

MURANG'A COUNTY ASSEMBLY

THE HANSARD

Tuesday, 21st July 2015

The House met at 10:25 a.m.

(The Speaker Hon. Nduati Kariuki in the Chair)

PRAYERS

BILLS

MURANG'A COUNTY TEA BILL (NO. 14 OF 2014)

(The Speaker left the Chair)

(Mace lowered)

(The Chairman Hon. Gachui Mungai in the Chair)

(Committee of the Whole House)

CLAUSE 3

The Chair: I propose the question that clause 3 be part of the Bill

Hon. Charles Kirigwi: Thank you Chairman, before I propose the amendments, I would like to acknowledge a group of farmers who have come this early to witness this memorable moment. Mr. Chairman I propose an amendment to clause number three,

I propose that clause 3 of the Bill be amended by deleting the whole clause and substituting the clause as per the order paper.

[THAT, clause 3 of the Bill be amended by deleting the whole clause and substituting thereof with the following new clause—

3. (1) *There is established a Committee to be known as the Murang'a County Tea Advisory Committee.*

(2) *The Committee shall advise the Executive Member on -*

- (a) marketing and distribution of tea ;*
- (b) strategies for ensuring growers attain the best prices for tea;*
- (c) adoption of alternative and green energy solutions for manufacture and processing of tea;*
- (d) refusal, revocation, cancellation, suspension or variation with/ without conditions of any licenses or registration issued under the Crops Act with respect to tea.*
- (e) receive and consider applications for licenses for production, manufacturing and marketing of tea;*
- (f) strategy for value addition of tea;*
- (g) recommend general industry agreements and certifications between tea farmers, managing agents, tea packers, brokers and manufactures;*
- (h) recommend special audits of licensees and manufactures' of tea;*
- (i) arbitrating disputes between factories and farmers;*
- (j) incentives to be offered to tea growers*
- (k) formation of the County Tea Development Plan; and*
- (l) Advice on reports received from the industry.]*

(Question put and agreed to)

(Applause)

CLAUSE 4

The Chair: I propose the question that clause 4 be part of the Bill

Hon. Charles Kirigwi: Thank you Mr. Chairman, clause 4 is the membership of the advisory committee and it will comprise of about eight people and I propose an amendment as per the order paper.

[THAT, clause 4 of the Bill be amended by deleting the entire clause and inserting the new clause 4. The committee shall comprise of –

- (a) eight members;*
- (b) a Chairperson; and*
- (c) the director of the Directorate of Tea Development established under Section 12 who shall be an ex- official member and shall serve as the secretary of the Committee;*

appointed by the governor with the approval of the County Assembly through a competitive recruitment process.

(2) A person shall qualify for appointment as a member under this Section if the person -

- (a) is a holder of a Diploma from any institution recognized in Kenya;*
- (b) is a Kenyan Citizen;*
- (c) has the requisite knowledge and at least five years' experience in-*
 - i) Economics;*
 - ii) Finance;*
 - iii) Administration;*
 - iv) Marketing;*
 - v) Management;*
 - vi) Tea Industry; or*
 - vii) Agriculture.*
- (d) Fulfils the requirements of Chapter Six of the Constitution of Kenya.*

(3) A person shall not be qualified for appointment as a member of the Committee if such a person-

- (a) is a member of Parliament*
- (b) is a member of a County Assembly;*
- (c) is an un-discharged bankrupt; or*
- (d) Has been removed from office for contravening the provisions of the Constitution or any other written law.]*

(Question put and agreed to)

CLAUSE 5

The Chair: I propose the question that clause 5 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, clause five is establishment of the County Tea Development Plan whereby the development plan will have programs and activities that will be anchored in the County Fiscal Strategy Paper as per the order paper, and I propose the amendments as per the order paper Mr. Chairman.

[THAT, clause 5 of the Bill be amended by deleting clause 5 and substituting thereof the new clause –

5. (1) *At the end of each financial year, the Committee shall develop and send to the Executive Member an annual County Tea Development Plan indicating the programs and activities planned for Tea and the plan shall be approved by the County Assembly.*

(2) *When developing the County Tea Development Plan under Section 5 (1), the Committee shall take views from stakeholders.*

(3) *The Development Plan shall be submitted to the County Assembly for approval not later than 31st January each year.*

(4) *The Directorate shall submit the County Executive Member with the approved County Tea Development Plan for inclusion in the County Fiscal Strategy Paper financed by the Murang'a County Government Budget.]*

The Chair: Hon. members, before I put the question any debate that may arise from the proposed amendments this is the best time for members to debate in case once feels that there is something that you would want to comment when I propose the question but since there is no debate I put the question.

(Question Put and Agreed To)
(Applause)

CLAUSE 6

The Chair: I propose the question that Clause 6 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, clause six is on business and matters of the committee and the schedule of the meetings and I propose the amendments as per the order paper.

[THAT, clause 6 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

6. (1) *The business and affairs of the Committee shall be conducted in accordance with the Schedule.*

(2) *Except as provided for in the Schedule, the Committee may regulate its own procedure.*

(3) *The Committee may invite any person to attend its meetings but such person shall not be entitled to vote.]*

(Question Put and Agreed To)

CLAUSE 7

The Chair: I propose the question that clause 7 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, clause 7 the advisory committee has a chairperson and this is the term of appointment. The proposal is that the chairman to be in office for six years with a maximum of another one more term of six years. And then the members of advisory committee to be in office for five years for maximum of two terms after which you quit. I propose the amendments as per the order paper.

[THAT, clause 7 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

7. (1) *The Chairperson shall be appointed for a term of six years and but shall be eligible for only one further term of six years.*

(2) *Members of the Committee shall be appointed for a term of five*

years but shall be eligible for only one further term of five years.]

The Chair: Yes, Hon. Member for Ng'araria

Hon. James Kariuki: Mr. Chairman, I would like the chair for Trade to justify why the chairperson shall serve for six years and be eligible for another term of six years, that is a total of 12 years.

Because generally when it comes to committees, because this is an advisory committee the practice all over is that they serve for three years and a further term of three years, making a total of six but this is six, six Mr. Chairman and I am not in agreement with that.

The Chair: Hon. member for Gaichanjiru

Hon. Bernard Kariuki: Thank you Mr Chairman, I also want to oppose that amendment given the nature of committee. They need to serve for a period not exceeding three years for one term and they can also be eligible to serve for another term.

Mr. Chairman six years is a hell of a long time and if there are things that are going wrong and you put the holder of that office protected six years it is a very long time and we need to reduce that to three years. And also Mr. Chairman clause seven of the bill was taking about procedures and meeting of the committee we do not know whether that is catered for elsewhere in the bill, but on six years I oppose.

The Chair: Yes Hon. members and member for Ng'araria you had your own proposal and you did not have a seconder to that effect. I do not know whether member for Gaichanjiru was seconding that so that we can refer back the bill to the second reading. You need a seconder.

Hon. James Kariuki: The member for Gaichanjiru can second.

Hon. Bernard Kariuki: I second that the term be limited to three years.

The Chair: Hon. members that is a proposal and it has been seconded it is upon us now to go to the second reading.

(Question on ammendment to an amendment proposed)

The Chair: Hon. Member for Kangari are you contributing to that debate?

Hon. Joseph Kimani: Mr. Chairman I was proposing also number two of the clause, the term of five years is also too long so it could go together with number 7(1) three years, three years.

(Question put and agreed to)

CLAUSE 8

The Chair: I propose the question that clause 8 be part of the bill

Hon. Charles Kirigwi: Thank you Chair and thank you members for that amendment. Clause eight gives the reasons for exit of the chair and the committee and I propose an amendment as per the order paper.

[THAT, clause 8 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

8. (1) The appointing authority may remove the chairperson or a member appointed under section 7 for –

- (a) Inability to perform the functions of the office by reason of mental or physical infirmity;*
- (b) Failure to declare his or her interest in any matter being considered or to be considered by the Committee; or*
- (c) Any other sufficient reason as may be prescribed.*

- (2) *The office of chairperson or member shall become vacant if the member -*
- (a) *ceases to represent the interests in respect of which the chairperson is appointed;*
 - (b) *is adjudged bankrupt;*
 - (c) *is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;*
 - (d) *is absent from three consecutive meetings of the Committee without reasonable cause;*
 - (e) *Is incapacitated by physical or mental illness; or*
 - (f) *Resigns in writing to the governor.]*

The Chair: Yes Member for Gaichanjiru.

Hon. Bernard Kariuki: Chairman while I support this amendment, I think it is only fair for the mover of the bill to tell us whether he is amending the whole bill because if you look at the clause eight it is not related to the amendments he is proposing and it's like the amendments are changing the whole bill.

It is important that the mover of the bill, while we support the amendments because we will have an entire new bill before us, to take us through properly so that we follow so that we do not support something that we are going to defeat in the Third reading.

Hon. Charles Kirigwi: What is on the floor today is of course with concerted efforts with the office of the Clerk and legal office. I know there might be some numbers that are not in tandem with the bill and I apologise on behalf of my committee but the spirit is the same, it is only that one or two numbers may not be corresponding but it is the same thing, thank you.

Hon. James Kariuki: Mr. Chairman I also feel that the three reasons given why the appointing authority may remove a chairperson or a member appointed under section seven are too few. Inability to perform the functions of the office, failure to declare his or her interests or any other sufficient reason as may be prescribed. I think the mover of this motion should tell us more because there are so many other reasons why someone may be removed including misappropriation of funds, abuse of office etc. I think these reasons are too few.

Hon. Charles Kirigwi: Mr. Chairman, I do not know whether we are reading from the same script because mine has part two whereby we have 'ceases to represent the interests of appointing authority, judged bankrupt, convicted of criminal offences' so I think they are captured. Are you comfortable?

The Chair: Again Hon. members when a member needs to propose an amendment, you should come clear, you want to propose this certain amendment to read the way you want.

(Question put and agreed to)

CLAUSE 9

The Chair: I propose the question that clause 9 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, clause 9 basically is giving the County Public Service Board the appointing powers of the employees of the directorate to discharge the functions of the committee and directorate. I propose an amendment as per the order paper.

[THAT, clause 9 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

9. The County Public Service Board shall appoint such other officers and employees as are necessary for the proper discharge of the functions of the

Committee and the directorate upon terms and conditions of service as the Service Board may determine.]

(Question Put and Agreed To)

CLAUSE 10

The Chair: I propose the question that Clause 10 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, clause 10 basically is on when this Assembly will be getting progress reports on Tea development, the factories earnings and any other necessary report. So I propose that clause 10 be amended as per the order paper.

[THAT, clause 10 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

10. The Committee shall, at the end of June and January each year, submit to the Executive Member and the County Assembly a progress report on-

- (1) Tea development progress reports; and*
- (2) Earnings per factory.*
- (3) Any other report that is necessary]*

The Chair: Hon. member for Kangari

Hon. Anderson Muchemi: Mr. Chairman to avoid future challenges on this bill, the ones that we have here are not tallying just like the member for Gaichanjiru has said. Even if you go to the bill, Hon. Kirigwi said it is just two or three, but now it is like all the numbering is not going with the bill. And to avoid challenges as somebody may go to court to challenge what we are doing here I wish first of all we amend the numbering because it might bring problems. Thank you.

The Chair: Hon. Members,

[Hon. Bernard Kariuki rose)

The Chair: Okay, Hon. member for Gaichanjiru.

Hon. Bernard Kariuki: I am on a point of information to Member for Kangari that it is possible to do a wholesome, if there are so many amendments it is possible to do that but that responsibility should be taken by the mover to explain the process that we are going through, the mover is not very candid that is why the members are confused Mr. Chairman.

The Chair: Hon. members before we move, I want to remind the members that this bill passed through the second reading, however the mover of amendments should be able to explain to the members so that members may understand where we are.

Hon. Charles Kirigwi: Thank you chair, I must say and I seek apology from you. This bill has elicited a lot of interest from various people and institutions and among the institutions we sought advice from are CIC, Kenya Law Reform and several others, and they came up with so many radical changes, that is why you are seeing the numbers may not tally but once we are through with process we will of course fine tune the numbering and it will be in order.

I do not know whether I am candid enough as Hon. member for Gaichanjiru is saying and also it is allowed in the standing orders you can change provided you do not change the spirit and meaning of the bill.

The Chair: Correct. Hon. members and I will now give the Hon. member for Muthithi. You had something on the same?

Hon. Samuel Wandia: Mr. Chairman, I think what we are doing here we are amending the bill and I think we should go together with the mover of this motion. When I go to clause

10 we are discussing about mine is reading registration of the growers and what we are amending is not in tandem with that.

We are getting to the final stages of this bill so it is good and fair for us to be given the right copies so that we can go together because when he rises up now may be he will go to clause 11 and when I look at my paper here clause 11 is not in agreement with what he wants us to amend.

The Chair: Yes, Hon. member, under standing order 127 the amendments to the new clauses will come later. Yes, Hon. member for youth.

Hon. James Kagoni: Thank you Mr. Chairman...

(The Chair interjected)

The Chair: Hon. member for Muthithi, you have been given time to speak, do not speak from your chair because that is disregarding the respect of this House. The other Hon. Member is on the floor.

(Laughter)

Hon. James Kagoni: Mr. Chairman, I think we are only seeking your guidance on this because when a bill is under the Committee of the Whole House we go clause by clause and we are amending those clauses.

My only worry is if we are amending clause 10 which has a different content from the original clause 10 in the bill that becomes a very serious thing because we seem to be having a different one. Much as we understand that the problem is numbering what will happen is that someone might even propose a change of the title of the bill eventually because all the clauses have been changed.

My second worry and my concern is it looks like the amendments are ahead of the original bill in terms of the content and the numbering. What happens because we will end up with the amendments before we even finish up with the bill and there are areas members would want to express themselves on. I think that is very important.

To draw your attention Mr. Chairman, I will give you an example of clause 19(3) which talks about financial provisions but now when you want to relate that, it is actually under clause 25 in the amendment, so if we are amending clause 19 (3) for instance if there is someone who wants to make a proposal on that particular one, then it is referring to amendments of clause 25. That becomes a very serious issue because we will have amended a different thing all together and eventually we might end up not having changed anything in the bill. That is my feeling.

The Chair: Yes Hon. member for Gaichanjiru

Hon. Bernard Kariuki: Mr. Chairman, I will continue to insist that it is in order to have the amendments the way they are but what is confusing members is that in their mind they know the original version of the bill but the mover of the bill has introduced a whole new bill which members are not able to follow and that is why it is important for the mover, apart from doing lobbying to make sure that members can comprehensively understand these amendments because he has 36 amendments whereas the old version of the bill has fewer. So Mr. Chairman the mover has that responsibility.

The Chair: I am sure Hon. members you must be having copies of your standing orders. I want to refer you back to the standing order 127 and before I do that, I want to tell the members even before the mover does what hon. member for Gaichanjiru has requested.

When a new clause is introduced it comes as a new clause so if the hon. members are not following the order paper, if you are following the previous bill you will get confused

because we want to amend by deleting the whole clause and introducing a new clause all together it will change. Hon. member for Kinyona can you explain.

Hon. Charles Kariuki: Mr. Chairman if you look at the paper we have in front of us the first page is very clear. That in consideration of this bill the tabulation is very well that we have new clauses as printed, I am reading the first paragraph. New clauses, we have schedules and new schedules.

Like if I am reading clause 10 it is very clear and in simple English that, clause 10 be amended by deleting the entire clause. What does that say? We do away with what is in the previous bill and you substitute thereof the following amendment. It is as simple as that.

You delete the whole of 10, you assume there is nothing, then you insert whatever is in the order paper as clause 10. It is very clear and in simple English.

The Chair: Hon. members to help even the mover to explain further, the issue of the new clauses will come by the end of the Committee of the Whole. Hon. Member for Kangari

Hon. Anderson Muchemi: Mr. Chairman, for the sake of clarity and for the sake of us being together, I wish then the mover to be taking us where we are from and what we are amending. Then it should be if we are putting new clauses then it is not amendments, it is introducing a new clause. So what we are saying let the mover take the members as we were and as we are today because it is like now we are having new bill on the floor.

The Chair: Hon. member for Kangari, I want to defend the mover, it is the duty of every member to be looking at the order paper properly because all that we are discussing here is in the order paper, so when the mover will be moving the amendments, the members will be following the previous clause in the bill and the new amendments.

So it is the duty of every member to be having that copy because we have them in our files but all the same the mover because it seems as if the members have forgotten the process in the Committee of the Whole, the mover should go slowly as the members understand. You have a proposal for ammendment?

Hon. James Kagoni: Mr. Chairman, we seem to be saying the same thing in a different way ending up with different results all together. We understand the mover very well and we actually want to support this bill so that we can go to the next level, we have no problem with that. The mover has already proposed his own amendments here, his own amendments is what is not agreeing with the copy of the bill that we have.

A private member could be having his own amendments, for instance I just wanted to seek your leave Mr. Chairman if we could have a break of only three minutes, we can even indicate the right number here so that we tally. So that we do not seem like we are amending a different thing all together, because by the time I will standing up to move my amendments on clause number ten the mover of the bill will have to say the amendments on number ten is written on number 12 or 11 or 13. I suggest if we could only take three minutes and we align the numbers clearly.

The Chair: Hon. members, I want to give guidance that so long as the amendment does not change the spirit of the bill, the numbering does not have any problem. Go back to your files and compare what the mover is taking us through and what is on the order paper. Hon. member for Kanyenya-ini

Hon. Peter Kihungi: I think the mover should be going back and the amendments that he is doing and explain what was there before. Members want to pass this bill but they just want to know where we are coming from. Just say we have changed from this to this because there was a lot of consultation from CIC, Kenya Law Reform. Just guide the members where we are coming from, that is the most important thing.

Hon. Duncan Njuguna: Although I can see when certain members are contributing you are listening when certain others are you are not...

The Chair: Order! Hon. member

(Laughter)

The Chair: Order! The Hon. member for Gitugi cannot stand to accuse the Chair.

(Laughter)

The Chair: The Chair knows...

(Hon. Duncan Njuguna interjected)

Hon. Duncan Njuguna: I withdraw

The Chair: Order! Hon. member, you cannot accuse the Chair and the Chair knows how to do many things at the same time, and I will now invite the Hon. Member for Gitugi first of all to apologise.

Hon. Duncan Njuguna: I withdraw and apologise although you have made me learn something else, that you are like in quotes a woman who does so many things at the same time, thank you.

(Laughter)

What I wanted to say Mr. Chairman is we are getting more confused as we go into it because the hon. mover of the amendments is, like now the example he gave on clause 10 of the bill is amended by deleting the entire clause. You are deleting the clause and bringing the same number down there 10, the committee shall at the end of June and January...

So we are going by the numbers that are on the order paper and we are deleting the clauses that are on the bill so we are getting more confused as we go by. I would suggest that as it was proposed we get a ten or five minute break so that we can amend everything even if it is by writing the clauses afresh so that we can be in tandem with the bill, thank you.

The Chair: Hon. Member for Kinyona, the mover, can you clarify that because it seems as if we have to be practising the procedure in the Committee of the Whole almost every month so that the members can understand.

Hon. Charles Kirigwi: Chairman from clause 11 going on I will be mentioning what was there in the original bill and amendment. Will that be in order?

So if you allow us we move on and I will be able to guide the members and sorry for that

(Question put and agreed to)

CLAUSE 11

The Chair: I propose the question that Clause 11 be part of the Bill

Hon. Charles Kirigwi: In the Bill Clause 11 was giving out the issue of register of growers but I propose that we delete it and we substitute it as per the order paper.

The order paper discusses about forum the advisory committee; directorate will be having stake holders' forums in all the tea factories to discuss the county development plan and to discuss the report.

[THAT, clause 11 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

11. *The Committee and the Directorate shall, within two months of submitting the report under Section 10, have stakeholders' forums with all the tea factories to discuss the report.]*

(Question put and agreed to)

CLAUSE 12

The Chair: I propose the question that clause 12 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, clause 12 was talking about incentive to growers. When we are saying we delete we are not deleting and discarding you will get them elsewhere as we go on.

We delete the entire of clause 12 and we provide a directorate to be known as directorate of tea development. So Mr. Chairman I propose an amendment as in the order paper.

[THAT, clause 12 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

12. There is established within the County Public Service a directorate to be known as the Directorate of Tea Development.

(Question put and agreed to)

CLAUSE 13

The Chair: I propose the question that Clause 13 be part of the Bill

Hon. Charles Kirigwi: we are moving on well. Clause 13 on page 11 of the bill is on no manufacture of tea without licence and I propose an amendment that we delete the entire clause and we substitute it with the qualifications of a director.

In the directorate we want to have a director with a degree which is recognized who has fulfilled requirements of chapter six and who will be responsible on day to day running of the directorate. So I propose an amendment as per the order paper

[THAT, clause 13 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

13. The Directorate shall have a Director who shall be appointed by the County Public Service Board with the approval of the County Assembly through a competitive recruitment process.

(2) A person shall not qualify for appointment as a Director under this section unless that person –

(a) is a holder of a Degree from any university recognized in Kenya;

(b) has the relevant experience that may be determined by the Public Service Board;

(c) fulfills the requirements of Chapter VI of the Constitution of Kenya.

(3) The Director shall be –

(a) responsible for the day to day administration and management of the Directorate;

(b) responsible for the direction of the affairs and discharge of the functions of the Directorate; and

(c) the principal adviser and Secretary of the Committee.

(Question put and agreed to)

CLAUSE 14

The Chair: I propose the question that Clause 14 be part of the Bill

Hon. Charles Kirigwi: Thank you Mr. Chairman, clause 14 in the bill was illegal manufacture and possession etc, and in the proposed amendment we were advised by the CIC that the directorate should have the functions of the previous board that we had suggested in the bill. So commissioner Ali of CIC advised us that all the roles that were for the previous board should be done by the directorate because the directorate are the ones responsible for the day to day running and management

Clause 14 is a long one has about 15 functions and I propose that we amend it as in the order paper.

[THAT, clause 14 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

14. (1) The functions of the Directorate shall —

- (a) in consultation with the Ministry responsible for Agriculture, facilitate implementation of general and specific policies for the development of the tea industry;*
- (b) facilitate the marketing and distribution of tea through monitoring and dissemination of market information, including identification of the local markets, matching of domestic markets, tracing of tea products in the county, and promotion of tea activities;*
- (c) establish, in accordance with the applicable regulations and in consultation with tea factories in the County, strategies for ensuring that growers attain the best prices for tea through effective cost-cutting measures;*
- (d) assist in the establishment of energy-reducing strategies for the manufacture and processing of tea;*
- (e) regulate all aspects of tea trade, including the licensing of tea factories and registration of all persons dealing in tea in the County;*
- (f) regulate, control and improve the cultivation and processing of tea in liaison with the respective factories;*
- (g) administer levies collected in the tea industry;*
- (h) establish linkages with various government and private research institutions for the conduct of studies and researches designed to promote the production, marketing and processing of tea;*
- (i) in consultation with the relevant government research institutions determine the research priorities on tea and provide advice on tea research and funding for the research programs generally;*
- (j) conduct farmers training programs aimed at increasing their knowledge in tea production, technology, market potentials and prospects for various types of tea;*
- (k) partner with research institutions in the development of tea varieties suitable to the agro climatic conditions of the tea growing areas and markets that will provide greatest value addition to tea;*
- (l) develop and maintain a system for obtaining information on current and future production, prices and movement in tea trade locally and internationally;*

- (m) *establish and enforce standards in grading, sampling and inspections, tests and analysis, specifications, units of measurements, code of practice and packaging, preservation, conservation and transportation of tea to ensure healthy and proper trading of tea;*
 - (n) *promote and advise on strategies for value addition prior to the export of tea from the County;*
 - (o) *recommend general industry agreements and certifications between tea farmers, service providers, managing agents, packers, brokers and manufacturers;*
 - (p) *for public interest, prescribe the minimum period within which tea farmers are to be paid for tea delivered and penalties for delayed payments;*
 - (q) *perform any other relevant function, including the taking of measures to ensure compliance with the this Act, relevant national laws or any regulations that may be necessary; and*
 - (r) *generally advice and recommend ways of maintaining, improving a sustainable environment practices in the tea industry.*
- (2) *The Directorate may authorize any of its members, or the Director, officer or employee of the Directorate, to carry on any function or exercise any power on its behalf at any time when it is not meeting.*
- (3) *Any function carried on or power exercise under subsection (2) shall, unless the otherwise requires, be reported without unreasonable delay to a meeting of the Directorate.]*

The Chair: Yes, Hon. member for Gaichanjiru, and before I give Hon. member for Gaichanjiru I understand the members who sat down and went through this bill especially the Trade committee members and Agriculture committee should be supporting the chairman because they know better where we have come from.

Hon. Bernard Kariuki: Thank you Chair, I support that amendment by the mover, it is very comprehensive explaining the functions of the directorate, but Chair I wanted to propose an amendment to 14 [1] [a] that in consultation with the Ministry responsible for Agriculture... That Mr. Chairman we delete the word 'Ministry' and replace it thereof with the words 'The County Executive Committee member responsible for agriculture' that we are very specific on who we are dealing with in terms of tea so I propose that amendment to amendment. I request the Hon. Member for Ng'araria to second.

Hon. James Kariuki: I second that amendment because the word ministry as we know it we will be referring to the national government and I think we need to be clear since agriculture is a devolved function

(Hon. Charles Kirigwi rose on a point of information)

Hon. Charles Kirigwi: The ministry here we are not discussing about our CEC, it is very clear in the whole bill the CEC is being called the County Executive Committee member who is automatically executive member for agriculture.

The ministry here we are taking about the national government ministry on issues on specific policies because they are the ones who deal with polices. This is at national level not at local level so I oppose the amendment.

(Laughter)

The Chair: Hon. member that is not the procedure of opposing but you were giving information.

(Laughter)

and I understand, I do not know whether the Hon. member for Gaichanjiru has been clearly informed. Member for Gaichanjiru

Hon. Bernard Kariuki: For legal purposes the word ministry is ambiguous. Ministry responsible for agriculture, we have one in Murang'a County and we have one at the national level. It requires to be substantiated so that we know which ministry you are referring to. Unless the mover will also add that in the interpretation clause, thank you.

The Chair: Hon. member for Gaichanjiru you want to continue with your proposal to amend.

Hon. Bernard Kariuki: Yes

The Chair: But your amendment has been informed that the bill here refers to the ministry in the national government.

Hon. Bernard Kariuki: Then Mr. Chairman, I will advise my good friend the mover to define the word 'ministry' at the interpretational clause.

Hon. Charles Kirigwi: Thank you, noted

The Chair: Any other debate arising from that. Yes hon. member for Ithiru.

Hon. Joseph Kimani: Mr. Chairman, I am also worried on the functions of this directorate because the way it is, I presume that the county does not have full control of the marketing of tea and when we come to (b) we are saying that the directorate will facilitate the marketing and distribution of tea through monitoring and dissemination of market information, including identification of the local markets, matching of domestic markets, tracing of tea products in the county.

Maybe the mover can expound on that because I feel that the directorate is only on the advisory but when it comes to other internal matters that one is handled by the companies.

The Chair: Hon. member for Kinyona, you have heard the concern, clarify

Hon. Charles Kirigwi: Thank you for that, I want to clarify that when the bill proposes that the directorate shall facilitate marketing what we have in mind here is that already and we appreciate that this is done very well by service providers like KTDA.

We are saying this government, from Thursday there will be the Global Trade Fair in Nairobi, we are saying as a government we can assist our people to access new markets that the service providers are not readily penetrating. For example and I have said this on the floor, that markets like Russia and Nigeria are very big consumers of tea but where do they get their tea from? They get it from Europe. So we are saying as Murang'a government, through the directorate, we can assist our people partnering of course with the service providers like KTDA whoever is in the system.

And we are not saying that we go there as a government, we market our tea and then we take the money and pay our farmers, no. We are saying, we identify this is the market and we urge the service providers like KTDA, now we have identified market X can you now follow up and make sure that the tea you are selling there is from our county. That is what we are saying. So the county is coming in with facilitating and working together with the service providers to access new markets.

Number two, the county can also partner with service providers for product diversification. The other day I was saying, it is my observation, when I was in China the other day we took tea wine and considering that the second generation is going down, this is a new market. We are saying the county partnering with service providers can diversification of products. We have tea soap a very expensive soap, I doubt whether I can afford to be bathing with one. There so many things we can do if we have an aggressive board.

Mr. Chairman, market information is also very important. We perish because we do not have information of what is happening at the international level. Every day you hear those tasked with marketing our tea telling us this year is worse than last year but they are not

giving us solutions, they are telling us that it is because of the production, so do we stop picking our tea? As a government we are saying one of the functions of the directorate is to assist our farmers more to get information and sell it.

Hon. Samuel Wandia: Thank you Mr. Chairman, I consulted the mover of this bill this morning and he told me that the role of the directorate would be advisory. Good governance and good management principles require that we have only one authority in management of any entity, and when I go through these functions, the directorate is not advisory it is administrative.

Since I was born I have known all along that the administration of the tea factories lies with the KTDA, not unless the mover of the bill is telling Wandia that we are going to abolish KTDA, and bring in the county directorate in place of KTDA.

When I go through these functions, I do not see as if the directorate is advisory, it is functional and I believe the manager working in Ikumbi or any other tea factory, the directorate is administrative at the same time KTDA is administrative. What do I mean? I mean that the workers and everybody cannot be accountable to two authorities, so if at all it is the directorate is advisory, let it be in black and white, that its role is advisory and be on the paper that it is advisory for the following reasons so that we can leave KTDA to have administrative powers.

That is my submission, I talked to him this morning, he is my friend and he informed me that the role of the directorate would be advisory rather than administrative. I stand to be corrected by the mover of this bill.

The Chair: Hon. members, it is good for us when you sit for a cup of tea and discuss something it is always good for us to be reading on our own.

(Laughter)

We should not be saying because a certain member has read it is as if I have also read. You know the slogan that was there during the referendum. Hon. member for Kanyenya-ini.

Hon. Peter Kihungi: Thank you Mr. Chairman, I think one of them did not understand one another because the role of directorate is administrative, even in the national government but KTDA is a management agent.

KTDA is an agent that is given the role to manage tea factories but there is a directorate which is executive and also administrative that is now governing the issues of tea all over the country. Therefore KTDA can be an agency in Kanyenya-ini, but after five years the farmers in Kanyenya-ini can chose another agency, it is not a must they work with KTDA. That is why they are called Kenya Tea Development Agency it is not authority. Changes were done some years back that removed authority and KTDA was left as an agency but not authority.

Therefore, the tea directorate is the one responsible for administration on issues of tea, after five years farmers are responsible to look for any agency, they can go for KTDA; they can go for Sasini or for any agency to manage their factories, thank you.

The Chair: I think the Hon. member for Muthithi has been informed, but in future, it is good for us even if we hear something, it is good for us to be perusing the documents.

(Question put and agreed to)

CLAUSE 15

The Chair: I propose the question that clause 15 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, the clause 15 that was in the Bill was talking about register of tea manufacture. I propose that we delete the entire clause 15 and substitute it as per the order paper. We are talking about the County Directorate's need to maintain a tea

register. The County Directorate needs to have a tea register of all the tea farmers in this County.

*[THAT, clause 15 of the Bill be amended by deleting the entire clause and substituting **therefor** the following new clause-*

15. (1) Any tea grower shall, within six months of starting to grow tea, register with the tea factory to which he or she delivers or intends to deliver green leaf.
- (2) Every tea factory shall maintain a register of tea growers supplying green leaf to the factory and the register shall include particulars and information required to be supplied under section 16.
- (3) The register referred to in subsection (2) shall be prima facie proof that a person is a registered tea grower and the factory shall submit a copy of the register to the Committee in such manner as the Committee may prescribe and the factory shall update its register every after six months and accordingly update the Committee through a resolution of the factory directors.
- (4) the county directorate shall maintain a county tea register]

(Question put and agreed to)

CLAUSE 16

The Chair: I propose the question that clause 16 be part of the Bill

Hon. Charles Kirigwi: Thank you Chair, the clause 16 on the Bill was on entry and inspection. I propose an amendment that we delete the entire clause and substitute it with what is on the order paper. What is there is that the County Executive Member (CEC) to maintain a register of all the tea factories within our county by giving the date and issue of the license, the tea factory and the particulars of the registered tea growers.

[THAT, clause 16 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause-

16. Subject to this Act, the Executive Member shall maintain a register of tea factories registering tea growers, and shall enter into the register –
- (a) the full names of the tea factory;
- (b) the date of issue of the licence;
- (c) the date of submission of annual returns of registered growers by the tea factory;
- (d) the particulars and number of registered growers including any updates which may be submitted from time to time any other particulars and information that the Committee may deem necessary.]

The Chair: Yes Hon. Member for Ng'araria.

Hon. James Kariuki: Mr. Chairman, I only want to know who the Executive Member is. Is it the Executive Member for Agriculture or Trade?

Hon. Charles Kirigwi: The definition is very clear that the Executive Member refers to the CEC for Agriculture. It is defined.

(Question put and agreed to)

CLAUSE 17

The Chair: I now propose the question that clause 17 be part of the Bill

Hon. Charles Kirigwi: Earlier on, the clause 15 was talking about search and seizure. I am proposing an amendment by deleting the entire clause and inserting the provisions of having what is required to deal with tea in the County; the power to carry on the business of

packing and blending and also how the Executive Member is to deal with each of them, thank you.

*[THAT, clause 17 of the Bill be amended by deleting the entire clause and substituting **thereof** the following new clause-*

17. (1) *No person shall –*

- (a) manufacture tea for sale, whether by sun drying or otherwise; or*
- (b) carry on the business of packing and blending tea;*
without a licence issued by the County Executive Member.

(2) The Executive Member may make regulations prescribing-

- (a) the requirements for applying for a licence under this section;*
- (b) the procedure for processing applications for a licence;*
- (c) the form of application for a licence; and*
- (d) the form of a licence.*

(3) The Executive Member may, after ensuring that all the prescribed requirements are met by the applicant, issue a manufacturing licence, in accordance with regulations made under this section.

(4) The Executive Member may, on advice of the Committee vary or suspend any licence issued under this section if the factory or licensee is found to have contravened the conditions of a licence or regulations made under this Act for the operation of tea factories.

(5) A licence issued under this section may authorize the holder to carry on all or any of the businesses referred to under subsection (1).]

(Question put and agreed to)

CLAUSE 18

The Chair: I now propose the question that clause 18 be part of the Bill

Hon. Charles Kirigwi: Clause 18 was initially talking about registration of dealers and management agent. I am proposing that we amend that by deleting the previous clause and substitute it as per the order paper. In this clause, we want the Directorate to have the mandate of interrogating all the service providers who are dealing with tea. It is very surprising and worrying that some of the service providers, and I don't have any apologies to make, are practising very bad trade practices, like one called Green Feather is a subsidiary of Kenya Tea Development Agency (KTDA).

We are saying that the Directorate should interrogate each and every engagement with our farmers. Why am I saying that? Some of the service providers we have in the tea industry such as KTDA have several subsidiary companies which operate and trade with the farmers. In some cases, like the sacco that they have the Green Land Feather- lend to our farmers at a rate of 60% per year which is abnormally high, it is punitive and at this juncture we are saying that the directorate should vet and bring to the directorate how they are going to engage us and what the fees and charges will be so that we can have an oversight view of how our farmers are being taken around by these institutions.

They call them private companies, but as a government, for public interest, we can have an overview on the same by interrogating them and justify their fees and charges to farmers. I am, for example, a farmer at Ikumbi Tea Factory and auctions in Mombasa usually take place on Tuesdays and I will be paid next year in the month of October. You then find an institution within the service provider form a sacco there and lend me my money at 60%, which is very unfair. I therefore propose the amendment as per the order paper.

[THAT, clause 18 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

18. (1) The Executive Member shall maintain a register of all tea manufacturers, service providers packers and blenders licensed under section 17 in a form determined by the Executive Member.

(2) A register maintained under subsection (1) shall include -

(a) the full names of the manufacturer, packers or blenders;

(b) the date of issue of the licence;

(c) particulars of any cancellation, suspension or variation of the licence; any other information or particulars as the Executive Member may deem necessary.

(3) all the service providers registered with the directorate shall furnish the directorate with their business model and shall justify their fees and charges to the farmer.

(4) all the services provided by the said providers must demonstrate and prioritize the interest of the county tea farmer

(5) for public interest, where a tea factory contracts an agent to manage it or any of its functions, the management agreement between the tea factory and the service providers shall be approved by the directorate. Such approval shall include the business model by each service provider.

(6) The service providers shall open county offices and provide personnel for operations of management functions.]

The Chair: The Hon. member for Kanyenya-ini.

Hon. Peter Kihungi: Mr. Chairman, I would wish that the mover clarifies a bit because in the previous clause in the original bill, there was also the aspect of the management agent. I wanted to know whether they are captured in that clause. If they are captured in that clause, we need to have timelines. We need to know after how long a tea factory can make a change for the management agent. I want a clarification because that is very critical since management agents can either uplift or pull our tea sector down. Mr. chairman, you can help us get a clarification on that.

The Chair: The mover is in agreement that we agreed that we move slowly so that the members may understand.

Hon. Charles Kirigwi: Thank you for that observation. We have changed the wording of management agent because a management agent is only one institution. We are saying that we call them service providers; even those management agents are service providers. Let them come with their businesses, if it is an engineering company within the management company, let it be open, let us know how they are going to engage with our famers.

In the whole clause, we deleted the word management agent and inserted a more inclusive word service providers because we have engineers, brokers and everything else, they are all there, including management agency; so everybody is taken care of.

The Chair: Hon. member for Ng'araria.

Hon. James Kariuki: I would also like clarification, where does a factory such as Ketepa lie? It is my feeling that one of the greatest mistakes that we have made in the tea industry is to sell tea that is not of good quality yet what we produce in the factories is of very high quality. What we buy in the supermarkets and the shops is of very low quality. I hope this problem will be taken care of because the only we can make sure that tea is taken and that we increase the percentage of tea within the country is by making sure that we consume the tea that comes from the factories directly.

Mr. Chairman, I have examples of very popular restaurants in Thika that buy tea directly from the factories and those restaurants are very popular but as long as we keep on taking tea that resembles the one that comes from Ketepa, we are not going to increase tea consumption in this country. I hope this one is taken care of so that factories can sell directly to supermarkets in our country, in the region and also worldwide.

The Chair: Hon. Member for Kinyona, there is the issue that has been mentioned by the Hon. Member for Kanyenya-ini that you did not respond to.

Hon. Charles Kirigwi: Thank you, we must appreciate that these service providers are limited companies. We may not have the *locus standi* to interfere with the agreements that they have with the tea factories.

I must however say that I used to be a Director in KTDA and I know that most of the management agreements are expiring by September this year. They are signed for about eight years and most of the agreements with the ten factories will expire this year. Therefore, this bill is very timely because come the next engagement with our factories, we will be able to interrogate the kind of management agreements that the factories and the service providers want to engage in. We are in the month of July and by September, most of them, I think nine out of ten, will be expiring. We will come in handy to safeguard our interests.

(Question put and agreed to)

CLAUSE 19

The Chair: I now propose the question that clause 19 be part of the bill

Hon. Charles Kirigwi: Clause 19 was talking about the establishment of Murang'a Tea Fund. I however propose that we delete the entire clause and substitute with the qualifications of how a person who wants to deal with tea in Murang'a can do. It is about manufacture, packing, exposure, drying, and the tea grower who is not registered in the factory. I therefore propose the amendment as per the order paper.

[THAT, clause 19 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

19. (1) Any person who—

(a) manufactures packs or blends tea for sale without a licence issued under section 17;

(b) buys, sells, exposes for sale, transports or has in possession any tea which to his or her knowledge or belief—

(i) has been grown, manufactured, dried or dealt with contrary to this Act,

(ii) is from a tea grower who is not registered with any factory, or

(iii) is from a tea grower who is not contracted to supply green leaf to a factory; commits an offence.

(2) Where a person has in possession or control any tea for which he or she is unable to account for, to the satisfaction of a person authorized under section 17, such tea shall be deemed to have been grown, manufactured, dried or dealt with contrary to this Act until otherwise proved.

(3) Where a person is convicted of an offence under this section the court may, in addition to the punishment given under section 29, order that any tea and the vehicle, vessel or other conveyance in relation to the offence be forfeited to the County Government.

(4) This section shall not apply to buyers of tea in good faith.]

The Chair: Hon. Member for Ithiru.

Hon. Joseph Kimani: Thank you Mr. Chairman, I did not clearly understand what section 19 is about because according to the bill, it was on financial provision.

The Chair: Hon. members, I want to correct that it is not section 19 but clause 19.

Hon. Charles Kirigwi: I said very well that the previous clause 19 on the bill was talking about financial provisions. We are now saying that we delete the entire clause and insert as per the order paper.

(Question put and agreed to)

CLAUSE 20

The Chair: I propose that clause 20 be part of the bill

Hon. Charles Kirigwi: Clause 20 was initially talking about the application of the monies of the board. I propose that we delete the entire clause and we substitute it as per the order paper. This is talking about any person can be authorised in writing by the committee the reasonable time notice to enter any land/building occupied by a manufacturer, packing and blending.

[THAT, clause 20 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

20. (1) Any person authorized in writing by the Committee may, at all reasonable times and upon giving sufficient notice, enter any land or buildings occupied by the holder of a manufacturing, packing or blending licence issued under section 17 or a person registered under this Act and make inspection and enquiries as he or she may think fit for ascertaining whether –

(a) the provisions of this Act, or any regulations made thereunder; or

(b) the terms and conditions of the respective registration or licence are being complied with;

and may require any person found thereon to give the information required.

(2) Any person who hinders or obstructs a person exercising or attempting to exercise the powers conferred upon him or her under subsection (1) or who fails to give any information reasonably required, to the best of his or her knowledge and ability commits an offence.

The Chair: There being no debate, I will put the question.

(Question put and agreed to)

CLAUSE 21

The Chair: I propose the question that clause 21 be part of the bill

Hon. Charles Kirigwi: Clause 21 in the bill was talking about investment of funds and borrowing powers. I however propose that we delete the entire clause and we substitute it with the clause as per the order paper. It provides what to do with the people who are dealing with illegal teas; it proposes detaining and searching in the county.

[THAT, clause 21 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

21. (1) An officer of the County Government or the Committee, authorized in writing by the Executive Member or the Committee, upon issuing sufficient notice as the case

may be, upon production of his or her authority on demand, and any police officer or administration police officer may—

- (a) enter and search any premises upon which he or she has reason to believe that there is tea in respect of which an offence under section 18 is being or has been committed;*
 - (b) stop, search and detain any vehicle, vessel or other conveyance which he or she has reason to believe is being or has been used for conveyance of tea in respect of which an offence under section 18 is being or has been committed.*
- (2) Any person who hinders or obstructs a person acting in the exercise of his or her powers under this section commits an offence.]*

(Question put and agreed to)

CLAUSE 22

The Chair: I propose the question that clause 22 be part of the Bill

Hon. Charles Kirigwi: Clause 22 in the bill was on the audit of accounts. I propose that we delete the entire clause and substitute it with the clause in the order paper. This one is stipulating what will happen if a person deals with tea and is not registered as per the bill.

[THAT, clause 22 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

- 22. A person shall not deal in tea unless that person is registered by the Executive Member.*
- (2) Any person who deals in tea in contravention of subsection (1) commits an offence.]*

The Chair: Hon. Member for Kanyenya-ini.

Hon. Peter Kihungi: Mr. Chairman, as I support the bill, i want the mover to clarify where the audit will be because that is a critical area since tea factories have never been audited; they just have internal auditors but they do not have external auditors, yet they are public owned companies. I therefore want to clearly understand the stage at which we will consider the concept of auditing in the tea factories.

Hon. Charles Kirigwi: I request that the Hon. member picks on that issue which will have been addressed before we approach the end of the amendments. Let him note it down and it will be captured if it is an oversight from our side.

(Question put and agreed to)

CLAUSE 23

The Chair: I propose the question that clause 23 be part of the bill

Hon. Charles Kirigwi: Thank you Chair, clause 23 was on reports and accounts to be submitted to the Executive Member, however, our legal team found out that there is no need for that because it is captured elsewhere, I propose that we delete the entire clause without replacement.

The Chair: Hon. member who represents the youth.

Hon. James Kagoni: Thank you Mr. Chairman as I am supporting the bill, my concern is similar to that of the member for Kanyenya-ini because that is the clause that was actually emphasising on the accounts. If we delete it, I would also want to be made aware where else it has been captured because part of the money that has been proposed to be coming to this activity is also coming from the county government. We would want to see the records very clear. Where else is clause 23 captured if we delete it?

The Chair: The Hon. member for Kinyona.

Hon. Charles Kirigwi: Let us consult.

(Consultations)

Chair, I am advised that it will be the New Clause 35 and I have also noted that clause 23 will be zero, there will be nothing there. I do not know whether it will affect the numbering but it is okay, it is internal

The Chair: Are you okay the Hon. member for the youth constituency?

(Question put and agreed to)

CLAUSE 24

The Chair: I propose the question that clause 24 be part of the Bill

Hon. Charles Kirigwi: Mr. Chairman, clause 24 on the bill was talking about penalties and I propose that we delete the entire clause and insert a new one; this is the one that is talking about the financial provisions. We are proposing to create a fund known as Murang'a Tea Fund, pursuant to section 16 of the Public Finance Management (PFM) Act. The fund shall consist of monies appropriated by the County Assembly for the purpose of licenses and fees payable by this Act legally contributions, bequests and grants from any authority, money earned from the investment of the fund, and 20% of agricultural produce cess.

We have also said that the fund will be managed by the committee. We are also saying that the Executive Member for Finance shall issue regulations for the management for the fund. The proposal of the monies is a small amount of about 5% of the annual budget to support the tea industry. I want to elaborate a bit about the fund. Going forward, we are looking at how we will have an umbrella Agricultural Fisheries and Livestock Act whereby we will collapse all these small agricultural funds by various Acts into one big fund- the Agricultural Finance Fund.

I know that there may be proposals to have a fund from the Coffee bill. There may also be a proposal to have a fund from the Dairy bill. I request members to support this small proposal of 5% annually to support this industry. If you look at what is happening in the dairy sector, we are appropriating a lot of money to that sector yet there are no regulations that have been approved by the Assembly.

(Loud consultations)

I know that the figure of 5% maybe debatable but I urge the members to kindly support. I can see that consultations are really going on. Do not scrap it off altogether, because like yesterday I talked to an institution known as FADA (Forum for Agriculture Development in Africa) that is based in Ghana yesterday which is an institution by the African Union (AU) Commission. They said that they are willing to partner with Murang'a county to fund some of these value addition schemes that we are doing. We must however start from somewhere. We must start something so that they can come.

If those who went to Uganda can remember, they are currently in Uganda where they have taken Kshs 400 million to support the banana wine activity that you saw. There is one friend of mine who works in that institution who is willing to engage Murang'a on the same in bananas, coffee, and tea value addition.

I urge the members not to scrap it altogether, give some amount, I, for instance, know that we have appropriated about Kshs 30 million in this financial year. Give something small to start off so that it can go on. As I rest my case, I urge that you debate positively.

The Chair: Hon. Member for Gaichanjiru.

Hon. Bernard Kariuki: Thank you Mr. Chairman for the opportunity to contribute to this clause. I thank the mover of this bill because he has been very clever to not talk about Kshs 300 million but talk of percentage and other issues. It is not possible for the committee to manage the fund, under section 116 of the PFM Act, it is the CEC who should appoint an administrator to the fund. Being Murang'a Tea Fund makes it a County Public Fund which should not be left to the committee.

In addition, 5% of Kshs 6.6 billion is almost Kshs 400 million and the mover of the Bill has been very clever to move from Kshs 300 million to more than that, so I propose that we delete the proposed amendment of (3) and (4) of that amendment because (2) (a) is enough since monies appropriated by the County Assembly is a good provision because in the amendments we have made on section 10 or 11, the mover has proposed that there are two forums where the committee will engage the Assembly. It is possible for them to make their case before the Budget committee through the committee of Agriculture for the Assembly to appropriate to the so (2) (a) is enough since we do not need to provide a ceiling at 5% or any other percentage because the money appropriated by the Assembly should be on need basis. I propose that we entirely delete (3) and (4). I request the Hon. member for Ithiru to second that being an expert in finance.

The Chair: Hon. member for Ithiru.

Hon. Joseph Kimani: Thank you Mr. Chairman, I second the amendment as proposed by the Hon. member for Gaichanjiru. I had seen that the Hon. member for Kinyona had even skipped that clause of the amendment but later he found out that we are consulting In the budget, we have already put money to support the tea industry so we do not actually see the reason why we should give another 5%, which is amounting to Kshs 400million to the same.

On the same, you find that they are also saying that the tea cess will also be going to that fund. The Assembly appropriating more money to the same sector is also an advantage to them so I propose the two amendments.

The Chair: Hon. members, the proposed amendment to that amendment has been seconded and I will now propose the question.

(Question proposed on ammendment to an ammendment)

Let us now debate those proposed amendments.

Hon. James Kagoni: Thank you Mr. Chairman, indeed, I stand to echo the sentiments of the mover of the new amendments of clause 24 (3) and (4) and preferably also capture clause 24 (2) (f) because when you read clause 24 (2), you realise that the Assembly has the opportunity to give this department some monies. You don't however find any sector that has a certain percentage captured by an Act that that money must always be appropriated every financial year.

Mr. Chairman, I want to urge the mover who is my chairman not to look at it from a bad perspective but to also see the positive side of it. Next year, they may not require the

Kshs 400 million; they may require Kshs 600 million. He should, therefore, not really limit himself to the Kshs 400 million. Let him not only see that it can only be lower because they could require more in other years. They will tie themselves if they set a fixed percentage. We would be setting a very bad precedent when a particular crop is captured because where do we get this money? This money is coming from milk, French beans, coffee, sand, and everything else.

It will therefore be very unfair for other people who deal with other crops and other items to see that this money is going into one direction and we will be setting a very bad precedent and someone else will bring a motion or bill on sand and say any fund around sand will be given 10% of any annual budget. That will be a very bad precedent that we might not be in a position to maintain. I support the new amendments that we delete clause 24 (3) and (4). I was checking to find out if there is a definition of any other committee that has been captured and that also contravenes with the PFM Act, 2012 and Article 201 of the Constitution that provided for the principles of prudent management, thank you.

The Chair: Member for Gitugi.

Hon. Duncan Njuguna: Thank you Mr. Chairman, as I support the amendment of the clause cited, I will add that what has been proposed is not sustainable because we are heading to a situation where we will be having so many funds by the year 2017 to an extent that no monies will be left for development. As Hon. Kagoni has put it, if each and every crop that is in Murang'a county is to have a fund and get the same money from the annual budget, we shall end up having so many funds which are not sustainable.

Although I will not propose or move as an amendment to the same amendment, (2) (a) of that clause should have also gone because the tea industry is getting money from the cess

(Hon. Bernard Kariuki rose on a point of order)

Hon. Bernard Kariuki: On a point of order

Hon. Duncan Njuguna: I am almost through Mr. Chairman---

The Chair: Yes, Hon. Member for Gaichanjiru?

Hon. Duncan Njuguna: Is it a point of order?

The Chair: Yes it is.

EXTENSION OF TIME

Hon. Bernard Kariuki: Thank you, I rise on a point of order to move the motion that we extend time to 1 p.m. given the weighty matter before us and I request the Hon. member for Ithanga to second.

The Chair: It has been proposed that we extend time by 30 minutes; do you want to second Hon. member for Ithanga?

Hon. Esther Nyakio: Thank you, I stand to second.

Hon. Duncan Njuguna: What do you second?

(Laughter)

The Chair: I am on the Chair, Hon. members, Hon. member for Gitugi, we have to follow the rules of this House, it is always good to respect the Chair. The extension of time has been proposed and seconded, any other counter proposal?

(Question put and agreed to)

Continue, Hon. member for Gitugi.

Hon. Duncan Njuguna: Mr. Chairman, I am sorry for the hitch. Although the mover of the amendments has whispered to me not to kill everything, I was saying that the fund will get all the cess that is collected from the tea industry and not the county government. Therefore, to add more money from the budget, yet we are not getting anything in form of cess from the tea industry means that the county government will not sustain the move. I support the amendment that we delete clause 24 (3) and (4) from the bill, thank you Mr. Chairman.

The Chair: Hon. member for Muthithi.

Hon. Samuel Wandia: Thank you Mr. Chairman for giving me that opportunity. I have risen to echo what the nominated member, Mr. Kagoni and the rest have said. Every sector will come to the county government demanding to be given some money. I have risen to discuss clause 24 (2) (f) that provides that the fund shall consist of 20% of the agricultural produce cess. I fail to understand whether the mover is talking about 20% of the tea produce cess or 20% of all the agricultural produce cess and if it is all, I stand to propose that that one also be removed, thank you.

The Chair: Hon. member for Kanyenya-ini.

Hon. Peter Kihungi: Thank you, the members might be convincing but I want to put it clearly that there is an amendment on the issue of the agricultural cess that I also want to talk about. That has already been agreed to and in the spirit of the leaders of both the Assembly and the whole country is that we must remove the agricultural cess from tea farmers because they pay taxes like anybody else.

Others like the milk and mango producers also pay taxes; the same spirit should also be extended to the coffee farmer. They have a legal obligation to be provided with services that are provided to any person in Kenya. We cannot be doing our own roads whereas the milk farmers and the public are using the same roads yet we are paying taxes from our tea like anybody else.

Therefore, I want to put it clearly to the members that as per now, we are not charging cess and we will not go back to that. The farmers will not be charged cess later. I will also propose an amendment. Members as you give us the money, just note that we do not have cess by now. I congratulate you for the Kshs 30 million that you have already allocated in this financial year's budget. That is a big plus and a good starting which I think the public will very much appreciate. Farmers are not charged cess; thus there is nothing that is coming from cess. I think the same spirit should go to the coffee farmers; whereby a farmer cannot make his own roads. The government is obligated to take that responsibility.

As we go by that, we should retain the fund, even if we do not give a large amount, we need to agree on not less than Kshs 300,000. If we for example say not less than Kshs 300 million, you can give us Kshs 10 million or Kshs 20 million. You can then increase to Kshs 300 million when our responsibilities increase.

Let me put it clearly that coffee farmers should go in the same direction and no farmer should be responsible to do his or her own road. Every farmer is obliged like any other Kenyan citizen to be given services that are given to others. They cannot be discriminated against. We are not going back as tea farmers; no cess will be charged to any farmer as we have started it, thank you Mr. Chairman.

The Chair: Hon. member for Ng'araria.

Hon. James Kariuki: Mr. Chairman, it therefore looks like the member for Kanyenya-ini wants us to do away with clause 24 (2) (f) completely but has not suggested that, the 20% of the agricultural produce cess. What he has said is not very clear.

Hon. Peter Kihungi: I think the amendment on clause 27 will capture the ammendment on clause 24 (2) (f).

The Chair: I want to remind the Hon. members that we are debating the amendment on clause 24 (3) and (4).

Hon. James Kariuki: Thank you Mr. Chairman, I just want to make a comment; that I would like to inform this Assembly and the chair for Trade that we intend to come up with an Agricultural Development Fund Bill so that we have one fund for all our agricultural produce, such as tea, coffee, milk, avocados, and mangoes and so on. I am supporting the amendments on clause 24 (3) and (4) but we should not have any percentage that is appropriated for a particular crop but we shall have a bill to that effect so that we have one basket where tea, coffee, etc., can get its own percentage. I am supporting the amendment.

The Chair: Hon. members, the Hon. member for Muthithi was not very clear on clause 24 (2) (f).

Hon. Samuel Wandia: Mr. Chairman, this clause 24 (2) (f) talks of 20% for the agricultural produce cess. Actually, this---

The Chair: Propose something.

Hon. Samuel Wandia: I propose that it should be tea cess; rather than putting all the agricultural produce cess going to tea

(Hon. Bernard Kariuki rose on a point of information)

Hon. Bernard Kariuki: On a point of information

The Chair: What is the point of information Hon. member for Gaichanjiru?

Hon. Bernard Kariuki: I want to inform my good friend- the member for Muthithi- that, that percentage is brought there by the amending Clause 27 (3). We can therefore wait and deal with that when we reach there, thank you Mr. Chairman.

The Chair: I will now put the question only on the amendment to delete clause 24 (3) and (4).

(Question agreed to)

The Chair: I will now put the question on the clause 24 as amended be part of the bill.

(Question agreed to)

CLAUSE 25

The Chair: I propose the question that Clause 25 be part of the bill

Hon. Charles Kirigwi: Thank you Chair, clause 25 was initially on offenses by corporations and societies. I am proposing that we delete the entire clause and we substitute with what is in our order paper. This clause is discussing the usage of the funds that we have just talked about in clause 24.

[THAT, clause 25 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

25. There shall be paid from the Fund monies –

- (a) fees and other expenses relating to experiments, investigation and research in connection with the tea industry;*
- (b) expenses relating to the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;*

- (c) *the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;*
- (d) *costs for the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provisions of facilities ancillary thereto;*
- (e) *costs for advertising the merits of Murang'a County tea and increasing its sale; and*
- (f) *costs for developing the tea industry of Murang'a County in such manner as in the County Tea Development Plan.]*

The Chair: Hon. Member for Rwathia.

Hon. Peter Mweri: Thank you Chairman, I have noted that the mover has completely deleted the issues on the initial clauses 24 and 25. I want him to explain why he thought the issue of penalties in clause 24 and offenses and penalties by corporations and societies in clause 25. Maybe they are not important or he has maybe put them somewhere else.

The Chair: Before I call the mover, I understand that the Hon. members to that committee are also in this Chamber so they should help the chair when it comes to the issues of debating.

Hon. Charles Kirigwi: Thank you Chair, what has been asked by the Hon. member for Rwathia is captured in clause 30 and I will request for his patience because it will be addressed as we go on.

(Question put and agreed to)

CLAUSE 26

The Chair: I propose the question that clause 26 be part of the bill

Hon. Charles Kirigwi: Clause 26 was initially talking about regulations and I propose amendments by deleting the entire clause and substituting it with the clause as per the order paper. This one is talking about the investment of funds that may be, from time to time, and now because there is no the 5%, I do not think there will be much to invest.

[That, clause 26 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

26. (1) The Committee may, with the approval of the Executive Member, invest any funds which may from time to time be standing to its credit and which are not immediately required for any of the purposes specified in section 25, in such investments as the Executive Members responsible for agriculture and finance may approve.]

(Question put and agreed to)

CLAUSE 27

The Chair: I propose the question that clause 27 be part of the bill

Hon. Charles Kirigwi: Earlier on clause 27 was on appeals. I propose that we delete the entire clause and substitute it with what is in the order paper. This was a request by the KTDA during our public participation; they requested that they are not in a position to do the

roads and there is a Court ruling that counties should not charge cess because they do not have county legislations.

At a meeting held in Kenol, KTDA approached us and suggested that we legislate on cess and we charge the farmers 1% value of the green tea and then out of that, allow the factories to do the roads with 80% and then forward 20% to the Tea Fund, that is what KTDA suggested. As we talk, the roads are in bad condition because farmers are not been charged cess.

[THAT, clause 27 of the Bill be amended by deleting the entire clause and substituting thereof the following new clause –

27. (1) Pursuant to Article 201 of the Constitution, there shall be an Agricultural Produce Cess which shall be one per centum of the value of the tea produced by the tea factories.

(2) The Managing Agent appointed by the County Executive Member shall be the collecting agent for the Agriculture Produce Cess.

(3) The collecting agent shall pay (eighty) 80% of the Agriculture Produce Cess to the factories and (twenty) 20% of the Agriculture Produce Cess into the Fund established under Section 24 on a monthly basis.

(4) the Executive Committee Member shall provide guidelines on how factories shall administer the Agriculture Produce Cess given to them.]

The Chair: Yes, Hon. member for youth.

Hon. James Kagoni: Mr. Chairman, I am in support of that amendment but I am seeking a clarification from clause 27 (3). I do not know whether it is an issue of wording or we need to be clear; when we say agricultural produce cess, does that mean cess only from tea or the entire cess from anything else? It could be from French beans, flowers, or even pineapples. I seek for that clarification.

Hon. Charles Kirigwi: Chairman, as per the definition, the agricultural produce cess refers to tea only.

The Chair: Hon. member for Kanyenya-ini.

Hon. Peter Kihungi: Mr. Chairman, on this one I think I will go contrary to my chairman who has a passion for tea. I got the ruling stopping the collection of tea cess talks about the taxes the farmers are making them not to have any returns from their produce. The tea farmers are subjected to almost 42 taxes because a tea farmer pays tax to KRA, this is the money we are getting about 6 billion for development in Murang'a, after that tax, they are also charged the Tea cess, this is a tax to improve their roads, that's why the court case talks about double taxation. The issue is not who to collect the cess, the issue is whether a tea farmer should be charged cess whereas he is paying taxes like any other person who is using the road the tea farmer is repairing.

Mr. Chairman, what I believe, this one will not go back. If you look at a tea farmers pay slip, the farmer is not charged 1% cess and to reverse it will be putting a burden to our tea farmers

I want to positively predict, since we are now doing the bill and the Court case is ongoing. I pray, and God answers my prayers, that tea farmers will not be charged tea cess again. They will access services like anybody else and it will give us challenges when we are fighting here for tea farmers, the members are getting the concept that the tea farmers have another fund, whereas there isn't. For us to be able to negotiate well for the tea farmers

during budgeting, let us remove the clause. Tea cess will come back and that one we will fight it to the end.

We delete clause 27, if by chance they win, which I doubt, we will do an amendment, but as at now we are in solidarity with the Governors who have stood and taken the case to Court that a tea farmer should not be charged cess whereas he is paying other taxes. If we predict that they might be defeated; we might be seen as the people pulling down the Court case. I call for an amendment that we delete clause 27 and I call upon Hon. Martin to second

Hon. Martin Mwangi: Thank you, just the way it has been properly explained, tea farmers have undergone agony due to many taxes that are about 42 so introducing another tax which was eliminated by the Court, it is not fair. I second the Leader of Majority that we do away with the 1% cess to tea farmers. I second

The Chair: Order! Member, before you sit down member for Murarandia, be specific on the seconding

Hon. Martin Mwangi: Mr. Chairman, we are discussing clause 27, I second that the whole amendment be deleted

The Chair: Hon. members we shall now debate the deleting of clause 27 because it has been proposed and seconded. Hon. member for Gaturi.

Hon. Rosemary Wakuthii: I am in support of deleting clause 27, simply because these people have been suffering a lot. I am not a farmer in the tea growing zone but I normally visiting those areas and I see the problems they suffer with the 42 cess that they are deducted. I am supporting this knowing that in each institution or any person undertaking any contract within the tea jurisdiction, they need to give back through Corporate Social Responsibility.

So the issue of constructing roads through the cess has no goodwill. They need to build roads for these people to improve accessibility even when collecting their produce. It is their duty to collect tea and ensure the roads to collection points are accessible. I humbly second what the majority leader has said.

The Chair: Order! Hon. member, it has been seconded you are supporting

Hon. Rosemary Wakuthii: I support that we delete the whole section and leave it blank. Even the coffee people pay cess, we should not have cess for any agricultural produce

The Chair: Hon. member we are debating the Tea bill not any other bill, Hon Member for Kangari

Hon. Anderson Muchemi: I oppose the amendment to delete that clause. Mr. Chairman, If you want a good road in Murang'a County, it is in places where there is tea farming. Without produce cess, then we happen to have another government that will not understand, the tea farmers will be in trouble. If you go to those places you will see a tea buying centre, inside the places you cannot imagine but due to tea cess managed by the factories, you will find the road very accessible. The members know very well that as at today, if we leave this to the county government I am sure the tea farmers will be in problems. I oppose the deleting of clause 27 (3)

Hon. Joseph Kimani: I also feel that when we delete the whole clause and even in coffee we are paying the cess, we will be denying the county the money we need in the budget to repair the roads. As the Hon. member for Kangari has said, if the money is coming to the factories, maybe we should have said that the money goes to the county but deleting the whole part that the cess be omitted, I also oppose the amendment

Hon. Bernard Kariuki: Thank you Chairman, that clause 27 has serious implication on clause 24 on the fund, the member for Kanyenya-ini had pleaded with me to support but if we entirely delete the amendment clause 27, it would mean that the fund will be constrained.

The fund has important functions, especially to the tea sector so this cess and as the member for Kangari has said, if you go to the tea growing areas the roads are good. In

Kandara if you go to Ruchu, the county government is not constrained in terms of allocating money to that area because the Tea factories are very efficient in managing this fund.

I would have even supported 2% to enable these people do their infrastructure and make sure that the fund is sufficient for its purpose. I would rather we maintain that amendment clause so that the fund is consistent and the tea farmers will not keep on complaining about poor roads and this is a produce that requires efficient infrastructure. We can let the clause remain the way it is then in future we will amend if need arises, thank you.

Hon. Samuel Wandia: I have been listening to the contribution from the member for Kanyenya-ini and it is unfortunate because we are in the final touches of this bill. He should have produced the Court ruling abolishing the cess payment and apparently, he has whispered to me that he does not have any.

(Laughter)

I stand here to say that we should not completely rule out this amendment clause number 27. We all know that Tea growing zones are all accessible during the rainy season. If we remove this cess and have it administered by the Tea directorate, it will be bad. I have seen of late that the 1% of cess that coffee farmers pay, in actual fact our roads have improved.

I am a coffee farmer and some of the roads have been improved and if we rule it out, given the benefits we have been getting, we are saying that those in tea growing area that opportunity they get by improvement of the roads will not be there and given that I would say that the intended Ward Development Fund, I do not think it can be able to improve the roads like the way they are. I stand up to say that I propose 1% of the cess on tea farmers so that they will continue enjoying the benefits of improved roads, thank you

The Chair: Hon. Catherine

Hon. Catherine Mugo: I am opposing the proposal to delete clause 27, but I also have further amendments. Clause 27(1) says, pursuant to Article 201 of the Constitution there shall be an agricultural produce cess which shall be 1% of the value of the tea produced by the tea factories.

Article 201 of the Constitution does not state that, we actually need to amend 27 (1) pursuant to Article 201 of the Constitution, we delete that, so that our sentence starts from, 'there shall be an agricultural produce cess which shall be 1% of the value of the tea produced by the tea factories.' If you look at the provisions of Article 201, it does not state what we have actually stated in that paragraph. My suggestion is we delete, pursuant to Article 201 of the Constitution so that our sentence starts from 'there shall be an agricultural produce cess which shall be 1% of the value of tea produced by the tea factories.'

The Chair: You need to get a seconder for

Hon Catherine Mugo: I ask Hon. Mwicigi to second the motion

Hon Rebecca Mwicigi: I second the amendment

The Chair: Hon. members, before we dispense with this, the Hon. member Catherine has proposed and seconded. Before we debate this, the proposal by the Leader of Majority has not been dispensed off. Hon. Catherine, when she was contributing, she said that she was opposed to that, but again she proposed further amendment.

(Question on deleting clause 27 put and negated)

(Applause)

The Chair: Clause 27 remains and I now invite debate on the amendment that has been made by Hon. Catherine and has been seconded. Hon. Member for Kangari

Hon. Anderson Muchemi: I wish Hon. Catherine could have read to us what Article 201 says because; if it is not in line with our intention we will have to remove it and I support her, if she substantiates.

The Chair: Hon. Catherine read Article 201, so that members may understand what it says.

Hon Catherine Mugo: It says: The following principles shall guide all aspects of public Finance in the Republic—

(a) There shall be openness and accountability, including public Participation in financial matters;

(b) The public finance system shall promote an equitable society, and in particular—

i) The burden of taxation shall be shared fairly;

ii) Revenue raised nationally shall be shared equitably among national and county governments; and

iii) Expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas, further (c) and (d) none of these provisions are in what we are quoting here, that is why I am asking that we delete.

The Chair: The mover has proposed we delete 'pursuant to Article 201 of the Constitution' but the mover did not tell us how she would propose it to read. You have said? Okay. Hon. Member for Murarandia.

Hon. Martin Mwangi: I stand to support that we delete the words 'pursuant to Article 201 of the Constitution' and we start with 'there shall be'. As I contribute in support of this, even though we have discussed the earlier motion for rejecting, personally I am a tea farmer, the fact that I do not have my payslip for the last 7 months i have not been paying any cess, because there is a farmer in the Rift valley, who was not even a tea farmer, he went to the High Court and challenged the legality of paying the 1%. It was ordered that 1% is illegal, not only in tea but even in coffee. In the tea sector, all of us stopped paying the 1% because it was outlawed. If we put it the way it is Chairman, I think it is good

(Hon. Duncan Njuguna rose on a point of order)

Hon. Duncan Njuguna: Mr. Chairman, the member is misleading this House, you have already put the question and was voted and he is taking us back to debate business that we have dispensed with.

The Chair: Yes, we have dispensed that matter. We are debating the proposal by Hon Catherine

Hon Martin Mwangi: That is where I am, the clause on pursuant to Article 201

(Laughter)

But I was looking for stones, because when you are in a war, you need to be fully armed. This one should be removed, it can be challenged. Let us leave it that there shall be an agricultural cess which shall be 1% because this House is also making laws. As we make it as our own law, I think it will be agreeable because what happened, the Court argued that there were no laws. So if we are making laws, I think it shall be accepted because this is a House of making laws, thank you

The Chair: Before I put the question, the Hon. member for Murarandia has clarified what the Chair wanted to clarify. The Court ruling was there because there was no legislation to impose tax on tea. Murang'a County Assembly has gone ahead to legislate to provide an

avenue for charging cess, that was a clarification that I wanted to make. There was a typing error, it was not Article 201, it is Article 210.

(Question on ammendment put and agreed to)
(Question on Clause 27 as ammended put and agreed to)

CLAUSE 28

The Chairman: I propose the question that clause 28 be part of the Bill

Hon Charles Kirigwi: Thank you, clause 28 was on transitional provisions, I propose that we delete the entire clause and substitute it with:-

[28. (1) The Directorate shall, within a period of three months after the end of each financial year or within such longer period as the Executive Member may approve, submit to the Executive Member a report of its operations during that year, the balance sheet and such other statements of account as the Executive Member may require together with the auditor's report and the Directorate shall, publish the report in such manner as the Executive Member may specify.

(2) The Executive Member shall lay the report and the auditor's report, together with the balance sheet and such other statements of account received from the Directorate before the County Assembly within thirty days after receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days after the commencement of the next sitting.]

This is a provision for the directorate within 3 months to be reporting to the Executive member reports of operations during the year and the balance sheet and there is also a provision for the Auditor's report and the CEC may specify.

(Question put and agreed to)

CLAUSE 29

The Chairman: I propose the question that clause 29 be part of the bill

Hon. Charles Kirigwi: I propose that we amend by deleting the entire clause and substituting it with:-

[29. A person convicted of an offence under this Act in respect of which no penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.]

(Question put and agreed to)

NEW CLAUSE

CLAUSE 30

The Chairman: I propose the question that clause 30 be part of the bill

Hon Charles Kirigwi: I propose that we amend clause 30 by deleting the entire clause and replacing it with:-

[(30) Where any offence under this Act or under any regulations made under this Act is committed by a company, body corporate, society, association or body of persons, every person charged with the control or management of the affairs or activities of that body shall be deemed to have committed offence and is liable on conviction to the relevant punishment accordingly, unless it is proved by such person that, through no act or omission on his or her

part, he or she was not aware that the offence was being or was intended or about to be committed, or that he or she took all reasonable steps to prevent its commission.]

(Question proposed that the new clause 30 be read a second time)
(Question that new clause 30 be read a second time put and agreed to)
(Question that new clause 30 be part of the bill put and agreed to)

CLAUSE 31

The Chair: I propose the question that clause 31 be part of the Bill

Hon Charles Kirigwi: I propose that new clause 31 be read a second time and it is on;-

[(31) The Executive Member, may, after consultation with the Directorate and the Committee, and with the approval of the County Assembly, make regulations for carrying this Act into effect]

(Question proposed that the new clause 31 be read a second time)
(Question that new clause 31 be read a second time put and agreed to)
(Question that new clause 31 be part of the bill put and agreed to)

CLAUSE 32

The Chairman: I propose the question that clause 32 be part of the Bill

Hon. Charles Kirigwi: I propose that the new clause 32 be now read a second time and the clause is;-

[(32) Every licence issued under the Crops Act, 2013 and in force immediately before the commencement of this Act shall, continue in full force and effect according to the terms and conditions thereof, as if the same had been issued under this Act]

(Question proposed that the new clause 32 be read a second time)
(Question that new clause 32 be read a second time put and agreed to)
(Question that new clause 32 be part of the bill put and agreed to)

CLAUSE 33

The Chairman: I propose the question that clause 33 be part of the Bill

Hon. Charles Kirigwi: I propose that new clause 33 be read a second time. This is providing for;-

[(33) Every person or entity required to be registered under this Act shall do so within six months of the coming into effect of this Act.]

(Question proposed that the new clause 33 be read a second time)
(Question that new clause 33 be read a second time put and agreed to)
(Question that new clause 33 be part of the bill put and agreed to)

CLAUSE 34

The Chair: I propose the question that clause 34 be part of the bill

Hon Charles Kirigwi: I propose that the new clause 34 be read a second time. This clause is giving provision on the character and behaviour of;-

[(34) (1) A member of the Advisory Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall, as soon as reasonably practicable after the relevant facts concerning the matter have come to their knowledge, disclose the nature of the interest to the Committee.

(2) A disclosure of any such interest in a matter shall be recorded in the minutes of the meeting of the Advisory Committee and the member shall not be present when that matter is being dealt with by the Committee and shall not take part in any deliberations or vote relating to the matter..'

(Question proposed that the new clause 34 be read a second time)
(Question that new clause 34 be read a second time put and agreed to)
(Question that new clause 34 be part of the bill put and agreed to)

CLAUSE 35

The Chair: I propose the question that clause 35 be part of the bill

Hon. Charles Kirigwi: I propose that we amend clause 35 by deleting the entire clause and replacing it with;-

[(35) (1) The Committee shall cause an annual report to be prepared for each financial year.

(2) The Committee shall submit the annual report to the Governor and the County Assembly within three months after the end of the year to which it relates.

(3) The Annual report shall contain, in respect of the year to which it relates –

(a) The financial statements of the Committee;

(b) A description of the activities of the Committee;

(c) Such other statistical information as the committee considers appropriate relating to its mandate;

(d) Any other information relating to its functions that the Committee considers necessary; and the annual County Tea Development Plan]

(Question proposed that the new clause 35 be read a second time)
(Question that new clause 35 be read a second time put and agreed to)
(Question that new clause 35 be part of the bill put and agreed to)

CLAUSE 36

The Chairman: I propose the question that clause 36 be part of the bill

Hon. Charles Kirigwi: I propose that a new clause 36 be read a second time. This clause provides for the members of the advisory committee who in the course of doing their duty;-

[(36) No action by a member of the advisory Committee shall, if done in good faith for executing the functions, powers or duties of the Committee, render the member personally liable to any action, claim or demand whatsoever]

(Question proposed that the new clause 36 be read a second time)
(Question that new clause 36 be read a second time put and agreed to)
(Question that new clause 36 be part of the bill put and agreed to)

SCHEDULE

The Chairman: I propose the question that new schedule be part of the bill

Hon. Charles Kirigwi: I propose that new schedule be now read a second time and it as attached, providing the schedule of the meetings of the advisory committee;-

[(1) The Committee shall meet at such times and places as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time and on such days as the Committee may decide.

(2) The chairperson may at any time call a special meeting of the Committee, and shall call a special meeting within seven days after a requisition therefor addressed to him by any three members of the Committee.

(3) The chairperson, or in his absence the deputy chairperson, or in the absence of both a member elected by the Committee, shall preside at all meetings of the Committee, and the deputy chairperson or person presiding at any meeting shall with respect to such meeting or any business transacted thereat have all the powers of the chairperson under this Act.

(4) The quorum for the conduct of the business of the Committee shall be one-half of the members.

(5) The chairperson, deputy chairperson or other person presiding at any meeting shall have a casting vote as well as a deliberative vote, and subject thereto the decision of the majority of the members present and voting at any meeting of the Committee shall be deemed to be the decision of the Committee.

(6) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairperson, deputy chairperson or other person presiding at the next succeeding meeting.

(7) Subject to this section, the Committee shall have power to regulate its own proceedings, and may delegate to any member, committee of members or officer employed by the Committee the power and authority to carry out on behalf of the Committee such duties as it may determine.]

*((Question proposed that the new schedule be read a second time)
(Question that new schedule be read a second time put and agreed to)
(Question that new schedule be part of the bill put and agreed to)*

CLAUSE 2

The Chair: I propose the question that clause 2 be part of the bill

Hon. Charles Kirigwi: I propose that as per the order paper

[THAT, clause 2 of the Bill be amended-

(a) by deleting the following terms, “ auction organizer” “board” “customs territory” “established agency” “import” “made tea” “planting licence” “small holder” “tea plantation” “warehouseman”

(b) by inserting the following new terms in the alphabetical order in which they follows; “committee” means the Murang’a County Tea Advisory Committee under section 3;

(c) on the term “director” by deleting the words “Murang’a Tea Directorate” immediately after the word “the” and by deleting the letter “9” immediately after the word section, and replacing with “13” ;

(d) on the term “manufacturing licence”, by deleting the letter “ 13” immediately after the word “section” and replacing it with the letter “17]

*(Question proposed)
(Question put and agreed to)*

CLAUSE 1

The Chair: I propose the question that clause 1 be part of the bill

Hon. Charles Kirigwi: I propose an ammendment that clause 1 be amended by deleting the word “Bill” immediately after the word “this” and the word “County” and replacing with the word “Act”

(Question proposed)
(Question put and agreed to)

TITLE

The Chair: I propose the question on the title of the bill.

Hon. Charles Kirigwi: I propose that the title of the bill be ‘The Murang’a County Tea Bill 2014’

(Question put and agreed to)

Hon. Charles Kirigwi: I beg to move that the committee reports to the Assembly it’s considerations of the Murang’a County Tea Bill (No.14 of 2014) and its approval thereof with amendments

(Question proposed)
(Question put and agreed to)

(Hon. Gachui Mungai left the Chair)
(Committee of the Whole House disbanded)
(The Speaker Hon. Nduati Kariuki in the Chair)

The Speaker: the Chairperson.

Hon. Gachui Mungai: Mr. Speaker, I beg to report that the Committee of the Whole Assembly has considered the Murang’a County Tea Bill (no.14 of 2014)and its approval thereof with amendments.

The Committee of the Whole Assembly has considered the proposed amendments and has approved them with other ammendments; clause 7 was further ammended to reduce the term from six years to three years and from five years to three years.

After the Committee of the Whole has deliberated on clause 24, it has also agreed with the proposed amendments but it further amended sub-section (3) and (4) by deleting; it has also amended clause 24 by deleting sub-section (3) and sub-section (4) of that clause.

The committee have further amended clause 27 (1) by deleting pursuant to article 201 of the Constitution for the sub-section (1) to read that ‘there shall be an Agricultural produce cess which shall be 1% of the value of the tea produced by the tea factories.’

Mr. Speaker, I am happy to report the progress on the Committee of the Whole Assembly.

Hon. Charles Kirigwi: Mr. Speaker today is among my happiest days in the Assembly as I beg to move that the Assembly do agree with the committee on the said report. Mr Speaker, I must thank you specifically for the far you have taken my committee on this issue in some cases chairing the stakeholder’s meetings. I must also thank the members for the way we have deliberated on the bill.

Mr Speaker, Murang’a county will be the first to enact such a bill and I think the other 18 counties which are tea growing areas will emulate us and pass the same

Today I will sleep well knowing that we have done good to our members and tea farmers in Murang'a especially to have an oversight over the service providers. I call upon Hon. Samuel Dishon to second my motion

Hon. Samuel Wandia: I second the motion

(Question proposed)

The Speaker: I would like to advise the hon. members that you can still contribute to the motion.

Hon. Joseph Kimani: I support the motion, to come with a report of the Whole House; we have really deliberated on the amendments and totally agreed with those amendments

(Question put and agreed to)

MURANG'A COUNTY TEA BILL (NO. 14 OF 2014) - THIRD READING

Hon. Charles Kirigwi: Mr. Speaker, I beg that the Murang'a County Tea Bill (No.14 of 2014) be now read a third time. I call upon Hon. Duncan to second

Hon. Duncan Njuguna: I second

(Question Proposed)

(Question put and agreed to)

(Applause)

ADJOURNMENT

The Speaker: The House is adjourned until 2:30 p.m. this afternoon

The House rose at 12:56 p.m.