations ought to be considered. I also direct the Clerk to circulate the Memorandum from H.E. the President to all Members so that you can familiarise yourselves with its contents.

I thank you.

PAPER LAID

Hon. Deputy Speaker: We have a Paper to be laid by the Chairman of the Departmental Committee on Finance, Planning and Trade.

Hon. Langat: Hon. Speaker, I beg to lay the following Paper on the Table of the House today Wednesday, 14th June 2017:

The Report of the Departmental Committee on Finance, Planning and Trade on the Vetting for approval of Mr. Saitoti Kimerei Maika, nominee for the appointment as the Director General of the Financial Reporting Centre.

Thank you.

NOTICE OF MOTION

APPROVAL OF MR. SAITOTI KIMEREI MAIKA AS DIRECTOR GENERAL OF FINANCIAL REPORTING CENTRE

Hon. Langat: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the vetting for approval of Mr. Saitoti Kimerei Maika, nominee for the appointment as the Director General of the Financial Reporting Centre, laid on the Table of the House on Wednesday, 14th June 2017 and pursuant to the provisions of Section 25 of the Proceeds of Crime and Anti-money Laundering Act, approves the appointment of Mr. Saitoti Kimerei Maika as the Director General of the Financial Reporting Centre.

Hon. Deputy Speaker: Hon. Gaichuhie, do you have a different notice of Motion?

Hon. Gaichuhie: No.

Hon. Deputy Speaker: Okay. You can do it in the afternoon.

BILLS

First Reading

THE BASIC EDUCATION (AMENDMENT) BILL

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairman (Hon. Cheboi) took the Chair]

THE KENYA TRADE REMEDIES BILL

The Temporary Deputy Chairman (Hon. Cheboi): We will start with the Kenya Trade Remedies Bill (National Assembly Bill No.4 of 2017).

(Clauses 3, 4 and 5 agreed to)

Clause 6

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended in Sub-Clause (2) by deleting the words “in Article” appearing immediately before the expression “27 and 32” and substituting therefor the words “under Articles”.

This is a correction of the typographical errors.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Ochieng, do you want to speak to this one? He does not seem to have too much interest. So, 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 6 as amended agreed to)

(Clauses 7, 8 and 9 agreed to)

Clause 10

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 10 of the Bill be amended-

(a) in paragraph (b) by deleting the words “controlling and supervising” and substituting therefor the words “control and supervise”;

(b) in paragraph (c) by deleting the word “determining” and substituting therefor the word “determine”;

(c) in paragraph (d) by deleting the word “receiving” and substituting therefor the word “receive”;

(d) in paragraph (e) by deleting the word “collaborating” and substituting therefor the word “collaborate”;

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

“(f) open such bank accounts for the funds of the Agency as may be necessary”;

(f) in paragraph (g) by deleting the word “investing” and substituting therefor the word “invest”.

All those amendments are just to correct grammatical errors in the Bill.

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

(Clauses 11 and 12 agreed to)

Clause 13

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended in sub-clause (3) by deleting the word “is” appearing immediately after the word “Agency” and substituting therefor the word “if”.

Hon. Temporary Deputy Chairman, again, this is correction of typographical errors.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Clause 15

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended by inserting the word “the” immediately before the word “functions”.

Again, this is correction of grammatical errors.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Deputy Whip of the Minority Party.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. It is a concern because we are just being told that two to three pages contain grammatical errors. We need people to be responsible. Can we be told who was drafting this Bill? Does it mean we do not have competent lawyers in Parliament and we have drafters who make such basic mistakes which my Standard Three son can correct? It is a concern.

The Temporary Deputy Chairman (Hon. Cheboi): Yes, Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I confirm on the HANSARD that Parliament has the best drafters. Before any Member puts his or her signature on the Bill... In this legislation, even where there is a grammatical error, the Chair should tell us what it is about. You know we have gone to school. We know English. So, he should tell us what he is correcting and what he is adding. We are not imputing anything on our Legal Directorate. I confirm that we have the best drafters in Parliament. They are better than those in the State Law Office.

The Temporary Deputy Chairman (Hon. Cheboi): So, what is the grammatical error you are trying to correct, Hon. Langat?

Hon. Langat: Hon. Temporary Deputy Chairman, I know some people must speak. It is okay because they have to speak. I also said “as per the Order Paper”. That means that if there are specific questions, they should have the Order Paper and then ask the questions. In Clause 15, I am only adding the word “the” before the word “functions” for it to read “the functions”. It is just correction of grammatical errors.

The Temporary Deputy Chairman (Hon. Cheboi): I think that is clearer now. What is it, Hon. (Dr.) Makali Mulu?

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I think the Chairman of the Departmental Committee on Finance, Planning and Trade should not downplay the matter being raised. We are on national TV and people are watching what we are saying. It is unfortunate that the only thing we are saying is “the”, “for” and other typos. The question is: At this level, why should Members of Parliament be given a Bill to discuss almost two pages of amendments and the only thing we are saying is changing the word “the” and putting the word “if”? I think it sends the wrong signals. It is either the Chairman is telling us it was drafted by a person who is not qualified to draft or the Committee is the one which drafted all these amendments and not officers from the Legal Directorate. There must be a problem and we are saying that the problem should be addressed. Otherwise, in future, it will look very bad that we spent one hour or so talking about typos in a Bill.

The Temporary Deputy Chairman (Hon. Cheboi): I think on this one, the Committee Chair has explained. First, Committees do not do amendments. So, let us proceed. I think it is something we can dispose of without having to create a lot of debate.

(Question, that the word to be inserted)

be inserted, put and agreed to)

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18, 19, 20, 21 and 22 agreed to)

Part IV

Hon. Langat: Hon. Temporary Deputy Chairman, I have consulted with the owner of the Bill and I am dropping that amendment.

(Proposed amendment by Hon. Langat dropped)

The Temporary Deputy Chairman (Hon. Cheboi): Very well. That one is dropped.

(Part IV agreed to)

Clause 23

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 23 of the Bill be amended in sub-clause (5) by deleting the words “the Cabinet” and substituting therefor the words “he or she”.

Again, that is to correct an omission. It was meant to be “Cabinet Secretary”, but it said “Cabinet” and omitted the word “Secretary”. So, we are introducing the word “Secretary” so that it reads “Cabinet Secretary”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gaichuhie, do you want to speak to this one?

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, it is not the Committee that made these typographical errors that we are correcting. They were made by the drafters. I thank our legal officer because she has gone through the Bill using a tooth comb. She has seen the dots, the commas and all these errors. That is why you find these many errors. I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, the amendment of the Committee says that Clause 23 of the Bill be amended in sub-clause (5) by deleting the words “the Cabinet” and substituting therefor the words “he or she”. Sub-clause (5) reads: “Where the Cabinet Secretary fails to act on the Agency’s recommendation---” Are we at the same place? We are talking about him or her.

This amendment is not in tandem with what is in Sub-clause 5. The Chairman should tell us something about it. Sub-clause 5 states thus:

“Where the Cabinet Secretary fails to act on the Agency’s recommendation in the prescribed period, the Cabinet shall inform the Agency of the reason of the failure to act in writing”.

Listening to the Chairman, I think he was supposed to add the word “secretary” but the amendment on the Order Paper is about deleting the words “the Cabinet” and substituting them with “he or she”. They do not go together. The Chairman needs to do some clean up. In fact, he is doing more grammatical drafting errors than he is telling us. If you read the Order Paper, it is not in tandem with what is in Sub-clause 5.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Can I listen to Hon. Ochieng?

Hon. Ochieng: I agree with the Leader of the Majority Party. What the Chairman said is probably what is in his heart and what he wanted to do. This is so as to avoid repeating the word “Cabinet Secretary”. I also agree with what is in the Order Paper. What you are saying means that we will have to start the sentence by saying, “Where the Cabinet Secretary fails to act...” One does not really need to repeat it. I think that is what they had agreed upon. So, just go ahead and say, “he or she shall inform...” What is in the Order Paper is right and that is what he is trying to correct the Chairman about. The only thing is that he may then go ahead and remove the word “the” after the period, so that it reads thus: “...where the Cabinet Secretary fails to act on the Agency’s recommendation in the prescribed period, he or she shall inform...” That way, it will remain the way it is in the Order Paper.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the final one from the Chairman of the Departmental Committee on Finance, Planning and Trade.

Hon. Langat: Hon. Temporary Deputy Chairman, I agree with what Hon. Duale and Hon. David Ochieng have said. The intention was to introduce the gender bit because the Cabinet Secretary could be either male or female.

The Temporary Deputy Chairman (Hon. Cheboi): I will then dispose of this one.

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

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

(Clause 23 as amended agreed to)

(Clauses 24, 25, 26, 27, 28, 29, 30 agreed to)

Clause 31

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 31 of the Bill be amended –

(a) in sub-clause (3) –

(i) by inserting the word “to” immediately before the word “deliver”; and

(ii) by inserting the word “to” immediately before the word “produce”.

(b) in sub-clause (4)(b) by inserting the word “a” immediately before the word “court” in subparagraph (ii);

(c) in sub-clause (5) by inserting the words “or her” immediately after the word “his”.

This amendment is about small corrections which have to do with grammar and typos.

(Question of the amendment proposed)

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

Clause 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 33 of the Bill be amended in sub-clause (5) by inserting the words “or herself” immediately after the word “himself” in paragraph (a).

This is meant to introduce the issue of gender where the Cabinet Secretary could be either male or female.

(Question of the amendment proposed)

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, this is a very unique day in terms of legislation. A Cabinet Secretary is a Cabinet Secretary. This idea of the Chairperson being a he or a she, I do not know where it is coming from in legislation. I am a bit lost. If you look at Clause 33, he is proposing to amend Sub-clause 5 by inserting the word “herself” immediately after the word “himself”. I agree with the Chairman. I think this was a problem with drafting. I have defended our colleagues in the Legal Directorate before. This is the first time I am seeing us defining gender. The law is very clear on this matter. I am a legislator and Hon. Ochieng would agree with me that we should not delve in definitions, namely, he or she. The term “Cabinet Secretary” is the one that is generally carried in legislation. Maybe the Chairman of the Departmental Committee on Finance, Planning and Trade can tell us why he is defining gender everywhere in the Bill.

Hon. Ochieng: Hon. Temporary Deputy Chairman, this is part of what is supposed to be done at this stage anyway. At this stage, the House is supposed to do what we are doing. Whether it is a typo or whatever else, this is the stage where we correct it. What the Chairman is trying to do here is this: The Bill refers to a person who is supposed to carry out investigations. This person could be a lady or a gentleman. The current Bill says that the person carrying out investigations is supposed to identify himself or herself. What the Chairman is adding is the idea of gender. The investigator could be a lady. What he is trying to say is that the investigator, before executing a warrant, shall identify himself or herself. I think that is in order.

The Temporary Deputy Chairman (Hon. Cheboi): I think so. Let us just proceed, if it does not harm.

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): What is it, Leader of the Majority Party?

Hon. A.B. Duale: In fact, together with the Chairman, we have found out that we do not have Clause 5. He is amending Sub-clause 5. There is a problem with the Order Paper.

The Temporary Deputy Chairman (Hon. Cheboi): There is Clause 5.

Hon. A.B. Duale: Yes, there is Clause 5. Hon. Langat was telling me there is no Clause 5. Indeed, there is Clause 5.

The Temporary Deputy Chairman (Hon. Cheboi): You know, Hon. Chairman and the Leader of the Majority Party, we are a day before the adjournment of the House *sine die*. I can see Members have already adjourned in their minds. There is Clause 5. We are dealing with Clause 33 now.

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

(Clause 33 as amended agreed to)

Clause 34

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 34 of the Bill be amended –

(a) by inserting the word “for” immediately before the word “information” appearing in paragraph (e);

(b) by inserting the following new paragraph immediately after paragraph (h) –

“(i) have powers to close and seal off the premises for further investigation for a period not exceeding fourteen days”.

First of all, we are correcting small grammatical errors. Initially, the investigation officer executing a warrant under Section 33 was given the powers.

The Temporary Deputy Chairman (Hon. Cheboi): First of all, what is this grammar you are talking about? We do not have to raise the matter so many times. What is the grammatical mistake?

Hon. Langat: Hon. Temporary Deputy Chairman, we are adding “for” immediately before “information” to read “for information”,

Secondly, we are setting the time limits for sealing of premises if there was suspicion that something wrong was being done in those premises. As a Committee, we said you cannot seal premises belonging to somebody indefinitely. So, we are giving the investigating officer a maximum of 14 days to seal premises, after which he should have finished his investigations and let the business continue or take the necessary action.

The Temporary Deputy Chairman (Hon. Cheboi): Well explained.

(Question of the amendment proposed)

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

(Clause 34 as amended agreed to)

(Clause 35 agreed to)

Clause 36

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 36 of the Bill be amended in paragraph (b) by deleting the words “mistake common” and substituting therefor the words “a common mistake”.

Again, this is a correction of a small typo. If you read sub-clause (b), it says “where the determination, recommendation or decision was made by mistake common”

It is supposed to read “common mistake”, not “mistake common” so that it flows.

The Temporary Deputy Chairman (Hon. Cheboi): What did you say, again? Mistake common or common mistake?

Hon. Langat: If you look at the Bill, there is somewhere it reads “mistake common”. It is supposed to read “common mistake”.

The Temporary Deputy Chairman (Hon. Cheboi): That is really bad drafting. Anyway, let us proceed.

(Question of the amendment proposed)

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

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

(Clause 36 as amended agreed to)

(Clauses 37, 38, 39, 40 and 41 agreed to)

Clause 42

Hon. Langat: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 42 of the Bill be amended in sub-clause (2) by inserting the word “the” immediately before the word “fulfilment” in paragraph (b).

Again, this is grammar. It is just inserting the word “the” immediately before the word “fulfilment” to read “the fulfilment of”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Makenga.

Hon. Makenga: Thank you, Hon. Temporary Deputy Chairman. I support the amendment as proposed by the Chair.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Oyoo.

Hon. Oyoo: Hon. Temporary Deputy Chairman, there are so many grammatical errors. We need to give him time to go and correct them given the fact that people are very busy now and we lack concentration.

(Laughter)

The Temporary Deputy Chairman (Hon. Cheboi): The Member for Muhoroni has spoken. We will proceed.

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

(Clause 42 as amended agreed to)

*(Clauses 43, 44, 45, 46, 47, 48, 49, 50,
51, 52, 53, 54 and 55 agreed to)*

Hon. Ochieng: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): What is it, Hon. Ochieng? What is your point of order?

Hon. Ochieng: I cannot see the clauses that you have just read in the Bill.

The Temporary Deputy Chairman (Hon. Cheboi): Are they not in the Bill? Let us check.

Hon. Ochieng': After Clause 43, we move straight to the First Schedule.

The Temporary Deputy Chairman (Hon. Cheboi): That is the actual position. Do you have a copy of the Bill? We have up to Clause 55, do we not? So, what is the issue, Hon. Ochieng? I know this is your Bill. Or somebody else added a few clauses. What is the issue? I think we have done it correctly thus far.

Hon. Ochieng: Hon. Temporary Deputy Chairman, the Schedules have so many sections. For example, the Second Schedule has up to 55 sections. The main Bill ends at Clause 43 then you have the First Schedule which has many sections. The Second Schedule has sections up to 55.

The Temporary Deputy Chairman (Hon. Cheboi): Actually, you are right, Hon. Ochieng. We will redo it. There is the issue of the Schedules. That is what is creating confusion. For clarity, we will go to the new clauses, then we will consider the Schedules. That will make it tidy.

New Clause 44

The Temporary Deputy Chairman (Hon. Cheboi): Let me call the Leader of the Majority Party to move the new clause.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I intend to withdraw all my amendments because they have been carried in the Companies (Amendment) Bill that we passed. Strategically, I thought this Bill would come before the Companies (Amendment) Bill. Now that we have disposed of the latter, all those amendments were carried in it. I intend to withdraw them.

I thank Hon. Ochieng and the Office of the Clerk for accepting to carry them in the event my Bill could not survive the 11th Parliament. I withdraw them.

The Temporary Deputy Chairman (Hon. Cheboi): That is going to be the position. All the new clauses are withdrawn.

(Proposed new clauses by Hon. A.B. Duale withdrawn)

(The First Schedule agreed to)

Second Schedule

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Langat, do you want to consult?

Hon. Langat: Yes.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chairman, are we okay now?

Hon. Langat: Thank you Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Second Schedule to the Bill is amended –

(a) in paragraph 3 –

(i) by deleting the word “above” appearing in subparagraph (6);

(ii) by deleting the word “above” appearing in subparagraph (7);

(iii) by deleting the word “above” appearing in subparagraph (8);

(iv) by deleting the words “or future or current production” appearing immediately before the words “or for circumstances” in subparagraph (10);

(v) by deleting the word “the” appearing immediately before the words “this Schedule” in subparagraph (11).

(b) in paragraph 9 –

(i) by inserting the word “the” immediately before the word “dumping” in subparagraph (2)(a); and

(ii) by inserting the word “the” immediately before the word “injury” in subparagraph (2)(b);

(iii) deleting subparagraph (12) and substituting therefor the following new subparagraph-

“(12) The Agency may initiate an investigation on its own motion, without having received a written complaint from the affected industry”;

(iv) by inserting the following new subparagraph after subparagraph (12) –

“(13) Where the Agency initiates an investigation on its own motion, it shall proceed only if it has sufficient evidence of injury or threat of injury and a causal link to justify the initiation of an investigation”.

(c) in paragraph 12 –

(i) by deleting the word “asks” appearing in subparagraph (4) and substituting therefor the word “requests”;

(ii) by deleting the words “access to” appearing in subparagraph (7) and substituting therefor the words “to grant access to the Agency”;

(iii) by deleting the words “where practicable” appearing at the end of subparagraph (8).

(d) in paragraph 13 –

(i) by deleting the words “that accounts” appearing in subparagraph (1) (a);

(ii) by deleting the words “that accounts” appearing in subparagraph (2).

(e) in paragraph 18 -

- (i) by deleting the word “make” appearing immediately before the word “comment” appearing in subparagraph (4);
- (ii) by inserting the word “for” immediately after the words “Cabinet Secretary” appearing in subparagraph (8).
- (f) in paragraph 30 –
 - (i) by deleting the word “absent” appearing in subparagraph (13)(c) and substituting therefor the word “without”;
 - (ii) by deleting the expression “5%” appearing in subparagraph (15) and substituting therefor the words “five per centum”;
 - (iii) by deleting the expression “15%” appearing in subparagraph (17) and substituting therefor the words “fifteen per centum”;
- (g) in paragraph 31 by deleting the expression “0.5%” appearing in subparagraph (5) and substituting therefor the words “zero decimal five per centum”.
- (h) in paragraph 34 –
 - (i) by deleting the word “absent” appearing in subparagraph (3) and substituting therefor the word “without”; and
 - (ii) by deleting the word “expense” appearing in subparagraph (3) and substituting therefor the word “expend”;
 - (iii) by deleting the word “absent” appearing in subparagraph (5) and substituting therefor the word “without”;
 - (iv) by deleting the word “employer” appearing in subparagraph (6) and substituting therefor the word “employing”; and
 - v) by deleting the word “expense” appearing in subparagraph (6) and substituting therefor the word “expend”;
 - (vi) by deleting the word “expense” appearing in subparagraph (7) and substituting therefor the word “expend”;
- (i) in paragraph 35 by deleting the word “with” appearing in subparagraph (3)(a) and substituting therefor the word “to”;
- (j) in paragraph 42-
 - (i) by deleting the word “normally” appearing in subparagraph (6) (a); and
 - (ii) by deleting the word “normally” appearing in subparagraph (6) (b);
- (k) in paragraph 43 by deleting the word “preserved” appearing in subparagraph (4) and substituting therefor the word “observed”.
- (l) in paragraph 54 by deleting the word “the” appearing immediately before the word “Kenya” in subparagraph (1).

The first part is to tidy up the Bill by removing unnecessary wordings. With regard to the second bit in Sub-clause 12, the Committee felt that the agency should have powers to initiate its own investigations at any given time, so that our traders are safe. If we have an agency with powers to investigate at any given time, they could do that and confirm that, indeed, dumping has not occurred in our country.

(Question of the amendment proposed)

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

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

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

(Second Schedule as amended agreed to)

Third Schedule

Hon. Langat: Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Third Schedule to the Bill be amended –

(a) in paragraph 3 by deleting the word “subparagraph” appearing in subparagraph (3)(1) and substituting therefor the word “sub-subparagraph”;

(b) in paragraph 5 by inserting the word “is” immediately before the word “desirous” appearing in subparagraph (3);

(c) in paragraph (8) –

(i) by deleting the word “may” appearing immediately after the word “shall” in subparagraph (1);

(ii) by deleting the word “arguments” appearing in subparagraph (2) and substituting therefor the word “submissions”;

(iii) by deleting the word “arguments” appearing in subparagraph (3) and substituting therefor the word “submissions”;

(d) in paragraph 9 by deleting the word “arguments” wherever it appears in subparagraph (1) and substituting therefor the word “submissions”;

(e) in paragraph 13 by deleting the expression “19(1)” appearing in the closing statement of subparagraph (6) and substituting therefor the expression “18 (2)”;

(f) in paragraph 14 by deleting the word “and” appearing at the end of subparagraph (2)(i);

(g) in paragraph 17 by inserting the word “daily” immediately after the word “two” appearing in subparagraph (6);

(h) in paragraph 18 by inserting the word “daily” immediately after the word “two” appearing in subparagraph (4);

All these are corrections of grammar, typos and essentially tidying up of the Bill.

(Question of the amendment proposed)

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

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

(Third Schedule as amended agreed to)

Clause 2

Hon. Langat: Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 2 of the Bill be amended—

- (a) by inserting the following new definition in the proper alphabetical sequence – “Board” means the Board of the Agency as constituted under section 6”;
- (b) in the definition of “Cabinet Secretary” by deleting the word “international” appearing immediately before the word “trade”;
- (c) in the definition of “domestic like product” by inserting the word “product” immediately after the word “produced”;
- (d) in the definition of “domestic market” by inserting the words “including the EAC as a single customs territory” immediately after the word “country”;
- (e) in the definition of “EAC” –
 - (i) by inserting the word “the” immediately after the word “means”; and
 - (ii) by inserting the words “as a single customs territory” immediately after the word “community”.

Clause 2 is about definitions. We are streamlining some of the definitions such as that of the East African Community (EAC) by inserting the words, “as a single customs territory” after the word, “community”. Kenya is part of the EAC and we need to treat it as a single customs territory in terms of the application of these remedies. Amendments in (b) are on the definition of “Cabinet Secretary.” The Bill currently defines the Cabinet Secretary to be the one in charge of international trade but we are saying he should be the Cabinet Secretary for trade matters as a whole.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): That marks the end of it. Let us have the Mover to move reporting.

Hon. Ochieng: Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the the Kenya Trade Remedies Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): So, we will move to the next one,

then proceed eventually to transact this other one later. Hon. Ochieng, please, be around. Members just to be clear, we have, for purposes of administration, decided to put the next one then we will come back to the Occupational Therapists (Training, Registration and Licensing) Bill.

Next Order

THE BASIC EDUCATION (AMENDMENT) BILL

Clause 3

The Temporary Deputy Chairman (Hon. Cheboi): On behalf of the Committee I am told Hon. Makenga is moving this proposed amendment. Let us hear from him.

Hon. Makenga: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 3 of the Bill be amended in paragraph (b) by—

(a) inserting the words “conditional capitation funds to facilitate” immediately before the words “the acquisition of”; and

(b) deleting the word “disposable”.

(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 3 as amended agreed to)

Clause 2

Hon. Makenga: Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended in paragraph (b) by—

(a) deleting the word “disposable”; and

(b) inserting the words “and provide a safe and environmentally sound mechanism for disposal of the sanitary towels.” immediately after the words “who has reached puberty”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I see no major interest.

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

(Question, that the words to be inserted)

be inserted, put and agreed to)

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Makenga, can you please move reporting.

Hon. Makenga: Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Basic Education (Amendment) Bill (National Assembly Bill No.39 of 2016) and its approval thereof with amendments.

The Temporary Deputy Chairman (Hon. Cheboi): What is it Hon. Member? I can see you raising a one finger salute.

Hon. Onyura: *(Off microphone).*

The Temporary Deputy Chairman (Hon. Cheboi): Okay, if that is the position it will be corrected.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): That marks the end of that Bill. We will proceed to the next one which is the Occupational Therapists (Training, Registration and Licensing) Bill (National Assembly Bill No.41 of 2016).

THE OCCUPATIONAL THERAPISTS
(TRAINING, REGISTRATION AND LICENSING) BILL

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Dr. Pukose.

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

THAT, Clause 4 of the Bill be amended—

(a) in sub-clause (1) by—

(i) deleting the word “Board” appearing in the marginal note and substituting therefor the word “Council”;

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

“(a) the Chairperson, appointed by the Cabinet Secretary from among the persons nominated under paragraph (i);”

- (iii) inserting the words “who shall be an *ex officio* member of the Council without a right to vote” immediately after the word “Registrar” appearing in paragraph (c);
- (iv) deleting paragraph (e);
- (v) inserting the words “or his or her representative” immediately after the words “Medical Training College” appearing in paragraph (f);
- (vi) deleting paragraph (g);
- (vii) deleting paragraph (i) and substituting therefor the following new paragraph—
 - “(i) six occupational therapists competitively and transparently nominated by the Association, who shall include—
 - (a) two occupational therapists employed in the public service one of whom shall be employed in a county government;
 - (b) one occupational therapist employed in the private sector;
 - (c) one occupational therapist with disability;
 - (d) one occupational therapist from the gender least represented in the Council;
- and
 - (e) one occupational therapist employed in a University in Kenya which awards qualifications recognised by the Council.”
 - (viii) deleting paragraph (j);
 - (b) in sub-clause (3) by deleting the words “the Cabinet Secretary in consultation with the association” and substituting therefor the words “the Council;”
 - (c) by deleting sub clause (4) and substituting therefor the following new sub clause—
 - “(4) The Council members referred to in subsection (1) (b), (h) and (i) may attend the Council meetings in person or through their representatives appointed in writing”
 - (d) deleting sub clause (6);

The justification for the amendment in Clause 4(1)(i) is that it seeks to harmonise provisions of the Bill touching on the Council. It aims to establish a council as the administrative unit and not a board. In Clause 4(1)(ii)(a) the amendment seeks to provide a predefined pool from which the Cabinet Secretary (CS) may use when selecting a nominee for a position of Chair.

In Clause 4(1)(iii) the amendment seeks to ensure that the Registrar of the Council who is the secretary shall not be able to vote as a matter of right. This provision will help to eliminate the conflict of interest in any matter being deliberated at the Council meetings.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Onyura, you have the Floor.

Hon. Onyura: Hon. Temporary Deputy Chairman, I stand to support the amendment because it is cleaning up and removing certain ambiguities.

(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 4 as amended agreed to)

(Clauses 5, 6, 7, 8, 9, 10, 11 and 12 agreed to)

Clause 13

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Pukose.

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

THAT, Clause 13 of the Bill be amended by deleting paragraphs (b), (c) and (d).

This is the deletion of statutory bodies which are already envisioned and covered under paragraph (f).

(Question of the amendment proposed)

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

(Clause 13 as amended agreed to)

(Clauses 14, 15 and 16 agreed to)

Clause 17

The Temporary Deputy Chairman (Hon. Cheboi): Hon. (Dr.) Pukose.

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

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

Appointment of Registrar.

17. There shall be a Registrar of the Council who shall be recruited and appointed by the Council through a competitive and transparent process.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I can see Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairman, I rise to support the proposal because it is important. In the Ministry, we have had a tendency where chief officers automatically become registrars and this presents a problem of management later on. Therefore, Clause 17 corrects that.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Agostinho Neto, the Member for Ndhiwa, you have the Floor.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Chairman. I have no problem with supporting this proposed amendment, but I have a problem with the use of the words---

The Temporary Deputy Chairman (Hon. Cheboi): Speak in English.

Hon. Oyugi: Hon. Temporary Deputy Chairman, I will try. I am saying I have no problem with the proposed amendment in Clause 17. My only worry is the use of the words “recruit” and “appoint” in the same line, which are fused in the same body. I hope that they can agree to cancel the word “appoint” and then someone else recruits, as opposed to the Council being the one that recruits and appoints at the same time. I am wondering whether they can consider that proposal.

The Temporary Deputy Chairman (Hon. Cheboi): If you understood that language, do you have anything to say on this amendment, Hon. Pukose?

Hon. (Dr.) Pukose: He has a problem where we are talking of recruitment and appointment. Recruitment should be part of the appointment but from the legal point of view, I accept his advice.

*(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 17 as amended agreed to)

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

Clause 23

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

THAT, Clause 23 of the Bill be amended in sub-clause (2) by deleting the words “member of the society shall pay the Society” and substituting therefor the words “occupational therapist registered under subsection (1) shall pay the Council.” This is a clean-up because we are not talking about a society but a Council.

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

(Clauses 24, 25, 26, 27 and 28 agreed to)

Clause 29

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

THAT, Clause 29 of the Bill be amended in sub clause (1) by deleting the words “or dietician” appearing in paragraph (c).

We are not referring to dieticians in this Bill but to occupational therapists. There was an error there.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Chairman, I support the proposed amendment, which is very interesting. We learnt at the Committee that when we use drafters, they pick other Bills or Acts. That is the only way the word “dietician” can appear where we are not dealing with dieticians at all, but with occupational therapists. It is a correction.

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

(Clause 29 as amended agreed to)

(Clause 30 agreed to)

Clause 31

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

THAT, Clause 31 of the Bill be amended by deleting the words “Cabinet Secretary” appearing in sub clause (1) and substituting therefor the word “Council”.

This is a substitution. The purpose of the amendment is to ensure that the Council prescribes the terms and conditions of an occupational therapist who engages in private practice. It is not the CS who will do that but the Council.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Chairman, I rise to support all these proposals today. This is an extremely important amendment which makes a distinction between the mandate of the Cabinet Secretary and the Council. We intend the Council to do the job but not the CS.

I support the amendment.

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

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

(Clause 31 as amended agreed to)

(Clauses 32, 33, 34 and 35 agreed to)

Clause 36

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

THAT, Clause 36 of the Bill be amended in paragraph (a) by deleting the word “Society” appearing immediately after the words “payable to” and substituting therefor the word “Council”.

This is a typographical error. We are not referring to the society but to the Council.

The Temporary Deputy Chairman (Hon. Cheboi): That is a straightforward amendment.

(Question of the amendment proposed)

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

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

There is a conglomeration of the independent and party leaders of those other parties who are very active to the left of the Chair. That is a reincarnation.

(Clause 36 as amended agreed to)

(Clauses 37, 38, 39 and 40 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): That vigour should be taken very easily to our respective constituencies. A few of other Members will come back to the Chamber. Let us proceed.

Clause 41

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

THAT, Clause 41 of the Bill be amended by deleting the words “himself/herself out as being a clinical officer” appearing immediately after the words “or hold” and substituting therefor the words “himself or herself out as being an occupational therapist”.

This is where the drafters are drafting many Bills for many professionals, for example, clinical officers and dieticians. We are dealing with a Bill for occupational therapists. So, we delete the word “clinical officer”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. (Dr.) Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairman, I rise to support this amendment. We are just noting the copycat issue. I also rise to note that we can see what is coming in future. The party of independents will have a lot of sway and a voice in the Assembly. We note it with--

The Temporary Deputy Chairman (Hon. Cheboi): I would like to correct you. There will be no party of independents. There can only be independents but not their party.

Hon. (Dr.) Nyikal: From where I sit, Hon. Temporary Deputy Chairman, it is a very likely possibility.

The Temporary Deputy Chairman (Hon. Cheboi): You did not contribute to this one. I did not see or hear anything. I will take it as a contribution.

(Laughter)

Hon. (Dr.) Nyikal: I support the 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)*

The Temporary Deputy Chairman (Hon. Cheboi): There is a problem there. We have to redo it. First, Members, let me make it very clear that the independents cannot conglomerate. They will be independent on their own.

Hon. Pukose you must be very careful.

(Clause 41 as amended agreed to)

New Clause 42

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 41—

42

Acting
Registrar

The Chief Occupational Therapist at the Ministry for the time being responsible for matters relating to health shall hold the office of the Registrar until the first appointment is made under Section 17.

(Question of the new clause proposed)

(New clause read the First Time)

The Temporary Deputy Chairman (Hon. Cheboi): You are now through. Let us proceed. You will have time to contribute later.

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

The Temporary Deputy Chairman (Hon. Cheboi): You can now contribute.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairman, this is a new clause. For the time being, the Chief Occupational Therapist at the Ministry responsible for matters relating to health shall hold the Office of the Registrar until the first appointment is made under Section 17. This is a transitional clause so that once this law becomes an Act, we will not have a vacuum. We will have somebody who will act in that position until the process of competitive recruitment of the Registrar is done.

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

(The new clause was read a Second Time)

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

(Schedule agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): I will now call upon the Mover to move reporting to the House. Hon. Sang, please report to the House.

Hon. Sang: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Occupational Therapists (Training, Registration and Licensing) Bill (National Assembly Bill No. 41 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS

The Temporary Deputy Speaker (Hon. Cheboi): We will start with the Kenya Trade Remedies Bill (National Assembly Bill No.4 of 2017). Let us have the Hon. Chair.

THE KENYA TRADE REMEDIES BILL

Hon. Ochieng: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said report.

The Temporary Deputy Speaker (Hon. Cheboi): We are not moving reporting now. We are reporting to the House.

Hon. Ochieng: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Kenya Trade Remedies Bill (National Assembly Bill No.4 of 2017) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Cheboi): I now call the Mover to move for agreement with the report.

Hon. Ochieng: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Onyura to second the Motion for agreement with the report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Onyura, I do not see your card.

Hon. Onyura: Hon. Temporary Deputy Speaker, I beg to second the report.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): I see no major interest. Hon. Seneta, the Member for Kajiado, do you want to say something on this?

Hon. (Ms.) Seneta: No.

The Temporary Deputy Speaker (Hon. Cheboi): There is no interest. I will not dispose of this because we do not have the required numbers.

(Putting of the Question deferred)

We will move to the next one which is the Basic Education (Amendment) Bill (National Assembly Bill No.39 of 2016)

THE BASIC EDUCATION (AMENDMENT) BILL

Hon. (Ms.) Seneta: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Basic Education (Amendment) Bill (National Assembly Bill No.39 of 2016) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Proceed and move agreement with the report.

Hon. (Ms.) Seneta: Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said report.

I request Hon. Iringo Kubai to second.

Hon. Kubai Iringo: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Neto, do you want to say something? I see you have removed your card. You have no interest. I will not put the Question on this one for obvious reasons.

(Putting of the Question deferred)

Let us proceed to the Occupational Therapists (Training, Registration and Licensing) Bill (National Assembly Bill No.41 of 2016).

THE OCCUPATIONAL THERAPISTS
(TRAINING, REGISTRATION AND LICENSING) BILL

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Occupational Therapists (Training, Registration and Licensing) Bill (National Assembly Bill No.41 of 2016) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Mover to move agreement with the report.

Hon. Sang: Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said report.

I request Hon. (Dr.) Pukose to second the Motion of agreement with the report of the Committee of the whole House.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

Hon. Nyikal, do you want to say something on this Bill?

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Speaker, I just want to congratulate the Mover of this Bill. This is an extremely important Bill that will now become an Act. We have many of them. We now have the Health Act, which I presume has been passed, and all this will have to be put together under the Act. It is one step forward to avoid the kind of confusion we are seeing in the health sector that is giving rise to many problems, including even the on-going strike. This is an important step.

I support it.

The Temporary Deputy Speaker (Hon. Cheboi): Again, I will not put the Question on this one because we do not have the required numbers.

(Putting of the Question deferred)

Hon. Members, that marks the end of this one. We will now proceed to the next Order.

BILL

Second Reading

THE BREASTFEEDING MOTHERS BILL

*(Hon. (Ms.) S.W. Chege on 31.5.2017)**(Resumption of Debate interrupted
on 31.5.2017 – Morning Sitting)**[The Temporary Deputy Speaker
(Hon. Cheboi) left the Chair]**[The Deputy Speaker (Hon. (Dr.)
Laboso) took the Chair]*

Hon. Deputy Speaker: Hon. Aghostinho Neto, do you want to contribute on the Breastfeeding Mothers Bill?

Hon. Oyugi: Yes.

Hon. Deputy Speaker: You have the Floor.

Hon. Oyugi: Thank you, Hon. Deputy Speaker. I would like to support this Bill. It is a Bill that creates very interesting provisions.

First, the rights of lactating mothers and those of children, because of employment spaces and distances, should not be curtailed now that this Bill is going to see the light of the day. Our mothers, for a long time, have suffered because they have to report to work and the baby has to be weaned early enough for mothers to go to work. Providing for their needs by having a place where mothers can have safe havens and places for breastfeeding is good and timely.

Clause 3 of this Bill provides for expressing of breast milk. Because we have already created space for lactation, I am wondering if at all there will then be need for expressing milk. Maybe, there ought to have been a provision for care givers to be allowed in the work place. Clause 4 prescribes the manner in which the lactation environment needs to look like. I am of the view that the lactation space should be more of a regulation issue as opposed to providing for it in law under a substantive clause. You do not want to straightjacket the framework for lactation place. While I think it is important requesting for a lactation space to have various contents, like a fridge and a wash basin, among other things, it would differ from employer to employer.

The employment environment will not be certain. If at all this clause was introduced, the Schedule would be important because we would then have the various employers trying to meet the various criteria of what the employment environment should look like.

One other thing we need to look at and focus on is that there could be employers who may not have good intentions, and who may go against the spirit of this law. I am happy that there is provision for penalties against employers who may not meet the prescribed criteria.

This Bill is forward looking and mothers need to make use of it. For a long time, the rights of breastfeeding mothers have been curtailed. That issue is going to be dealt with. The provision on flexible work arrangements for breastfeeding mothers is also a plus so that mothers are not punished by virtue of the fact that they have little children.

Clause 6 is fairly important with regard to having flexible working conditions and the manner of assignment of work, so that instead of having loss of man-hours, at least, the flexibility will give mothers a chance to work in a manner that is also psychologically good for them and for the children.

Clause 7 of this Bill, which provides that there must be spaces where baby-changing facilities are provided for, is also good. The baby-changing facilities ought to be part and parcel of the lactation area. The lactation area should not just be for purposes of feeding, but they should also be safe spaces where you can, once or twice, prescribe to have caregivers. One of the things I am not seeing being taken care of in this Bill is the place for caregivers. Where are you going to have a lactating baby? Who takes care of the baby when the mother is at work? There ought to be an arrangement where there is both space for the mother and the caregivers. It ought to be one that looks in the overarching scenario of baby care which is not just about breastfeeding. You need to think about who takes care of the baby when the mother is at work because the baby cannot be alone in the lactation space.

The general penalty that is prescribed in this Bill, though pegged at Kshs500,000 needs to be distinguished in terms of sections. I know general penalties cover all the sections but there is already a penalty that has been covered in Clause 4 of the Bill. Therefore, there ought to be other penalties that would not have been envisaged that we need to think about.

All in all, it is a very good Bill. One, it is going to help in giving lactating mothers space. Two, most of the things that have been contained substantively in the Bill ought to be issues of regulations. Third and last, the space for caregivers needs to be taken into consideration so that we care for both lactating mothers and caregivers.

I support the Bill.

Hon. Deputy Speaker: Hon. Cyprian Iringo, you have the Floor.

Hon. Kubai Iringo: Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to this Bill. First and foremost, I rise to support the Bill and congratulate the drafter of the Bill, Hon. Sabina Chege of Murang'a County. I know she came up with this one because she is a candidate to this effect. I fully agree with the Bill.

We are told by medics that mothers should breastfeed children for many months. There are those mothers who breastfeed for over one year. Therefore, this basic right of a child should not be denied simply because the mother is working. Mothers should be given ample time to raise babies in a healthy way.

Breastmilk is said to be the best food for a child during the first six months. However, there are jobs which are demanding and they block mothers from breastfeeding their children adequately. We know of mothers who are forced to go to work at night, say, nurses. In this regard, babies are denied their right to breast milk. So, providing for lactation spaces in premises for mothers to breastfeed their babies is something that will help a great deal. Indeed, mothers will have their privacy as they breastfeed their children. I want to believe that the spaces will be of high hygienic conditions. This is because the Bill spells out what a lactation room should have, for example, a fridge, wash basins, water, lockers and so on. It should also be well aerated.

This Bill lacks something which I think Hon. Sabina will include during the Committee of the whole House. It does not provide for space for the caregivers. You cannot keep the baby alone in the lactation room. There must be somebody to take care of it. This Bill should also provide for that person who will be taking care of the baby when the mother is at work. We know there are mothers whose work places are near their homes or they work for shorter hours and then go home. It should be spelt out in the Bill how many lactation rooms an

institution should have. Work places must also know the number of, say, tables or beds they need in order to fulfil this requirement of the law. For instance, here in Parliament, how many ladies with babies do we have? If it is a school, the number of lady teachers should also be known. This will help in planning. Therefore, the Bill should spell out the requirement that establishments need to provide for facilities that are adequate. In that case, it would be a watertight law and establishment would be bound to provide adequate nursing spaces for breastfeeding mothers.

There is also the issue of working hours. The Bill states that lactating mothers should be given at least 40 minutes to breastfeed their children within a period of four hours. Forty minutes for breastfeeding is too much because the baby will not breastfeed for all those minutes! It should be reasonable time. Once the baby is fed, then the mother should go back to work. There is a possibility of some mothers abusing the law and resorting to malingering. We need to change it to some reasonable time.

I also support the fact that any institution which will not effect the provisions of this Bill, will have breached the law. A fine of Kshs500,000 has been prescribed for those who fall culprit. In my view, it is quite punitive. We should consider lowering it.

I support the Bill. When it comes to the Committee of the whole House, I will propose some amendments so that we can polish it further.

Hon. Deputy Speaker: Michael Onyura.

Hon. Onyura: Thank you, Hon. Deputy Speaker. I rise to support this Bill and congratulate Hon. Sabina for bringing it up. This is a very progressive Bill. Although it is coming up now, what it is proposing is not an entirely new practice. I remember when I used to work in the plantation industry, through Collective Bargaining Agreements (CBAs) with the employer and the trade unions, we used to have an arrangement where mothers were allowed to have “nursing breaks” at intervals in order to breastfeed the young one. This is a very worthwhile investment. I hope that employers will support it and co-operate fully. The practice is bound to benefit our nation. Breastfeeding of children accrues a lot of advantages to a nation. For instance, the body immunity of children goes high and they are bound to enjoy general good health. Remember these are our future employees. Again, with breastfeeding, the bond between the mother and the child is enhanced. It has a lot of economic and health advantages. Breast milk is the most natural meal that our children can be given.

This Bill will go a long way in enhancing the rights of the mother and children and their general welfare. Even as we improve the welfare of mother and child, we need to go a bit further and look even at improving the terms and conditions of service in certain areas. I have in mind something like the entitlement to maternity leave. I think if you compare with good practice in other countries, you will find that this is something that is taken very seriously. You will also find that there are countries which give maternity leave for as long as six months or even more. I think such countries have understood that it pays to invest in upbringing of the nation’s children.

I am also encouraged that the Bill provides for the CS to make regulations that can enhance compliance with the objectives of the Bill. At least, we can start from where the Bill is now and keep improving the conditions and the regulations as we move on, as we also learn from other best practices internationally and as we learn from our mistakes and limitations. I think that is a very good provision.

Finally, there is need for continuous civic and health education generally. This is because we may provide something like this for the working mothers but overall in terms of percentage of our population, I think that is a small minority. So, there is need for the larger majority who are not working and who are, maybe, housewives and self-employed mothers, also to be

sensitised and given adequate education in this area so that they too can be able to comply with the good objectives of such a Bill.

I support the Bill very strongly.

Hon. Deputy Speaker: Hon. James Nyikal.

Hon. (Dr.) Nyikal: Thank you, Hon. Deputy Speaker. I rise to support this Bill. It recognises two extremely important factors in the life of any nation. One is the role of child bearing and child rearing of a mother. This is such a big issue and it is often ignored. People do not realise why, in many instances and even in politics, women do not go into many occupations, including politics because they value their role of child rearing. We should recognise this in a law that women are supported to look after the children while they are doing other jobs which is extremely important. In fact, it will increase the productivity of women as employees. Some people may think that if you undertake all this, it will increase the cost of production. I am convinced that the productivity that will increase through this process will far outweigh the cost that will be put there. I think that is a good thing. Many times, women will tell you that if I am doing this at the risk of the life of my baby, I will not do it. So, I think this is an extremely important recognition.

The other one is the health of a baby and the importance in the development of the human being. The first two years of life are extremely important in the growth of human beings and breastfeeding is such an integral part of this and without it, people may actually survive and grow, but not meet their natural potential in life. Breastmilk is not only for nutrition but it actually has what we would call medicinal values. It protects children and helps them recover from illnesses. It is particularly important in the development of the brain. In fact, in environments where there is no much food and there is malnutrition, just breastfeeding alone will ensure proper development of the baby. I support the Bill for bringing these issues and helping mothers who go to work take care of their babies in an environment that is healthy.

There is the issue of the lactation place. Honourable members have indicated that probably it is too prescriptive on what should be in the lactation place. This is a health requirement. When babies are going to be fed, there are things that are necessary and I think the list that is indicated here is a bare minimum that must appear in law. If you leave it to the employers to say that they have put a place, people will just get a small area and tell the mothers to go and breastfeed their babies there. That is not the essence. The essence is to make sure that the baby is fed in the most appropriate and healthy situation.

Clause 4(3)(b) goes further to say:

“Provide appropriate programmes that develop a baby’s cognitive, emotional, social and language abilities”.

All the time, babies are developing, minute by minute, hour by hour and day by day. What they see, experience or play with is important in their development. So, this is not just another corner that is going to be put in working areas so that the requirements of the law are met. It is important that it is recognised.

I also like the indication that there should be a play area. I think we should move towards even getting a play area. We should also think about who looks after the baby after it is breastfed and the mother goes back to work. I think we should look at adequate provision for caretakers to be there and it is not too expensive, if you look at the development of the baby. People tend to think that babies and children belong to the parents. That is not true. I think babies and children are the greatest national assets to which the nation and any institution must contribute to.

I like the flexibility that is required, the working times and the time provided for breastfeeding. It will be pointless to have a place set aside and there is no time also set aside for that. There is the issue of flexibility. Those of us who have had the opportunity to work with mothers know that they are very sensitive to what happens to the babies. That flexibility is important so that even between the allowed times, there may be occasional need for the mother to attend to the baby. Therefore, I think that flexibility is extremely important.

The Hon. Member indicated that 40 minutes may be too long to breastfeed a baby. No, breastfeeding a baby is a process of bonding and feeling between the baby and the mother. People may not know that by the age of six months, in fact a baby may feel that the mother is not important and even refuse to breastfeed. So, it is not just pulling out the breast and putting it in the baby's mouth. They need to interact and bond and then the feeding has the value that it should have.

I am extremely happy with this Bill and I support it. The penalties that have been put in place are extremely important because we are not just going to put a law and leave it there. You cannot leave many things to the goodwill of employers and people. People have to know that if you do not look after our babies while their mothers are working in your institutions, you will pay for it.

I support this Bill and we may make amendments when it comes to the Committee of the whole House, depending on when it will come and whether we shall all be here. We will definitely make amendments to actually make the Bill even better.

With that, I support.

Hon. Deputy Speaker: Hon. Mary Wambui.

Hon. (Ms.) Munene: Thank you, Hon. Deputy Speaker, for giving me this opportunity. I rise to support the Bill because I know breastfeeding the baby is very important for the mothers. Also, the 40 minutes is not a long period because when you breastfeed the baby, you will know whether your baby is wet or not. You also need to comfort the baby. So, it is not a long time. When a mother goes to work, she does so because of her family. When she gets a healthy baby, she feels proud. I, therefore, ask all Members to support this Motion and pass it.

With regard to the penalty that has been prescribed, I think it is not a lot of money. If we make it, say, Kshs100,000, people will feel bad about it and they will just pay the money. This should be law so that where women are working... Young ladies have been employed and they need to get babies. We, therefore, cannot take for granted that their employers are going to do that job willingly. We need to have this in law.

It is good for us to know that our children are the future leaders. A country that has healthy babies feels proud. I am happy about Sabina Chege for bringing this Motion to this House so that we can know that even when our children...

Hon. Deputy Speaker: Hon. Mary Wambui, please note that it is a Bill and not a Motion.

Hon. (Ms.) Munene: We are asking Members to pass this Bill because we know that once people are employed, most of them will want to get babies. So, we want them to be supported. It is good to support this Bill. That is why I am saying Kshs500 is not a lot of money. Some people could say, "I have money and even if I am taken to court, I will pay the fine." So, we need to put it as a law in this country so that in future, we have more babies and more healthy children to help this country.

We also need to ensure that those children are taken care of. The facilities holding them must be kept clean. Also, the people employed to take care of the babies must be clean themselves. Thank you, very much. I support.

Hon. Tong'i: Thank you, Hon. Deputy Speaker for giving me this opportunity to speak to this Bill. It is timely because it is going to address some of the challenges the modern parents are faced with.

At the outset, I want to indicate that I am supporting the Bill for many reasons. One, as parents, we are the most influential books our children will ever read on the subject of character formation, societal values and what makes a family a special place to be. The Bill has come in good time considering the kind of challenges we have nowadays as young parents. We have wives who, unlike our mothers, go to work to earn a living. Some of them work for longer hours than men. Therefore, it calls on us, as a society, to ensure that an enabling environment is created for the parents to do what they must to do and still inculcate values in their growing children.

We all appreciate that there is power in bonding. It is important for a mother to bond with her child during its formative years, say, 0 years to 2 years. The importance is not only for the mother, but for the country at large. We all have a duty to ensure that our country upholds values. Our children need to respect societal values. They must know the position of a family in society and, more so, the role of a father and a mother in society. That is a very important aspect to consider when building a holistic country. If we do not do that, we are going to have people who have gone to school, but do not have an idea of what it takes to build a nation. This Bill, in many ways, attempts to address that issue because it provides for mothers to bond with their children. If we pass it, we would have done a lot of justice to this country.

Employees are as good as employers. If the environment under which employees work is not supportive, definitely they will not give their best at work. When you are a young mum and you know your child is hurting somewhere, especially with a nanny who is not caring enough and who punishes innocent children, you will always be disturbed at work. It is because you are not in control of what is happening back at home. However, when you know your child is well at home, it gives you comfort and satisfaction hence you are more motivated to give your best at your place of work and that increases productivity. Once productivity is increased, the issue of unemployment will be addressed. It is simply a chain of activities. Once we address that, then production will go up.

It is important that we become sensitive to some provisions in this Bill. I am imagining Small and Medium-Sized Enterprises (SMEs). We may pass a law that binds businesses and companies to create a place for lactating mothers. We could be closing small companies which have just started to grow. Small companies cannot afford some of the expenses required of them. To effect that provision of the law, you need space and we all know that space costs money. Other than that space to be used for breastfeeding, you need to have other equipment like fridges. You will also need to employ people to take care of the children, keep the place clean and so on. That is a costly affair and many companies cannot afford to provide all that, especially at the formative stages.

At a later stage, I would want to propose an amendment which stipulates that only companies with a given turnover should be required by law to effect what the law is proposing here. If we pass the law as it is, every business and company must then have that facility. We will be shooting ourselves in the foot in the sense that we will not have created an opportunity for the young entrepreneurs from our universities. They have great ideas, but they lack capital. So, we need to strike a balance between noble ideas and the creation of an enabling environment

for businesses to thrive. It is by doing that, that we will create employment opportunities. I come from a region where unemployment is such a mess.

Recently, when Parliament advertised for opportunities which were less than 100, I was taken aback by the queue that I saw out there. I am told that some people had applied online. If that is a representation of unemployment in the country, then I think we need to do something and encourage people who have ideas on how to start businesses. We should not kill their ideas by putting hurdles on their way. We should not injure their businesses. If we do that, we will be affecting our economy negatively.

As I said from the beginning, parents are the most influential books our children will ever read on the subject of morality, Christianity and what it takes to be a good person. Mother Teresa said: "If all of us can clean the front of our houses, the entire world would be a clean place to live in". If each one of us can do his or her bit to make our lives more bearable and to enable our children grow up with the values that are going to make our country a better place to live in, then all of us can be sure of a better tomorrow.

I support the Bill.

Hon. Deputy Speaker: Hon. David Ochieng.

Hon. Ochieng: Thank you very much Hon. Deputy Speaker. I rise to support this very important Bill. As you know, maternity leave that mothers get is only 90 days. Indeed, that is a very short time given that we are advocating for longer periods of breastfeeding, that is, 60 months in the minimum. This Bill tries to cure a very important anomaly that we have today. Mothers are now required to breastfeed their children early enough so that they can go out there to engage in the rigors of work in order to earn a living. That is why the thought by Hon. Sabina Chege, to have employers provide a conducive environment for breastfeeding, must be lauded. Advantages of breastfeeding abound. Above all, children who are breastfed adequately grow up as healthier children. Breastfeeding keeps diseases away from children, hence reducing the country's budget on health care. It is no brainer that a child that breastfeeds for six months is healthier than a child that breastfeeds for only two months. We have seen, and this goes to my sisters, our mothers and wives who are still giving birth, that breastfeeding does not make you ugly; breastfeeding does not make you less smart; breastfeeding makes you a better mother, a caring mother and makes your child healthier. So, those who stop breastfeeding early by choice - some of them by the first or second month, is not good. They do what this Bill calls expressing. I do not know what it means because it is not very well defined, in my opinion. If you asked our mothers about expressing, it is a modern way of doing things, yes. But it is a lazier way of doing things and one of the things that this Bill seeks to secure.

Breastfeeding by letting your child suckle is the best way to make the child grow healthier. It comes with so many advantages, including delaying ovulation. It is scientifically proven that breastfeeding delays ovulation. So, it helps you delay unwanted pregnancy for about three or four months after the child has been born. It makes the child have stronger bones. It has reduced child mortality rate in the country. Therefore, to some extent, this Bill will encourage breastfeeding and it will also encourage fathers to ensure that they participate in making breastfeeding easier, comfortable and fashionable for women. It is good.

I agree with Hon. Tong'i that there are aspects of this Bill that could make it a still-born. If you say that an employer will provide an adequate number of trained staff on breastfeeding, if you are saying that an employer will provide nutritionally balanced meals and snacks daily, that cannot be the job of the employer. Food and water should be provided for by the mother. So, I

will be moving amendments to ensure that this venerable Bill does not meet resistance in implementation because of the cost.

I run a law firm with about 16 employees. In that law firm, I must provide those services! It may shock you that out of the 16 employees, 11 are ladies and so, I will be required to provide those kinds of services. Probably, I would change my mind and employ only men so that I do not have to provide those services.

We must have Government contribution. It must facilitate employers to provide those facilities, either through tax exemption or tax refunds. It will be good to encourage people because this is something we are trying for the first time. It will be good to say, for example that, if as an employer you can prove that you have met the requirements under this Bill, and you have spent, for example, Kshs100,000, then you are tax-exempt to that extent. That would make the implementation of this Bill easier. I would want to talk to Hon. Sabina Chege to look at innovative ways through which implementing this Bill may not look punitive.

Above all, what we may also need to do going forward is to continue with civic education to young mothers to understand that breastfeeding is a good thing to do, and that it helps our children grow well. I can only hope that we go back to what we used to be where a child grew normally, a child belonged to the community and it looked good when someone just removed their blouse and fed her baby without someone thinking it is mannerless. It is the best thing that happened to our children. All of us must encourage this.

Finally, the new mothers will also have to be responsive to what we are trying to do. The frustrations of life would require that someone has to send their children from home to the place of work to be breastfed and then take them back to the house. It requires a two-way process where the mothers concerned must be very responsive. Even the fathers concerned should be responsible to the extent that they are able to go back home to bring the child to breastfeed. It is a two-way process. We will have to create awareness between both parents - It is a two-way process and it reduces medical bills.

Currently, if you go to hospitals, it is all about allergies and very basic illnesses that could be cured. We are taking our children to physiotherapists. That should be avoided using breastfeeding. Our children are going through small diseases that could be avoided. If both parents take responsibility in this regard, I am sure this country will be much better off.

Hon. Deputy Speaker, I support.

Hon. (Ms.) Khamisi: Ahsante sana, Mhe. Naibu Spika. Kwanza, nachukua nafasi hii kumpatia kongole dadangu Mhe. Sabina Chege kwa kutupatia Mswada kama huu. Sisi kama viongozi akina mama 47, sababu moja ambayo kulitengezwa viti hivi ni kuwa tuweze kuhakikisha haki za akina mama na watoto zimeangaliwa. Katika Mswada huu, ametimiza jukumu lake kama kiongozi wa akina mama.

Sote tunafahamu kwamba maziwa ya mama ni muhimu sana kwa mtoto mchanga kwa sababu yanapunguza maradhi mengi ambayo yangukuwa rahisi sana kumshika mtoto katika umri mdogo kama ule.

Vile vile, tukizingatia watoto ambao wamezaliwa na maradhi ya kisasa ya ukimwi, madaktari wanahimiza sana mtoto yule anyonyeshwe kwa muda wa miezi sita bila kupatiwa chakula kingine chochote. Hivyo basi, ikiwa mzazi hatapata nafasi ya kumnyonyesha mtoto, itamlazimu ampatie chakula mbadala ama maziwa mbadala. Hivyo basi, atapunguza nafasi zake za kusaidika katika kujikinga na maradhi.

Jambo la pili, Mswada huu umezungumzia kuwekwa kwa nafasi ambazo wazazi akina mama watatumia kunyonyesha watoto wao. Hili ni jambo muhimu sana, haswa tukizingatia

wafanyikazi katika taasisi za kibinafsi ama wale ambao wameandikwa na waajiri wa kibinafsi. Imekuwa matatizo sana haswa kwa hao wanaofanya kazi kama vijakazi wa ndani ya nyumba. Watu hao wanapata mateso mengi sana. Kwanza, hawapatiwi nafasi. Hata hizo nafasi za siku za *maternity* huwa kwao ni haba. Vile vile, huwa hawapati nafasi yoyote ya mapumziko katika siku nzima ambayo wako kazi. Kwa hivyo, Mswada huu utakopopitishwa, wale waajiri wa kibinasfi watahakikisha kwamba wamefuata sheria hii inavyotakikana.

Kama ndugu yangu Tong’i alivyozungumza, kuna masuala katika Mswada huu ambayo yatakuwa magumu kwa waajiri. Pengine, katika kutengeneza ile nafasi na kuhakikisha kwamba taratibu zilizoko katika Mswada huu zimefuatwa, itakuwa ni vizuri waangalie mipango za zile nyakati ambazo mama yule anaweza kupatiwa ruhusa ya kurudi nyumbani kumnyonyesha mtoto kwa njia inayotakikana. Ikiwa hataweza, itambidi afuate sheria hii vile inavyosema.

Vile vile, nakubaliana na mwenzangu aliyesema kwamba kunyonyesha ni njia mwafaka wa kupanga uzazi pasi na kutumia haya madawa ya kisasa ama hizi mbinu za kisasa za kupanga uzazi. Hivyo basi, iwapo Mswada huu utapita na utekelezwe, tutapunguza gharama nyingi na mambo mengi sana na yale matatizo yanayotokea kwa akina mama kutumia haya madawa ya kisasa ya kupanga uzazi. Swala lingine ambalo ningelizungumzia ni kwamba, lazima tuhamasishe akina mama. Wajulishwe ya kwamba Mswada huu umepitishwa wakati tutakaoupitisha ili wajue haki zao za kimsingi. Mama apate haki hii ya kuweza kumpatia mtoto mchanga pia haki yake ya kupata maziwa ya mama.

Swala hili ambalo Mheshimiwa amelitoa ni nzuri sana. Wakati wametengeneza zile nafasi, tusiweke na kusema: “Tumeambiwa basi tufanye tu kwa njia ya kuonekana tumefanya. Lakini hatufanyi kwa njia ya sawa.” Tumeona akina mama wakikimbia kunyonyesha watoto chooni na kwenye jiko wakisema:

“Wacha nikimbie kunyonyesha mtoto hapa kwenye jiko. Nimeletewa mtoto na msichana wa kazi.”

Sehemu kama zile haziwezi kumpatia mtoto nafasi nzuri na kumpa ile haki yake inayotakikana. Pia, nakubaliana ya kwamba dakika arobaine si nyingi. Ni za usawa kwa sababu kabla hujamnyonyesha mtoto, kuna mambo kadha wa kadha ambayo lazima yafanye.

Nashukuru ya kwamba tumeambiwa kutakuwa na beseni ambalo mama ataweza kuosha matiti yake pale. Kutakuwa na jokofu ambayo tutakuwa tumehifadhi yale maziwa ili mtoto aweze kupewa.

Kwa hivyo, hizi njia zote ambazo zimezungumziwa hapa zimezingatia mambo mengi sana ya kiafya na ya kuhakikisha ya kwamba huyo mtoto wakati amenyonyeshwa na mamake, atakuwa amepata ile kinga inayotakikana kwa mujibu wa madaktari wanavyozungumza.

Vile vile, ni jukumu la Serikali kushirikiana pamoja na taasisi za kiafya kuhakikisha hayo mambo mengine yasiyozungumziwa hapa kama vile kile chakula ama vitafunio yanatimizwa. Hii ni kwa ajili ya kuhakikisha kwamba watoto wataweza kukuwa kwa njia inayofaa kulingana na lisho bora. Najua kuna utaratibu wa mambo ya lisho bora unaofanywa kupitia zahanati zetu na Serikali.

Kwa hivyo, kama kutakuwa na ushirikiano kama huo, hayo matatizo mengine yatakuwa si magumu kuyatatua kulingana na Mswada huu. Jinsi ulivyozungumza, mambo ya kuangalia mazingira vile yatakavyokuwa pale pahali ambapo pametengwa kwa mtoto kunyonyeshwa ni muhimu sana. Tusione tu ya kwamba tumeambiwa tuweke mahali na uchukue mahali pachafu. Lazima yawe ni mazingira ambayo hayatamfanya mtoto ama mama kupata maradhi yotote. Kwa hivyo, iwapo tutazingatia kabisa njia hizi na kufanya ushirikiano na vitengo vya kiserikali, taasisi za kiafya na pia vikundi vya akina mama kuhamasishwa kwa zile njia ambazo tutaweza

kuhakikisha kuwa Msaada kama huu umefanyika na kutekelezwa, Bunge hili litakuwa limeweka historia nzuri sana ya kuwafikiria watoto wachanga na akina mama na kuwapatia haki zao.

Hakuna jambo nzuri kama mama kuwa na nafasi ya kumnyonyesha mtoto. Hiyo ndio njia ya kuwa yule mtoto anasoma mambo mengi kutoka kwa mama na anaweza kufahamiana na mamake kwa karibu sana, kwa sababu mtoto mchanga anasomeshwa na mama. Sisi akina mama huwa wakati tunawanyonyesha tunawazungumzia na kuwasemea.

Wao pengine watacheka tu, lakini katika kule kucheka, ndio ya kwamba amesoma yale ambayo umemweleza na kumufahamisha. Kwa hivyo, ile njia ya kusoma kwa mtoto inaanzia mbali sana tangu akiwa mtoto mchanga mpaka akifika kuvunja ungo na kuendelea juu. Njia hii ya mama kunyonyesha ni mojawapo ya kuwafunza watoto wetu wachanga.

Kwa hayo machache, nasema shukrani sana na kongole dada Sabina kwa kuleta Mswada huu. Asante.

Hon. Deputy Speaker: Let us have Hon. Leonard Sang.

Hon. Sang: Thank you, Hon. Deputy Speaker for giving me this opportunity. I congratulate my sister Hon. Sabina Chege for coming up with a legal framework on matters breastfeeding for those who want to breastfeed their children at their work place. This Bill has come at the right time, but, unfortunately, we are almost coming to the end of the 11th Parliament. I wish it could have gone all the way so that it becomes an Act of Parliament.

For a very long time, our mothers have been suffering for lack of a policy on breastfeeding. It is good to realise that there is a provision for a lactation place. It is important to note that there will be space for breastfeeding mothers. It is important to note that the place is shielded and is free from intrusion by co-workers. It should be clean, quiet, private and warm. It should not be a bathroom or a toilet. It is unfortunate that, for a very long time, our working mothers have been rushing to bathrooms and toilets to breastfeed their young ones. That is because there has never been a legal framework on the same.

With this Act, young mothers will have a place where they will breastfeed their children. The importance of breast milk cannot be over-emphasised. We all know that exclusive breastfeeding for six months helps our children on issues of health. It prevents a number of diseases and helps the child bond with the mother. The mother-to-child relationship is very important. When we have this policy in place, we will enhance the mother-infant relationship.

When we breastfeed our young ones exclusively for six months, we somehow prevent immunisable diseases. Many serious infections can be avoided if we stick to six months exclusive breastfeeding. Diarrhoea and coughing can be avoided by exclusive breastfeeding. It is important that we support this Bill because once we enact it, we are going to save our nation by having healthy children.

As I conclude, this Bill is a step in the right direction. Once it is enacted, it will help improve child mortality among other benefits. I support.

Hon. Deputy Speaker: Let us have Hon. Kajuju.

Hon. (Ms.) Kajuju: Hon. Deputy Speaker, I support this Bill first as a mother who has had this experience, and as a daughter who honours a mother - although my mother went to rest on 21st May, 2017. I think this is one Bill that, if passed, is going to respect mothers and give them the opportunity they need to ensure that their children grow up well.

This is one thing which has been neglected by the community and lawmakers for a long time. I think my sister, Hon. Sabina, the Chair of the Departmental Committee on Education, Research and Technology, has done a very good thing for this country and especially for the current mothers and mothers to be. For a long time, we have seen mothers giving birth to their

babies and proceeding on maternity leave. The 90 days are not sufficient for one to take care of a baby. When one goes back to work, it becomes very complicated because even the house girls we employ are strangers to the children and may not take responsibility as expected. More so, when the child falls sick, it becomes very complicated for a mother who has to rush to work and also attend to the child that may be needing medication.

This Bill has allowed a lactating mother to get a balance between caring for a child and work. We know that the workplace environment has been very harsh on mothers. There are situations when employers have a tendency of behaving as if breastfeeding a child is a curse to a mother. Time has come for this to be respected. As I say this, I look at *Mhe.* Sarah Korere, who had an opportunity of becoming a mother in the 11th Parliament. She really appreciates this Bill. Although, she says that in the 12th Parliament she will also attempt to get another baby, I believe she will be the first beneficiary of this Bill because the Deputy Speaker and I do not have an opportunity of enjoying those benefits.

It becomes very complicated for a working mother if she gets an opportunity to travel out of the country to further her career because her employer does not facilitate her to carry the baby and house help. Women have been losing such opportunities and are not able to progress in their careers because, if they have to study while working, their employer does not recognise the fact that they need to breastfeed. Therefore, if we are thinking of our Kenyan population and progressing it to another level, then this Bill takes care of that situation. We also know that there are circumstances whereby employers are not bothered about lactating mothers, even when one seeks for time off to take care of their baby. They are not given an opportunity. It is, therefore, a beautiful thing that this amendment has come to be and employers will be legally obligated.

Hon. Deputy Speaker: It is not an amendment but a substantive Bill.

Hon. (Ms.) Kajuju: Noted. Thank you, Hon. Deputy Speaker. This Bill is going to ensure that the newly married women can comfortably give birth to children and take care of them. There was an issue raised by Hon. Ochieng as to who should carry the burden of ensuring that the breastfeeding mothers have a proper environment to take care of their babies. I think the Government has to take charge of this and encourage employers to implement this law.

Kenya is a country with many laws. The problem is not making the laws, but implementing them. That is why we have sanctions whereby if you fail to implement a certain provision in the law, then they must apply. There should be some sort of Government incentive so that if an employer is implementing this law, then it can be reflected in the tax burden they carry. If you are to implement the Breastfeeding Mothers Act which I believe will become an Act soon, then the Government should be able to recognise this when it comes to payment of taxes by companies and the private sector. I do not think this will create a huge tax burden on the employer in ensuring that there is a comfortable working environment. I agree with what my sister has said in this Bill. It is important for us to breastfeed our children because it gives them higher immunity if they are breastfed for a longer period of time and not just six months. Even for one year. Therefore, this is a good Bill. It gives the children and mothers a longer life expectancy.

Thank you, Hon. Deputy Speaker, I support.

Hon. Deputy Speaker: Hon. Memusi.

Hon. Memusi: Thank you, Hon. Deputy Speaker, for giving me an opportunity to also add my voice to this very important Bill. I would like to congratulate my colleague Hon. Sabina for bringing it. As my colleagues have put it, the benefits of breastfeeding a child are many. From a healthy child, it translates to a healthy nation. The health burden in this country is huge and this

will help this country to reduce it. Of course, the benefits of breastfeeding a child are related to the Intelligence Quotient (IQ) of that child.

Studies have shown that if a child is breastfed for, at least, six months, chances of that child's IQ going high are possible. This of course translates to a nation where an innovative workforce can be realised because of those benefits. We have seen women who have either had to sacrifice their career because of child bearing or progressing under very strenuous conditions. This Bill will, therefore, support them. However, we must be careful so that women are not discriminated against. It might be very strenuous for start-up businesses to implement this Bill.

The 12th Parliament should make amendments to make sure that our women are not discriminated against. In as much as all those conditions are beneficial for the mother and child, start-up businesses might find it very difficult to adhere to all of them. Breastfeeding also creates a very strong bond between a child and mother and, of course, the benefits of this cannot be over-emphasised. That is because it is very important in many other angles of interaction in the community.

With those few remarks, I stand to support this Bill.

Hon. Deputy Speaker: Hon. Sarah Korere.

Hon. (Ms.) Korere: Thank you, Hon. Deputy Speaker. I rise to support this Bill. I also want to congratulate my sister, Hon. Sabina, for bringing forth such a beneficial Bill to the mother and child. They say a healthy nation is a wealthy nation. As Hon. Florence Kajuju has said, as mothers, we know the benefits of breastfeeding a baby exclusively for six months. Breastfeeding a child for six months cuts the risks of having weak children who are susceptible to infections such as diarrhoea and vomiting. It also cuts the mortality rate of children by a reasonable rate. It is very unfortunate that the public and the private sector still discriminate against breastfeeding mothers in the 21st Century. We know there are organisations which do not employ ladies, especially those who are still within the child bearing age, like me, simply because they fear losing the hours that such ladies attend to their children, they fear losing the time such ladies go for maternity. It is against the spirit of the Constitution, which says that nobody should be discriminated against based on factors like gender or age.

Indeed, I want to say in this House that giving birth to children is doing what God commanded human beings to do; to go forth and fill the world. When we look at breastfeeding as an awkward and outdated thing, you are simply telling the career women to harvest babies from trees. Just like my friend, Hon. Kajuju has said, in the 12th Parliament, I will not just struggle to get a child again, but I will pull the strings. I can assure you of that. We have smoking zones in this country. It is very ironical that we have smoking zones, but we do not have breastfeeding zones. There should not only be breastfeeding zones, but also baby care centres. We want to emphasise on breastfeeding exclusively for the first six months of life. It is also imperative to say it is very healthy and recommended by the World Health Organisation (WHO) and medical practitioners that children should be breastfed for at least two years.

It is very unfair to have women choose between their careers and babies. We know both of them are very important. When we have these breastfeeding zones and baby care centres, the productivity of the working mother will be at its best. You can imagine a mother leaving a child who is less than one year to a house help whom she has barely known for two hours or even for one day. I can assure you that lady will not be productive at work. If the private and public sectors ensure that they all have those baby care centres, it will increase the productivity of the working mothers.

Just like the speakers who have contributed before me have said, when those ladies pursue courses for promotion outside the country or work stations, many of them are forced by circumstances, simply because they have to choose between staying with the babies or pursuing those courses. Most employees do not cater for things like the baby nurse who travels with the baby. It is surprising how when it comes to some things that deal with the affairs of women, we start talking of the wage bill and the expenses in this country. We know finally that losing those babies will be more expensive than having their mothers travelling with them, taking care of them and being with them at the work place. This is doable. Safaricom did it and it works very well. I am sure others can emulate the same.

At the outset, I want to support this Bill and call upon this honourable House to support it because it has come of age whereby young ladies must take up very challenging positions both in the private and public sectors. We should not be punished for being fertile. In fact, we should thank God for that. We should not be punished for filling the earth just like God commanded. So, this is a very important Bill. We should support it so that we eventually have a healthy nation, which will be a wealthy nation.

I support the Bill, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Rachel Ameso.

Hon. (Ms.) Amolo: Thank you, Hon. Deputy Speaker. I stand to support this Bill. I want to congratulate my sister, Hon. Sabina Chege, for bringing this very important Bill on the mothers of this nation. Breastfeeding is one of the many ways through which we can prevent the sicknesses affecting our children. We have had quite a number of women losing their jobs in this country because of the word “breastfeeding”. This is very important because if we do not breastfeed, then it means we will have a nation that will be short of babies. Who will work in the future? We need this generation to take over once we get old.

A Member has asked who will take the responsibility of making this place a good breastfeeding environment for mothers and their infants. Just like we address occupational hazard issues at the work place, where we are supposed to place fire extinguishers at strategic places within the work place, we should provide a breastfeeding centre within the work place of every organisation. Before you set up the organisation, it must be known where you will put up the breastfeeding centre. Every person who will employ people in this country must have a centre or a room where women can breastfeed babies. It is their right to bear children, and it is the right of the infant to be breastfed. That is the only way through which a mother can bond with her infant. That is where they can also know their mother and have a good bonding time.

I remember when I was doing my Master’s degree; we used to have a very well organised young student who made sure that her house girl was trained to be a driver-cum-house girl. She used to take the baby to Daystar University every day at 4.00 p.m. and that lady would breastfeed the baby before she took her evening class. The universities consider breastfeeding mothers. That is why they have breastfeeding centres. When we travel abroad, in every airport, you find a place where mothers can breastfeed their children. I want to urge the Government of Kenya to make sure that at every airport and bus station, we have a place where mothers can breastfeed their children. It must be a very clean environment, so that we do not carry germs when breastfeeding our children. It is also upon every county in this country to make sure that every health centre has a clean place where mothers can sit and breastfeed their children. When we have a place to breastfeed our children, it is also a benefit to the economy of this country. If we can recover the time that a mother loses at her workplace when she goes home to breastfeed, we can increase profits of organisations. It is one thing that employers should think of in terms of profits rather

than have mothers leaving to go and breastfeed, and then come rushing back to the office. Serious action should be taken against those employers who sack mothers because they are breastfeeding or have given birth. That is breaking the labour laws of this country. They should instead have a place where female employees can sit and breastfeed their children because we depend on those children as our future leaders.

The other thing that I like about this Bill is the breastfeeding time. We do not breastfeed for 24 hours. There is time to do it. You can do it at tea time - which is 10 O'clock - at lunch time and at 3 O'clock. That is the best time when a baby feels comfortable. This will also create employment for those who will be taking care of those children at those centres. It is one way for mothers to create jobs for others who will be in charge.

Those regulations need to be put in place so that we do not just talk and leave it hanging. As Members of Parliament, we should strictly look at those regulations so that we pass them and they are gazetted.

When it comes to cleanliness, we need to ensure that those places are well-taken care of, the bathrooms are cleaned and the mother is comfortable. Even if she wants to breastfeed half-dressed, she should be comfortable in that room. They should have all the facilities that are required. Just like we have a good working environment, the mother and the infant should have a proper, conducive and friendly breastfeeding centre.

I want to congratulate the organisations that have already implemented this Bill such as Safaricom and others. We want to congratulate them and urge them to keep it up. I do not see how much it would cost for an organisation to buy a fridge where breastfeeding mothers can store their expressed milk, so that it also saves time when it comes to breastfeeding. It almost costs the same when you tell a mother to go back home, breastfeed and come back to work. The cost of leaving the office and going back home is equal to the cost of buying a fridge. People should not think that it will be an extra cost to an organisation. Organisations already have chairs, tables and all those facilities. We just need to spare a room for the women of this nation.

As my colleague has said, we thank God for Kenyan women who are very fertile. We should be proud of that. We also thank our men because without them, we would not be able to breastfeed. Kenya is a blessed nation. I want to thank Hon. Sabina. Before the term of the 11th Parliament lapses, I hope that our colleagues will support this Bill and it will be passed. This will help mothers and young infants of this nation to have a proper mother-to-child care so that we can progress.

I support this Bill.

Hon. Deputy Speaker: Let us have Hon. Sunjeev Birdi.

Hon. (Ms.) Sunjeev: Thank you, Hon. Deputy Speaker. Many times, especially this year, I have stood to firmly support or talk about certain things that have been very close to my heart. This Bill happens to be one of those that have a ripple effect across the board. It does not only have economic effects, but also social effects. It also affects many other people in our society.

Hon. Deputy Speaker, a lot has been said. I would like to bring to the attention of this House that both male and female members of our society are equal participants in having a health community and a health country. This Bill is giving support to the female gender. We need to give support to our female gender because we understand that, if it were not for them, reproduction would not be possible. We appreciate the fact that the male gender plays a role, but we need to promote and give benefits to the female gender where necessary so that they can help themselves, the community and the family in raising a healthy family in our country.

Unfortunately, I have not had the advantage in this Session. Obviously, I have not been blessed with a child but, hopefully in the future, it will be possible. It is important to note that carrying and nurturing a child is nurturing a nation. We need to assist mothers to do it effectively so that this is done not only for the benefit of the country, but for the family and the woman as well.

We have to understand that many of our young sisters or mothers are now more educated than ever before, which means that they are in better jobs. This means employers need to give more attention to ladies and mothers. Therefore, giving them the advantage of breastfeeding a child when it is required is actually a bonus. That way, sitting at home and doing nothing is not an option. There is the notion that you are sitting at home and doing nothing, but it should be interpreted in some other way. When a mother is at home and taking care of the child, she is not doing nothing. She is actually doing something. I remember some time ago, we discussed at some women's rights platform that the amount of work a woman does in her home should actually be computed so that we can know how much work she does in terms of money. When I thought about it, I could not compute an amount equivalent to, for example, what my mother or other mothers have put in to bringing forth their children.

It is very important to also note that this Bill talks about bringing forth a progressive society, which is what we are looking forward to. We need to embrace a progressive society by bringing progressive changes so that they can bring about the necessary changes that are required for a healthy nation.

I support this Bill wholeheartedly and wish that it is passed. We are going to break Parliament soon.

Hon. Deputy Speaker, many Bills in this House are at various stages. I hope that this Bill will see the light of the day. We should pass it. This is one of those Bills that will add to the positive things that women in the 11th Parliament have been able to achieve.

Hon. Deputy Speaker: Thank you Hon. Sunjeev. I see no further interest in the Bill and I do not see the Mover. So, it will be replied to when it next appears in the Order Paper.

(Bill deferred)

Next Order.

BILLS

THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL

Hon. Deputy Speaker: I see Hon. Wanga is not in the House. This will also be moved to the next time it is on the Order Paper.

(Bill deferred)

Next Order.

THE HOUSING (AMENDMENT) BILL

Hon. Deputy Speaker: We also do not have the Mover of this Bill. Can we move to the next one?

(Bill deferred)

THE EMPLOYMENT (AMENDMENT) BILL

Hon. Deputy Speaker: Again, it is the same thing for this particular Bill. So, we move to the Next Order.

(Bill deferred)

THE NUTRITIONISTS AND DIETICIANS (AMENDMENT) BILL

Hon. Deputy Speaker: Members, again, we do not have the Mover of that Bill.

(Bill deferred)

Before we adjourn the House, I have a Message from the Senate.

MESSAGE

THE DIVISION OF REVENUE BILL (NO.2)

Hon. Deputy Speaker: This is the decision of the Senate on the Division of Revenue Bill (No.2) National Assembly Bill of 2017.

Hon. Members, pursuant to the provisions of Standing Order 41, I wish to convey to the House a Message from the Senate dated 13th June 2017 regarding the Senate's decision on the Division of Revenue (No.2) Bill, National Assembly Bill of 2017, the effect of which the said Bill stood referred to a Mediation Committee. The Message reads in part:

The Division of Revenue (No.2) Bill was rejected at the Second Reading by the Senate on Tuesday, 13th June 2017. Accordingly, the Senate appointed the following Senators to represent the Senate in a mediation committee to consider the Bill: Senator Billow Kerrow, Senator Beatrice Elachi, Senator Dr. Agnes Zani and Senator Mutula Kilonzo Jr.

Hon. Members, as you may be aware, this is the second time that the Division of Revenue Bill is committed to a mediation committee following the failure by the first Mediation Committee established in April 2017 to develop an agreed version within the 30 days stipulated under Article 113 of the Constitution. The House ought to be alive to the fact that the Division of Revenue Bill is critical to the vertical sharing of revenue between the two tiers of government and ought to be passed at least two months before the end of the subsisting financial year as provided for under Article 218 of the Constitution. Indeed, this House demonstrated this fact when it resolved on 17th May 2017 to exempt the Bill from the provisions of Standing Order 141(1), thereby permitting its reintroduction for reconsideration.

In light of the Senate's decision on the Bill, I have appointed the following Members to represent the National Assembly in the Mediation Committee to attempt for the second time to develop an agreed version of the Bill in accordance with the provisions of Article 113 of the Constitution: Hon. Mutava Musyimi, CBS, MP; Hon. Mary Emaase, MP; Hon. Christopher Omulele, MP and Hon. Richard Onyonka, MP.

Hon. Members, you will agree with me that any further delay to pass the Division of Revenue Bill would have far-reaching implications on Government operations at both levels of government. Cognisant of the scheduled *sine die* recess of the House, I appeal to the Members of the National Assembly appointed to the Mediation Committee to liaise with their Senate counterparts to expeditiously embark on the process of possibly developing an agreed version of the Bill that will be passed by both Houses of Parliament. Should the Mediation Committee conclude the process during the recess period, the National Assembly will rise to the occasion and provide an opportunity to consider the Committee's Report and the Bill thereto in terms of the provisions of Article 113 of the Constitution.

I thank you.

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no further business, and the time being 12.45 p.m., this House stands adjourned until today afternoon at 2.30 p.m.

The House rose at 12.45 p.m.