

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 4<sup>th</sup> July 2019

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### MESSAGES

**Hon. Speaker:** Hon. Members, I have two Messages from the Senate.

#### REJECTION OF NATIONAL ASSEMBLY'S AMENDMENTS TO THE COUNTY GOVERNMENTS (AMENDMENT) BILL

Hon. Members, pursuant to the provisions of Standing Order No.41, I wish to report to the House that I am in receipt of a Message from the Senate conveying the decision of the Senate on the County Governments (Amendment) Bill (Senate Bill No.11 of 2017).

You will recall that the County Governments (Amendment) Bill (Senate Bill No.11 of 2017) was passed by the National Assembly with amendments on Wednesday, 6<sup>th</sup> March 2019. The Message from the Senate reads in part:

“...on Tuesday, 18<sup>th</sup> June 2019, the Senate considered and rejected a Motion to consider the National Assembly’s amendments to the County Governments (Amendment) Bill (Senate Bill No.11 of 2017).”

The import of the Senate’s decision is that the Bill will now stand referred to the mediation process as contemplated under Article 112 of the Constitution. Consequently, the leadership of the Majority and Minority parties in the House are hereby directed to expeditiously nominate three and two Members, respectively, for appointment to the mediation committee to consider the Bill. Once constituted, the Committee will be expected to speedily embark on the process of attempting to develop a mediated version of the Bill in accordance with the provisions of Article 113 of the Constitution.

#### PASSAGE OF BILLS BY THE SENATE

The second Message, being Message No.13 of 2019 from the Senate, relates to:

- (1) The County Roads, Walkways and Parking Bays Bill (Senate Bill No.18 of 2018).
- (2) The County Outdoor Advertising Control Bill (Senate Bill No.19 of 2018).
- (3) The County Law Compliance and Enforcement Bill (Senate Bill No.25 of 2018),  
and
- (4) The County Wards (Equitable Development) Bill (Senate Bill No.34 of 2018).

The first Message is in respect of the passage of the County Roads, Walkways and Parking Bays Bill, which seeks to provide for the planning, construction and maintenance of county roads, streets, lanes, alleys, parking bays, drainage systems and walkways and provide for proper planning of access-ways to commercial buildings along major roads.

The third Message relates to the passage of the County Law Compliance and Enforcement Bill. This Bill aims to provide for the establishment of law compliance and enforcement units and to provide for the administration and management of the units in each county.

The fourth Message is in respect of the passage of the County Wards (Equitable Development) Bill, which seeks to provide a framework for the promotion of equitable growth in the wards within the counties by providing for the allocation of funds for ward-based development projects; and to provide oversight mechanisms for the utilisation of funds allocated for ward-based development projects. The Messages read:

“The Senate considered and passed the four Bills with amendments on Wednesday, 19<sup>th</sup> June 2019, and now seeks the concurrence of the National Assembly.”

Hon. Members, Standing Order No. 143(1)(a) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate. Accordingly, I direct that the Bills be read a First Time during the next Sitting of the House.

Paragraph (2) of Standing Order No.143 provides as follows:

“Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114(2) of the Constitution”.

The opinion envisioned under Standing Order No.143(2) is a pronouncement, by the Speaker, as to whether a Bill originating in the Senate is a ‘Money Bill’ in terms of Article 114 of the Constitution. In this regard, I direct that, after the First Reading, the four Bills be referred to the Parliamentary Budget Office to offer advice that will enable the Speaker to form the opinion contemplated under Standing Order No.143(2). Thereafter, I shall guide the House accordingly on how to proceed with the consideration of the said Bills.

Next Order!

### PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No.82 relating to the Insurance (Valuation of Technical Provisions for Life Insurance Business) Amendment Guidelines, 2019 and the Explanatory Memorandum from the National Treasury and Planning;

Legal Notice No.83 relating to the Insurance (Capital Adequacy) Amendment Guidelines, 2019 and the Explanatory Memorandum from the National Treasury and Planning;

The List of Nominees for Appointment to the National-Government Constituency Development Fund Committee for Ugenya Constituency;

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2018, and the certificates therein:

- 1) Kenya Meat Commission.
- 2) National Biosafety Authority.
- 3) Agricultural Development Corporation.
- 4) Pharmacy and Poisons Board.

- 5) Public Trustee of Kenya.
- 6) Eastern African Regional Transport, Trade and Development Facilitation. Project Credit No.5638 KE (IDA).
- 7) Land Settlement Fund.
- 8) State Law Office and Department of Justice Official Receiver.
- 9) Kenya Medical Training College.
- 10) Council of Legal Education.
- 11) Technical University of Kenya.
- 12) Kenya Scouts Association.
- 13) State Department for Planning and Statistics.
- 14) State Department for Information, Communication, Technology and Innovation, and
- 15) Kenya Maritime Authority.

**Hon. Speaker:** Let us have the Chairman of the Departmental Committee on Justice and Legal Affairs.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Justice and Legal Affairs on its Consideration of the Institute of Directors of Kenya Bill (National Assembly Bill No.3 of 2019).

**Hon. Speaker:** Let us have the Chairman of the Departmental Committee on Education and Research.

**Hon. Julius Melly** (Tinderet, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Education and Research on the Inquiry into the Wave of Students' Unrest in Secondary Schools in Kenya during Second Term in 2018.

**Hon. Speaker:** Very well. Let us have the Chairman of the Departmental Committee on Environment and Natural Resources.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment and Natural Resources and Lands on their Consideration of a Petition by the Executive regarding the Variation of the Boundaries of the Mt. Elgon Forest Reserve.

**Hon. Speaker:** Next Order.

## NOTICES OF MOTIONS

### ADOPTION OF REPORT ON INQUIRY INTO STUDENTS' UNREST DURING SECOND TERM OF 2018

**Hon. Julius Melly** (Tinderet, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Education and Research on the Inquiry into the Wave of Students' Unrest in Secondary Schools in Kenya during Second Term in 2018, laid on the Table of House on Thursday, 4<sup>th</sup> July 2019.

ADOPTION OF REPORT ON VARIATION OF BOUNDARIES  
OF MOUNT ELGON FOREST RESERVE

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committees on Environment and Natural Resources and Lands on their consideration of a Petition by the Executive regarding the Variation of the Boundaries of Mount Elgon Forest Reserve, laid on the Table of House on Thursday, 4<sup>th</sup> July 2019 and, pursuant to Section 34 of the Forest Conservation and Management Act, 2016; this House approves the variation of the boundaries of Mount Elgon Forest Reserve to exclude Chepyuk Phases II and III comprising 4,607 hectares, and secure the remaining forest area within Mt. Elgon Forest Reserve particularly in Chepkitale, considering the need to achieve the United Nations recommended 10 per cent forest cover in the country.

**ORDINARY QUESTIONS**

**Hon. Speaker:** The first Question is by the Member for Suna West, Hon. Francis Masara.

*Question No.115/2019*

COMPENSATION TO FAMILIES OF DECEASED MINERS

**Hon. Peter Masara** (Suna West, Independent): Hon. Speaker, pursuant to Standing Order No.42A (5), I rise to ask the Cabinet Secretary the following Question:

- (i) Is the Cabinet Secretary (CS) aware that in late 2017, eight artisanal miners from Suna West Constituency lost their lives as a result of collapse of mines during the mining activities?
- (ii) Could the Ministry consider compensating the families of the deceased?
- (iii) What measures is the Ministry putting in place to ensure that miners are sensitised on safety procedures during mining processes?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Environment and Natural Resources for the Cabinet Secretary to appear.

Let us have Hon. Alfred Keter.

**Hon. Alfred Keter** (Nandi Hills, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No. 42A(5), I beg to ask the CS for Industry, Trade and Cooperatives...

**Hon. Speaker:** The Question I have is to the CS for Agriculture, Livestock, Fisheries and Irrigation.

**Hon. Alfred Keter** (Nandi Hills, JP): It was amended because the Question is touching on trade issues.

**Hon. Speaker:** What will be given to the CS is the written one.

**Hon. Alfred Keter** (Nandi Hills, JP): It is something I had discussed with the Clerk.

**Hon. Speaker:** They have not amended it. Maybe, you can ask it another time. What has been explained to me is that it was not properly directed.

**Hon. Alfred Keter** (Nandi Hills, JP): There was a problem from the Clerk's Office because this Question is touching on issues to do with trading and licensing.

**Hon. Speaker:** You know you are the one who should have told the clerks which CS you want to ask the Question.

**Hon. Alfred Keter** (Nandi Hills, JP): I told them but because of the tea issues they referred it to the Departmental Committee on Agriculture and Livestock. It is an issue relating to tea.

**Hon. Speaker:** Very well. Proceed. Ask the Question then.

*Question No.319/2019*

GUIDELINES ON PARTICIPATION OF FOREIGN COMPANIES IN TEA INDUSTRY

**Hon. Alfred Keter** (Nandi Hills, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Industry, Trade and Co-operatives the following Question:

(i) Is the Cabinet Secretary aware that between August 2008 and October 2014, M/s. Indo African Tea Co. Limited (India), SSOE (K) Limited (India), McLeod Russel Africa Ltd (India), and Empire Kenya EPZ Ltd (Sri Lanka), were registered as Foreign Direct Investments (FDI)?

(ii) Given that the countries where these foreign companies are domiciled are major tea producers and do not allow local registration of international competitors, could the Cabinet Secretary explain why those companies have been allowed to engage in bulk tea business at the Mombasa auction, despite the registration precondition that restricted them to trading only in "value-added" tea?

(iii) Could he consider providing guidelines on the participation of FDIs in the tea industry in the country and to further ensure that tea exports by FDI is restricted to "value added tea"?

**Hon. Speaker:** Very well. As you desire, the Question is referred to the Departmental Committee on Trade, Industry and Co-operatives so that they can prioritise the CS for Trade, Industry and Cooperatives to appear. Just make sure that the clerks understand and direct the Question to the relevant CS.

Hon. Members, before we go on with the Questions, allow me to recognise the presence, in the Speaker's Gallery, of students from Kabare Girls High School of Gichugu Constituency, Kirinyaga County and in the Public Gallery, Mutira Girls High School from Kirinyaga Central Constituency, Kirinyaga County; Weru Day Secondary School from Maara Constituency, Tharaka Nithi County and St. John Kabongo Primary School from Kapseret Constituency, Uasin Gishu County.

They are welcome to observe the proceedings in the National Assembly this afternoon. Let us move on to the next Question.

*(Applause)*

*Question No.320/2019*

AWARD OF CONTRACT TO SUPPLY MOTORISED BLANK VEHICLE NUMBER PLATES

**Hon. Munene Wambugu** (Kirinyaga Central, JP): Hon. Speaker, I rise to ask the following Question to the Cabinet Secretary for Interior and Coordination of National Government:

(i) Is the Cabinet Secretary aware that M/s. Tropical Technology Limited (TTL) was awarded a contract for supply of Motorised Blank Vehicle Number Plates and signed the contract with the State Department for Correctional Services in November 2018?

(ii) Could he confirm whether the company honoured the contract by delivering the contracted consignment?

(iii) When will the Ministry issue a formal contract to TTL for the other contract of supply of License Plate Laser Marking Machine following the award of the said tender in June 2018?

(iv) Could the Cabinet Secretary explain why the Ministry called for bids for the supply of Number Plate Raw Materials and Fabric Raw Materials in September 2018 and in March 2019, respectively, despite the company having been awarded the tender for supply of License Plate Laser Marking Machine to facilitate commissioning of modern number plates project?

Hon. Speaker, before I sit down, with your kind permission, I would like to state that Mutira Girls from Kirinyaga Central and Kabare Girls from Gichugu Constituency, who are with us today, are the best secondary schools in Kirinyaga County. Thank you.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Administration and National Security. I am mindful that we should not become the people to enforce contracts. If people have been contracted by whomever and if there are issues, they should go to courts of law and not Parliament.

Hon. Members, you may notice that several of your statements and petitions offend the provisions of the Constitution, particularly the provisions in Article 119 relating to petitions which say, among other things, that a matter that is petitioned must be within the authority of the House of Parliament. I am saying that because I am aware that you have discussed here before and raised issues about certain personalities being invited by several other people to appear and when you look at it, you see that there is no authority of the particular institution to handle the matter. So, please, I caution that people who get problems about contracts should enforce them through the Public Procurement Review Board or through the courts of law. Let it go to the Departmental Committee on Administration and National Security.

The next Question is by the Member for Nyandarua.

*Question No.321/2019*

MEASURES TO CURB INEFFICIENCY AT NYAHURURU LAND REGISTRY

**Hon. (Ms.) Faith Gitau** (Nyandarua CWR, JP): Hon. Speaker, pursuant to Standing Order No. 42A(5), I beg to ask the Cabinet Secretary for Lands and Physical Planning the following Questions:

(i) Is the Cabinet Secretary aware of the frequent cases of inefficiency and complacency at the Land Registry in Nyahururu Town that serves Nyandarua County, and which includes claims of bribery, deliberate misplacement of files, rudeness of staff, imposition of arbitrary conditions on leases and general poor service delivery?

(ii) Considering that most of the inefficiency and complacency have been attributed to the current Land Registrar, what urgent remedial measures is the Ministry taking so as to restore

sanity and ensure efficient service delivery at the Nyahururu Lands Registry, including removing the officer from the station?

Thank you, Hon. Speaker:

**Hon. Speaker:** Once again, this one should go to the people in the Directorate of Legislative and Procedural Services. When a Question is framed in this manner, a Member can easily be frustrated. The first part of the Question asks whether the Cabinet Secretary is aware of the frequent cases of inefficiency and complacency at the Lands Registry in Nyahururu Town due to what you indicate as bribery, deliberate misplacement of files, rudeness of staff, imposition of arbitrary conditions on leases and general poor service delivery. If the Cabinet Secretary responds and says that he is not aware, you may not achieve what you intend. I can tell there is something you would want to achieve. If you get that answer, then part two of the Question will not arise. You can ask those who were here in the previous Parliament when Questions were answered by Ministers here on the Floor of the House. If you asked a Question like this one to a Minister those days, he would be very happy to come and say that he was not aware and the second part arising from the first part of the Question above will not arise and the matter would just end there.

*(Laughter)*

Our staff are directed to help Members achieve the objectives of the process of asking Questions. If you got an answer like that one, you cannot even ask further questions because you will be required to drag somebody to show how complacent they are, who was bribed and things like those, and the Cabinet Secretary would say that he is not aware and that he is happy that you have drawn his attention to it and that he would see to it. I am sure there is a reason why the Member has asked this Question. So, the Clerk's Office should help Members to frame Questions in a way that they achieve their objectives.

Nevertheless, the Question is referred to the Departmental Committee on Lands. I only hope that the Member does not get those kinds of answers like: "I am not aware and that arising from number one above, number two does not arise." It would be very frustrating. I am sure Hon. Faith Gitau would feel very frustrated if you got that kind of answer and yet, it is a possibility that you can get it. I hope the Cabinet Secretary is not listening to me and starts preparing the response in similar version.

The next Question is by the Member for Tigania West, Hon. Mutunga.

*Question No.322/2019*

#### OPERATIONALISATION OF ADMINISTRATIVE UNITS IN TIGANIA WEST CONSTITUENCY

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, I rise to ask Question 322/2019 to the Cabinet Secretary for Interior and Coordination of National Government:

(i) Is the Cabinet Secretary aware that several administrative units were declared as divisions, locations and sub-locations in Tigania West Constituency and other constituencies in Kenya?

(ii) What steps is the Ministry taking to ensure that the administrative units are effectively staffed and what are the timelines for making those administrative units operational?

Thank you, Hon. Speaker.

**Hon. Speaker:** This is another Question that you are likely to get a frustrating answer. Unless the declaration was gazetted... If it was a pronouncement out there in the villages, the Cabinet Secretary will happily come and say that he is not aware and then arising from number one above, number two does not arise.

Our staff should help Members. When was it declared? Perhaps, you could say by whom or it was declared on a particular date. But if it is something that people may have pronounced, maybe, when attending a church service and somebody stood and requested for a location to be declared a division and it was done, the Cabinet Secretary can very easily escape answering the Question.

The last Question is by the Member for Mumias East, who is also the Whip of the Majority Party.

*Question No.323/2019*

TRANSFER OF NUCLEUS LAND TO MUMIAS SUGAR COMPANY

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. Pursuant Standing Order No. 42A(5), I rise to ask Question No.323 to the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation.

(i) Is the Cabinet Secretary aware that the nucleus land which was leased for 33 years by the Government of Kenya for cane development by Mumias Sugar Company Limited has been transferred from individual ownership to Mumias Sugar Company Limited?

ii) Could he confirm whether Mumias Sugar Company Limited has a right to lease the nucleus land to third parties without the knowledge of land owners despite the land being under lease to the Government of Kenya for purposes of cane development only?

(iii) Could he also confirm whether Mumias Sugar Company Limited is, indeed, interested in the nucleus land for purposes of cane development and, if not, when will the Cabinet Secretary commence the process of ensuring that the said land reverts to the original owners?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Agriculture and Livestock. Hon. Joseph Manje.

**STATEMENTS**

STATUS OF TAXATION LEVY ON HIDES AND SKINS

**Hon. Joseph Manje** (Kajiado North, JP): Thank you, Hon. Speaker. I want to request for a statement on the new taxation measures levied on hides and skins.

Pursuant to the provisions of Standing Order No. 44(2)(c), I rise to seek a statement from the Chairperson, Departmental Committee on Finance and National Planning, regarding taxation measures contained in the Finance Bill, 2019 being charged on business community dealing with hides and skins.

The Kenya Revenue Authority has adjusted the taxation regimes in the Simba System to reflect a new taxation levy and currently implementing a 10 per cent levy on hides and skins,



including wet blue. The Cabinet Secretary for National Treasury, in the pronouncements on the budget highlights and revenue raising measures to this House, proposed a duty on hides and skins including wet blue. The implementation is yet to be approved under the Finance Bill, 2019. Just for clarity, the Speech cannot become law.

It is from the aforementioned that I seek a statement from the Chairperson, Departmental Committee on Finance and National Planning to confirm that if any levy is charged on the business community dealing with hides and skins, including wet blue, it should be reimbursed and that such irregularity be stopped.

Thank you.

**Hon. Speaker:** Hon. Manje, have you seen the Finance Bill, 2019?

**Hon. Joseph Manje** (Kajiado North, JP): I have seen a copy of it.

**Hon. Speaker:** Are you sure?

**Hon. Joseph Manje** (Kajiado North, JP): The one that we are about to discuss. There was a proposal of 10 per cent duty on the same and it is being implemented.

**Hon. Speaker:** Are you talking about the statement by the Cabinet Secretary?

**Hon. Joseph Manje** (Kajiado North, JP): Yes.

**Hon. Speaker:** You are mentioning the Finance Bill, 2019. I doubt that you have seen it. Hon. Manje, have you seen it or you are referring to the highlights contained in the Cabinet Secretary's Speech? I appreciate that some Members have decided to go to court on the Speech. Maybe, you could tell us, Hon. Manje.

**Hon. Joseph Manje** (Kajiado North, JP): Hon. Speaker, the point is that what was read in the Speech is already being implemented in the Simba System.

**Hon. Speaker:** You are not sure that you have seen it.

**Hon. Joseph Manje** (Kajiado North, JP): It is being implemented; that is what we are getting from the ground.

**Hon. Speaker:** I am sure it is coming, but your complaint should be about levies being imposed on traders with regard to those commodities, which have not been passed by this House. That would be against the law. Remember, we did away with the Provisional Collection of Taxes and Duties Act. It was declared unconstitutional by the court. If anybody is imposing any levies on the basis of proposals, even if the Bill had been around, it would still be illegal because it has to await the approval by this House.

Is the Chair of the Departmental Committee on Finance and National Planning in the House today or even the Vice-Chair or any ranking Member of that Committee? If there is none, let us allow the Leader of the Majority Party to handle that statement.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, this is the same story of Senior Counsel Tom Ojienda going to court to challenge the Finance Bill on the matter of *boda bodas*. Until the Finance Bill is introduced to this House for First Reading, the Chair of Departmental Committee on Finance and National Planning cannot give a statement. I would like to tell Hon. Manje that the Bill is at the maturing stage. It has been published, but it is not yet public. Once it is mature and it is read for the First Time and referred to the relevant Departmental Committee, that is the time when he can come in.

As the Speaker said, the 10 per cent will only take effect once the Bill is passed and is assented to by the President. For the record, the Finance Bill does not go to the Senate. It is one of the Bills that the Senate has no business with. Senior Counsel Tom Ojienda must be told that the letter he wrote to the Speaker of the Senate is null and void. He should withdraw it because

you can only write to the Speaker of the National Assembly in as far as the Finance Bill is concerned. I expected Tom Ojienda, a serious lawyer, to have read the Constitution on the...

**Hon. David Ochieng'** (Ugenya, MDG): On a point of order!

**Hon. Aden Duale** (Garissa Township, JP): There is nothing out of order.

**Hon. Speaker:** Do not respond unless you have finished. If a Member sits in his place and starts shouting "point of order"... Just place your card and I will see that there is an intervention. Do not shout "point of order" because I need to see that there is an intervention. I can see now there is an intervention by Hon. David Ochieng'.

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Speaker, I just wanted to know whether it is in order. You asked the Leader of the Majority Party to do something – a very small job – that is to explain to Hon. Manje what needs to be done. But he has gone on a very wide tangent talking about Senior Counsel Tom Ojienda whose name was not mentioned by Hon. Manje or anybody in the House this afternoon. Is he in order to start discussing Senior Counsel Tom Ojienda on the Floor without a proper Motion?

**Hon. Speaker:** You are right. We do not have anything about Prof. Tom Ojienda here. For the information of the House, it is true that the said Prof. Tom Ojienda has written to the two Speakers a very long treatise seeking that the Finance Bill be withdrawn.

*(Laughter)*

Of course, it is not everybody who understands parliamentary procedures and processes. Most likely, he has since been advised that he can lobby Members here to reject what he is opposed to. The Bill will still go to public hearings during public participation. That is the forum where he can go and canvass the issues he has written in that treatise.

Well, it is just that, maybe, he did not know that it is never done that way in the procedures. The Speaker cannot be told to withdraw a Bill. The Speaker has no Bill. The Bill does not belong to the Speaker. It is signed by the Chair of the Departmental Committee on Finance and National Planning. Perhaps, he can plead with the Chair to withdraw. The Speaker cannot withdraw. This issue raised by Hon. Manje is an important one, but I think this Statement is not properly done.

What is the Chairman of the Committee going to do? You have not even heard the Finance Bill being read here for the First Time. To the extent that this Statement makes reference to the Finance Bill, it is inchoate; it is premature. But you have a legitimate right to protest about any taxation that is not authorised by this House, Hon. Manje. So, what I will refer to the Chair of the Departmental Committee on Finance and National Planning is to look into the issues of the taxation that you have raised here. In future, it is good that even the staff who advise you do not help you draft the Statement. I think the issue you are raising here is a very serious one. Even the member of staff who helped you to do this, unless it was done by your own researcher... I know Members of Parliament (MPs) have researchers in the constituency offices. Maybe, it was done there. It may be a person who does not know things. He just assumed that there is a law. We will refer the aspect of taxation because if it is happening, it would be illegal. It will be without any legal foundation. Unfortunately, the Chair of the Departmental Committee on Finance and National Planning is not here. So, the Question will be responded to or the Statement issued at the earliest opportunity when the House next sits.

The next Statement is by the Member for Kwale.

## ILLEGAL EVICTION OF RESIDENTS OF KWALE COUNTY

**Hon. (Ms.) Zuleikha Hassan** (Kwale CWR, ODM): Thank you, Hon. Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding illegal eviction of people in Kwale County.

Hon. Speaker, a contingent of officers from the General Service Unit led by the Deputy County Commissioner for Lungalunga Sub-County conducted an alleged illegal operation to evict residents of Kanana, Nguzo A, Nkaphu and Pongwe areas of Kwale County from their ancestral land to allegedly pave way for expansion of land for Kwale International Sugar Company Limited.

It is against this background that I seek a Statement from the Chairperson, Departmental Committee on Administration and National Security regarding the circumstances under which the officers from the General Service Unit were used to harass and intimidate the residents through an illegal operation, and whether the same does not amount to abuse of office by the Deputy County Commissioner; and, whether the Government could put immediate stop to such eviction to give way for alternative dispute resolution mechanism.

I thank you, Hon. Speaker.

**Hon. Speaker:** Very well. This should be responded to before the Departmental Committee on Administration and National Security on the earliest date the House next sits.

There is a request for a Statement by Hon. Oundo, but I have not seen it. Did you present it?

## BAN ON ILLEGAL FISHING IN LAKE VICTORIA

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Speaker, pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the need to cushion fishermen in Funyula Constituency from the effects of a Government directive banning illegal fishing in Lake Victoria. The Government recommended gillnets of 5 inches and above which are out of reach to the majority of fishermen. On average, it costs around Kshs2,500 for one net. A typical fishing boat normally has around 50 nets and requires about Kshs125,000; a figure that the local fishermen cannot afford.

Even if they had the nets, the other challenge has been the security of the nets. Quite often than not, the fishermen have been ambushed and their valuables forcefully taken by criminals, especially from our neighbours in Uganda. The Maritime Office which is located several kilometers away in Budalangi Constituency is normally too slow to act and, on many occasions, they are always asking for money to fuel the motorboat.

Hundreds of fishermen will be affected by the ban. As a consequence of this ban, they are likely to struggle to earn a living or even pay school fees for their school-going children because they solely depend on fishing as their only means of subsistence and livelihood. This is likely to affect over 10,000 households which represents over 10 per cent of the total population of the constituency, based on the 2009 Population Census.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the following:

- (i) What measures has the Government put in place to ensure that the fishermen get legal fishing gears and nets and then guarantee the security of the same?
- (ii) When is the Government going to set up a maritime office in Funyula Constituency?

I thank you, Honourable Speaker.

**Hon. Speaker:** Well, you have directed your Statement to the Chair of the Departmental Committee on Agriculture and Livestock. Maybe, he should tell us when he is going to respond.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. Hopefully, the Member does not expect me to give a Statement now. I will endeavour to deliver it after the short recess, I think on Thursday. Having said that, we had a similar Statement last week. The Member for Bahari wanted to know the effect and the impact of the ban on the fishermen. There we stated very clearly that it was not a ban. It was an advisory by the Ministry's Meteorological Department to the fishermen because of the weather conditions then. It was, in fact, not a ban. Because some of our farmers usually use those small boats and canoes, and some called *ngalawas*, it was appropriate and very timely for the Meteorological Department to issue such an advisory for the fishermen to be extra careful. It was not a ban as such.

So, there is no ban in place as far as fishing is concerned, either on the shores of the Indian Ocean or the inland lakes.

**Hon. Speaker:** Yes, Hon. Oundo. I can see you are not contented. You know you rose under Standing Order No. 44(2)(c). That is why I encourage Chairmen and Chairpersons to be keen. I have not heard anybody say "Chairwoman" but, Chairmen and Chairpersons to be present. That is so that they can do like he is doing. If you are not satisfied, you can still raise further issues.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): With due respect, the Chairman is misinformed because there is an existing ban. The ban is on two fronts. One, the size of the fishing gear and two, the days of fishing. So, I would want him to get proper information from the relevant ministry so that he can give an answer that I can take back to my fishermen in Funyula Constituency.

**Hon. Speaker:** Very well. Chairperson of the Departmental Committee on Agriculture and Livestock.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I am well informed. There is a language issue here. When it comes to the fishing gear, it is a compliance issue. It has nothing to do with the ban. So, for compliance, if you like, you can call it a ban. On the fishing gear, it is meant for fishermen to comply. I cannot consider that as a ban.

Thank you.

**Hon. Speaker:** Obviously, as you know, under Standing Order No.44 (2) (c), this cannot be a debate. It is not a question and answer session. So, Chairperson, I would want you to take the issues raised by Hon. Oundo and respond to them as he has suggested and then you can clarify whatever issue he is raising.

Hon. Kaluma, I can see you want to say something but, unfortunately, at this point, it would be contrary to our procedure. That is because there is no Question. Maybe, when the Chairman brings the statement, you can make comments. Right now, the statement that is there is only the one from Hon. Oundo. You will be allowed to raise some issues once the statement is

read. Since he is now making reference to another statement he made responding to another issue not raised by Hon. Oundo, let him respond to the one by Hon. Oundo and then you can make comments. There is no way of enriching what he is going to say. Do you want to give an explanation about the fishing gear?

*(Hon. Kaluma spoke off record)*

I will hear you in an exceptional situation.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Speaker, although this matter has been raised by the Member for Funyula, it is a matter concerning Lake Victoria. So, I want to request, through you, that the response that is to come should be alive to the fact that the Question is affecting so many people beyond Funyula. In fact, we know there is a ban and it is affecting everybody. The nature of the Lake is that it is a frontier for many constituencies, including mine. So, could the response be alive to that reality when it comes?

**Hon. Speaker:** That is value addition. In your statement, Chairperson, can you cover the entire of Lake Victoria to the extent that it touches the Kenyan boundary? I can see that the Member for Suba North is desirous of saying something. She has always declared that the moment you mention the word “fish”, whether you are talking about fishing gear or otherwise, she feels that she is entitled to make comments. Of course, when...

*(Hon. (Ms.) Odhiambo-Mabona stood up in her place)*

No! No! I have not said that you comment on this one.

*(Laughter)*

Member for Budalangi, you cannot comment now. Let the Chairperson bring his statement and then as many of you who have issues to do with fishing, fishing gear and all that appertains to fishing, will have an opportunity to make comments. The only exception will be Hon. T.J. Kajwang'. I do not think he deals with fishing in the lake though. He is only a consumer of fish from Ruaraka Constituency.

Order Members! Allow me, at this point, to recognise the presence, in both the Speaker's Gallery and the Public Gallery, of the following visitors: Students from Mary Leakey Girls High School of Kabete Constituency, Kiambu County; Koibeyon Secondary School from Bomet East Constituency, Bomet County and staff of Marsabit County Assembly seated in the Speaker's Gallery. In the Public Gallery, we have students from Kipkaech Secondary School of Baringo Central Constituency, Baringo County; Kawaida Primary School from Kiambaa Constituency, Kiambu County; Olong'ira Primary School from Narok South Constituency, Narok County; St. Christopher Primary School from Kinangop Constituency, Nyandarua County and Gatakene Primary School from South Imenti Constituency, Meru County. They are welcome to observe the proceedings of the National Assembly.

Next Order!

*(Applause)*

**STATEMENT**BUSINESS FOR WEEK COMMENCING 23<sup>RD</sup> TO 25<sup>TH</sup> JULY 2019

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC) that met on Tuesday 2<sup>nd</sup> July, 2019 at the rise of the House.

The House is scheduled to proceed on a short recess commencing tomorrow, in accordance with the Calendar of the House. As a result of this, the HBC has not scheduled any business for next week. Upon resumption from the short recess, we hope to consider the Finance Bill, 2019 at all stages and any other Budget-related Bills that will have been published by the Clerk's Office. We have also given priority to the following Committee Reports for debate, if they are not concluded this week:

- (i) The Report of the Departmental Committee on Lands on Inquiry into Kamiti Anmer Forest.
- (ii) The Report of the Departmental Committee on Defence and Foreign Relations on the Meeting to Promote and Popularise the Ratification of the Protocol on Free Movement of Persons and its Implementation Roadmap.
- (iii) The Report of the Departmental Committee on Defence and Foreign Relations on the Inquiry into Land Acquisition by the Kenya Defence Forces for establishment of Forward Operating Base (FOB) in Narok County.
- (iv) The Report of the Departmental Committee on Justice and Legal Affairs on the Annual Reports on the state of the Judiciary for the Financial Years 2016/2017 and 2017/2018.

Currently, there are no Questions scheduled for reply, but the House will be updated on this when we resume sittings.

Finally, the HBC will reconvene on Tuesday, 23<sup>rd</sup> July 2019, subject to the approval of the Motion to alter the Calendar, which appears as Order No.9 in today's Order Paper. At the rise of the House, the HBC will consider business for the coming week. I now wish to lay this Statement on the Table of the House.

Thank you, Hon. Speaker.

*(Hon. Aden Duale laid the document on the Table)*

**Hon. Speaker:** Very well. Next Order! Hon. Kemosi, you do not have a statement.

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Hon. Speaker, I want to bring to your attention that there was a response I expected from the Chairman of the Departmental Committee on Finance and Planning, which I sought last week. You had directed that the response will be given today.

**Hon. Speaker:** Well, is the Chairperson of the Departmental Committee on Finance and Planning present, or a Member of the Committee? Hon. Mogaka, what do we do? Perhaps, the Leader of the Majority Party can undertake to remind them.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, it is very unusual for the Chairperson, the Vice-Chairperson and all the Committee Members to be absent. The Member for Budalangi can take his discussion with Hon. Millie to the lounge. Is it only him who is talking? I remember the Chair said it would be this week, but I will communicate. If it is a written answer, I will provide it to him. I will communicate to the Chair so that when we come back you will get the answer. If it is available, then we will provide it through the Office of the Clerk.

**Hon. Speaker:** Hon. Kemosi, when the House resumes, the Leader of the Majority Party undertakes to communicate.

Next Order.

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD FOR A SPECIFIED BILL

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the Representation of Special Interest Groups Laws (Amendment) Bill (National Assembly Bill No. 52 of 2019) from 14 days to two days.

This is a Bill that touches on Article 100 of the Constitution.

*(Hon. (Ms.) Odhiambo-Mabona and Hon. Raphael Wanjala consulted loudly)*

Hon. Speaker, you need to protect us from people from fish areas.

**Hon. Speaker:** Member for Suba North and Member for Budalangi, please consult in low tones. You are sitting too far away from each other. That is why your consultations are causing confusion.

*(Hon. Jimmy Angwenyi spoke off record)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, my deputy is becoming cantankerous. This Bill is very important. It is part of the Bills that will actualise the representation of women, youth and people with special interests. As you are aware, there are people who have petitioned the Chief Justice that Parliament is not implementing the two-thirds gender rule. So, we need to reduce the publication period so that the Chair of the Constitutional Implementation Oversight Committee (CIOC) can conduct public participation as we are on recess.

We want to tell the Judiciary and the people out there that Parliament works in a system where a question is put on everything that is before the House. How Members vote is their own right, based on their conscience and the people who brought them to this House. So, we cannot force them. As the Leader of the Majority Party, I will reintroduce the two-thirds gender Bill. I will keep trying. We want to assure the Chief Justice that the way the Judiciary works is different from the way the Legislature works. This is the first step we are making. We want to reduce the

publication period so that Hon. Kioni, the Chair, can start public participation. If we succeed on this one, it has better and broad representation because women, youth, marginalised people and people with special interests will all be catered for. There is also a Bill to actualise Article 127 of the Constitution, which is being drafted by Hon. Shollei. We will also fast-track that Bill.

So, we want to tell the Chief Justice to relax. To dissolve Parliament is not as easy as having a birthday party. Those people who think Parliament can be dissolved are wrong. Therefore, we will keep trying and that case was in the 11<sup>th</sup> Parliament. If the 11<sup>th</sup> Parliament failed, this is a different Parliament. This is the 12<sup>th</sup> Parliament. So, a judgment on the 11<sup>th</sup> Parliament cannot be used to indict the 12<sup>th</sup> Parliament.

I beg to move that we reduce the publication period, and ask Hon. Kioni to second.

**Hon. Speaker:** Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Speaker. I stand to second. As the Chair of CIOC and members of the committee, we are ready and willing to do as is required by this Parliament. When we were drafting the Bill, we had opportunity of consulting far and wide. So, it is in order for us to get that period shortened because quite a number of people were involved in the drafting of the Bill. We should be able to move to the second stage as quickly as possible.

Thank you, Hon. Speaker. I second.

**Hon. Speaker:** I hope Members will be happy to also look at this Bill. Apart from just actualising Article 100, which is the only Article that imposes an obligation, it provides that Parliament shall enact legislation to provide for representation in Parliament of women, youth, persons with disabilities, marginalised communities and minority communities. Maybe, the elderly could be considered as minorities, if you consider the demographics of modern-day Kenya. It is true that Article 100 imposes that obligation on Parliament, but Article 27 merely requires the State to take legislative and administrative measures to ensure that no more than two-thirds of either gender is represented in appointive and elective bodies. You go and check Article 27(8).

Article 100 refers to Parliament, while Article 27 refers to appointive and elective bodies. You know bodies, like football associations. There are many bodies. Article 27, which is in the Bill of Rights, deals with appointive and elective bodies and requires the State, not Parliament... It is fair that everybody understands that Parliament is not the only arm of State. Just look at Article 27. State is not Parliament. It is the State and Article 81 addresses itself to the electoral system. The electoral system in Kenya is first-past-the-post. All of us here are just products of the current electoral system. We have not been told to change the electoral system. It is the electoral system to ensure again not more than two-thirds of either gender is represented. So, the specific Article of the Constitution that places an obligation on Parliament is Article 100. You can go and check the Fifth Schedule. There is nothing that says that Parliament shall amend the Constitution to ensure that not more than two-thirds of either gender is represented in appointive and elective bodies. It is only Article 100.

We should commend our CIOC for having come up with this Bill which seeks to amend several other laws, including the National Gender and Equality Commission (NGEC) Act, the Elections Act, and the Political Parties Act, among others. Therefore, this is the Bill that will, at the end of the day, see to it that what is stated in Article 27 of the Constitution may be achieved with regard to Parliament, as a publicly elected body. I have not excluded Parliament from being one of those, but the obligation of ensuring that can only be achieved through implementation of Article 100. This is one of the attempts.



Hon. Shollei is also coming up with something that I am aware. Hon. Duale has also said he is once again going to attempt to bring a proposed amendment to Articles 97 and 98. There is nothing wrong, as long as it is after six months. It is still within our rules. However, for the time being, I wish to propose the Question.

*(Question proposed)*

*(Question put and agreed to)*

Hon. Jimmy Angwenyi does not seem to fully appreciate about special interest groups.  
Next Order.

## **BILLS**

### *First Readings*

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL

THE DATA PROTECTION BILL

THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL

THE REPRESENTATION OF SPECIAL INTEREST

GROUPS LAWS (AMENDMENT) BILL

*(Orders for First Readings read - Read the  
First Time and ordered to be referred to  
the relevant Departmental Committees)*

## **SPECIAL MOTION**

THE MANDATE OF NATIONAL ASSEMBLY WITHIN THE BICAMERAL  
SETUP OF PARLIAMENT

Aware that Article 93 of the Constitution of Kenya establishes two Houses of Parliament, each with a distinct mandate as outlined under Articles 95 and 96 of the Constitution, respectively;

Whereas Article 95 of the Constitution specifically mandates the National Assembly to-

(a) represent the people of the constituencies and special interests in the National Assembly;

(b) deliberate on and resolve issues of concern to the people;

- (c) enact legislation in accordance with Part 4 of Chapter Eight of the Constitution;
- (d) determine the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve of the Constitution, and appropriate funds for expenditure by the national government and other national State organs;
- (e) exercise oversight over national revenue and its expenditure;
- (f) review the conduct in office of the President, the Deputy President and other State officers and initiate the process of removing them from office; and,
- (g) exercise oversight of State organs;

And whereas Article 109(2) of the Constitution provides that any Bill may originate in the National Assembly and Article 109(3) of the Constitution provides that a Bill not concerning county governments is considered only in the National Assembly, and passed in accordance with Article 122 of the Constitution and the Standing Orders of the National Assembly;

And whereas the National Assembly of the 12<sup>th</sup> Parliament has, pursuant to the powers conferred by the said Article 109(3) of the Constitution, passed several laws that do not concern county governments as contemplated by the Constitution;

And whereas Article 110(1) of the Constitution defines a Bill concerning county governments as:

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of members of a county assembly or a county executive; and
- (c) a Bill referred to in Chapter Twelve affecting the finances of county governments;

And whereas Article 109(4) provides that a Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses;

And whereas Article 110(3) of the Constitution provides that before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill;

Cognisant that, the matter of whether the question as to whether a Bill concerns counties would routinely arise has been addressed by the High Court of Kenya in the matter of Nation Media Group Limited & 6 others v Attorney General & 9 others (Judicial Review Misc. Appl. No.30 of 2014), where the court held that the requirement contained in Article 110(3), comes into play when there is a question or doubt as to whether or not a Bill concerns counties. The absence of consultation and resolution between the two Speakers of the Houses on whether or not a Bill concerned counties is not in itself unconstitutional or a violation of the Standing Orders;

Cognisant that, the power of the Speakers of the Houses of Parliament under Article 110(3) is limited to resolution of a question as to whether a Bill concerns county governments or not;

Aware that in furtherance to Article 110(3) of the Constitution, the House, through Standing Order 121, has mandated the Speaker to determine, in the first instance whether a Bill concerns county governments as and whenever a question arises and to establish an appropriate framework for jointly resolving the question with the Speaker of the Senate;

Further aware that the Speaker has and continues to actively engage the Speaker of the Senate on the establishment of an appropriate framework for jointly resolving any question as to whether a Bill concerns county governments as and when the question arises;

Cognisant that in accordance with Article 109(5), a money Bill may be introduced only in the National Assembly in accordance with Article 114;

And further whereas Article 114(2) of the Constitution provides that if, in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of a money Bill, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the National Assembly after taking into account the views of the Cabinet Secretary responsible for finance;

And further whereas Article 121 of the Constitution provides that the quorum of Parliament shall be fifty members, in the case of the National Assembly, or fifteen Members, in the case of the Senate;

And further whereas Article 122(1) of the Constitution provides that except as otherwise provided in the Constitution, any question proposed for decision in either House of Parliament is to be determined by a majority of the Members in that House, present and voting;

Concerned that contrary to the express requirements of Articles 121, 122 and 123 of the Constitution with regard to the quorum required for the convening of a session, voting on any question proposed for decision by a House of Parliament and decisions of the Senate, the Senate has and continues to convene part of its sessions and vote on matters not affecting counties without the requisite quorum and thresholds being met and thus prejudicing the legality of National Assembly business that is subject to the bicameral process, and, indeed, Senate decisions;

And whereas Article 108 of the Constitution establishes the offices of a Leader of the Majority Party and a Leader of the Minority Party, being the person who is the leader in the National Assembly of the largest party or coalition of parties and the person who is the leader in the National Assembly of the second largest party or coalition of parties;

And whereas the said Article 108(4) of the Constitution exclusively accords certain order of precedence to be observed in the National Assembly, being the Speaker of the National Assembly, the leader of the majority party and the leader of the minority party, hence the one in the Senate is unknown to the Constitution and any law;

Concerned that despite the provisions of Article 108 of the Constitution, the Senate has irregularly established and caused the Parliamentary Service Commission to facilitate and continues to so irregularly facilitate the offices of the Leader of the Majority Party and the Leader of the Minority Party, offices that are unknown to the Constitution and any laws of Kenya;

And whereas Article 132 of the Constitution generally mandates the National Assembly to receive names of persons nominated for appointment to public office by the President, vet their suitability or otherwise and to approve or reject their appointment;

Concerned that despite the express provisions of the Constitution, the Senate continues to participate in the approval of the appointment of persons to State Offices, through a duplicate process, resulting in a procedure unknown to bicameral parliaments anywhere in the world, since in bicameralism vetting of persons for appointment to state and public offices is exclusively vested in one House;

Concerned that, despite the express provisions of Article 95(5)(b) of the Constitution, the Senate has established parallel Committees duplicating the mandate of the Committees in the National Assembly and County Assemblies and has, on diverse occasions, sought to exercise oversight of state organs in a manner that does not accord with the functions of county governments outlined under Part 2 of the Fourth Schedule to the Constitution;

Further concerned that in complete disregard of the provisions of Articles 109 and 114 of the Constitution mandating the origination of a money Bill only in the National Assembly, the Senate has on various occasions introduced and considered Bills with a money bill effect;

Cognisant that pursuant to Article 3 of the Constitution, every person has an obligation to respect, uphold and defend the Constitution and that Article 94 of the Constitution requires Parliament to protect the Constitution;

Further cognisant that Article 110(3) of the Constitution requires the Speakers of the Houses of Parliament to resolve any question as to whether a Bill is a Bill concerning county governments as and when such a question arises;

Further cognisant that Article 229(6) of the Constitution requires the use of public funds in a lawful and effective manner;

Further aware that the continued engagement of the Senate in matters outside its express mandate, its irregular duplication of the mandate of the National Assembly and County Assemblies and its establishment and facilitation of irregular and unconstitutional offices constitutes imprudent use of public funds;

Recognising that, the Speaker of the National Assembly has always implemented the provisions of Article 110(3) and Standing Order 121 with regard to resolving a question as to whether a Bill concerns county governments or not;

Now therefore this House:

1. Reiterates and reaffirms its commitment to respect, uphold and defend the Constitution in terms of Article 3 of the Constitution;
2. Further reiterates and reaffirms the exclusive role of the Speaker of the National Assembly and the relevant Committee of the House in the consideration of any motion that makes provision for a matter listed in the definition of a money Bill under Article 114 of the Constitution;
3. Further reiterates And reaffirms its oversight role over national revenue and its expenditure, including the lawful and effective use of public funds by all state organs;

4. Urges the Speaker to continue engaging the Speaker of the Senate on establishing an appropriate framework for jointly resolving any question as to whether a Bill concerns county governments as and when such a question arises;
5. Reaffirms that, pursuant to the provisions of Article 95(4) and (5) of the Constitution, the mandate of oversight of State Organs exclusively vests in the National Assembly and the duplication of this role is unconstitutional;
6. Resolves:
  - a. That, the House continues upholding the provisions of Article 109(3) in the passage of Bills that do not concern county government;
  - b. That, the House continues upholding the provisions of Articles 109(5) & 114 of the Constitution and Standing Order 143 in considering Bills originating from the Senate;
  - c. That, in the first instance, the Houses of Parliament always explore alternative mechanisms of resolving any dispute that may arise between the Houses from time to time as is the practice in comparative jurisdictions;
  - d. That, in the event of failure of the alternative dispute resolution mechanisms, the National Assembly institutes legal proceedings to seek interpretation of the Constitution with respect to the foregoing concerns and also with respect to the scope of its mandate vis-à-vis that of the Senate including-
    - (i) whether it is lawful for the Senate to continue duplicating in entirety the National Assembly's legislative, representative and oversight mandates and its' organisational and institutional structures with the resultant pressure on public resources; and
    - (ii) the enforcement of Articles 108 (Party Leaders), 121(Quorum) and 122 (Voting in Parliament) of the Constitution with regard to the operation of the Senate.
  - e. That, in the meantime, the House Business Committee, upon this Resolution, inquires into the foregoing concerns and presents a report to this House as soon as is practicable.

**Hon. Speaker:** The Hon. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, Hon. Shollei was not here yesterday. I want to give her two minutes so that she can speak to this and then I reply.

**Hon. Speaker:** Very well, you have donated your two minutes to Hon. Shollei.

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): Hon. Speaker, I thank the Hon. Leader of the Majority Party for giving me this opportunity to reply, but also support the Motion. I thank the Members who have contributed to this Motion which is very important in putting to rest the issue of the mandate of the National Assembly and that of the Senate.

Unfortunately, the Senate has chosen to misinterpret the Constitution and abrogate deliberately to themselves functions that are otherwise for the National Assembly. I will give one simple example. The Senate has done this at the expense of the mandate they are supposed to be performing. For example, under the Statutory Instruments Act, which gives the power to the Committee on Delegated Legislation in the National Assembly, the Senate has gone ahead and established a Committee on Delegated Legislation and attempted to begin to scrutinise National Delegated Legislation; when, in fact, they should be scrutinising the delegated legislation that is published by the County Executive Committees (CECs) of the counties and sent to the county assembly for approval. If they did that, they would be doing much justice to this country because we find that the delegated legislation within the counties that are within 100 kilometers of each

other contradict each other. This, therefore, causes a lot of confusion in the transactions of business and activities within those various counties. So, we are asking that once this Motion is approved that the Senate should be asked to begin to concentrate on looking at the regulations approved by the county assemblies.

They can also spend much time passing Bills and laws that can support devolution and improve devolution within our country.

With those few remarks, I beg to reply and support.

Thank you, Hon. Speaker

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I have not delegated to her the powers to reply.

I thank the House for very robust and intelligent evidence based on the Constitution on this matter of this Motion. I saw the leadership in the Senate so agitated last night on television Both Hon. Leader of the Minority Party and Hon. Leader of the Majority Party; at one time I thought they have lost their special people. I want to say this on record; we are not intimidated and have no intentions of intimidating.

We have no intention of blackmailing, but we have the intention to protect the Constitution that all of us used when we were being sworn in. I want those two senior counsels, the Hon. Leader of the Minority Party and the Hon. Leader of the Majority Party, to engage us on some particular provisions of the Constitution on Article 94 that establishes the role of Parliament, Article 95 that establishes the role of the National Assembly, Article 96 on the role of the Senate and Article 97 on membership. Further, I want them to engage us on Articles 109, 110, 111, 112, 114, 218 as we deliberate this matter. If we engage those Articles, we again look at the Fourth Schedule of the Constitution that has a subtitle on distribution of functions between the national Government and the county governments.

Each work given either to the Senate or the National Assembly must be read together with the functions provided in the Fourth Schedule. The Constitution of Kenya is one of the most robust constitutions. Whether a Bill will come to the National Assembly or go to the Senate, that decision does not lie with the 460 plus Members of the two Houses. That decision lies with the two Speakers of both Houses, the Hon. Speaker of the Senate and that of the National Assembly, under the Constitution.

That question will only be decided when it arises. So, if there will be no question, there is nothing for the Hon. Speaker of the National Assembly to consult his counterpart. If the Bill coming from the Cabinet or State Office says this Bill does not concern counties and our legal team, Clerk of the National Assembly and the Hon. Speaker in their honest opinion feel that is the position then the question does not arise. Therefore, I also want to engage them on Article 108.

I want to report to the House that today is a good day. The Cabinet Secretary for Education went before the Senate Standing Committee on Education this morning. That is the story in the corridors of power. When Prof. Magoha appeared, he was asked questions which ideally are not in the domain of the Senate and he said he will answer them when he appears before the National Assembly Departmental Committee on Education and Research. You can see Prof. Magoha has set the pace. We are telling Hon. Rachael Omamo and Cabinet Secretary Matiang'i that before they appear before the National Assembly or Senate, they must read the Fourth Schedule of the Constitution. So, if it is a county government function, they should answer questions in the Senate.

We must have the functions of the county assemblies as put in the Constitution because they have a role to play. The Senate and National Assembly also have roles to play. As I said yesterday, this baby called the Senate cannot be on milk throughout; it must learn to eat solid food. For eight years this baby has not walked, it is still on milk and is crawling everywhere in the precincts of the Legislature. We must tell this baby he is too old and cannot crawl everywhere. If that baby will not start eating solid food and stop crawling then it might go the 1966 way, like the first Senate of the Republic of Kenya.

The National Assembly has nothing against the Senate, but we are telling them that they must exercise their mandate according to the Constitution. There is a provision which says that Parliament will exercise its authority in accordance with the Constitution. These Houses are not football clubs or the clubs in Muthaiga. We want to tell them that this House has the power to enact and participate in legislation.

If we approve this Motion the House Business Committee will go ahead and engage with the Attorney-General and Committee of Experts on a number of areas that the Senate is overlapping when it comes to Committees and their functions. I want to tell Hon. Orengo and Hon. Murkomen that they are our friends and colleagues. We have nothing against them and they should not be very bitter. All we are saying is that we need to have a clear demarcation between the two Houses in accordance with the Constitution. There is no need to be emotional, go to court or throw tantrums. If the worse comes to the worst and you are told to refund the money you spent illegally, we can hold a *Harambee*. All of us will contribute and help you.

Finally, because they misbehaved yesterday on the Floor, Hon. Mbadi and I will write a letter to you next week, as the Chairman of the Parliamentary Service Commission (PSC) and copy the Attorney-General and Auditor-General so that they can tell us why PSC created offices which are not found in the Constitution and action must be taken. This is because they have started a war and it must end to its conclusion.

Thank you, Hon. Speaker I beg to reply.

**Hon. Speaker:** Hon. Members, the Motion is quite long, I have looked at it and I am sure all of you have looked at it on your iPads and know the content. It is fair to say one thing, as I had earlier indicated when we were dealing with the issue of petitions, which is provided in Article 119(1) of the Constitution, every person has the right to petition Parliament on any matter, but it is within its authority. It is very important when looking at some of these issues at the time of cross-referencing that; it must be within the authority of Parliament. It is for that reason people have gone to court and obtained judgement in their favour. You cannot petition Parliament for enforcement because we do not deal with that. This is not within our authority. I do not know why it is difficult for all of us to appreciate some of these simple English words. Somehow, I think with time we will begin to internalise them.

Article 125 appears to be everybody's punching bag because it says that Parliament or any of its Committees has the power to summon any person. By summoning a person, you must deal with matters that are within your authority. This is because you may find yourselves inviting or summoning people who after appearing leave you extremely bitter and very angry persons. We do not want you to be angry. I am not aware about the CS who appeared, he must have left people angry. So, Hon. Members, I will put the Question.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order!

## MOTIONS

## ALTERATION OF THE CALENDAR

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 28(4), this House resolves to alter its Calendar for the Third Session of the Assembly (2019) as adopted on 13<sup>th</sup> February 2019 by proceeding for the short recess on Friday, 5<sup>th</sup> July 2019 and resuming its regular sittings on Tuesday, 23<sup>rd</sup> July 2019, at 2.30pm.

This is just a Procedural Motion. We were to go for about 10 days and be back on 16<sup>th</sup> July, but we realised that we needed to give Members two weeks so that they can go back to their constituencies and formulate projects. So that by the time we come back on 23<sup>rd</sup> July, with the new financial year, Members will be in a position to submit their NG-CDF project proposals from their various committees to the Board.

I beg to move and ask Hon. Pukose to second.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, I stand to second this Procedural Motion. We know that even committees have a lot of business that they will be transacting in the course of that period. We can also allow our committees to function and carry out their committee business.

With those few remarks, I second.

*(Hon. Clement Kigano stood at the gangway)*

**Hon. Speaker:** Member for Kangema, we are in the Chamber.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** Should I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Members, nobody is opposed to the recess. Next Order!

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE  
ON THE PARLIAMENTARY SERVICE BILL

**Hon. Speaker:** Hon. Cheptumo, I am informed that you are proposing some further amendment to the Motion.

*(Several Members walked out of the Chamber)*

Hon. Members, we have not taken the recess yet. There is still business.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I beg to move:



THAT, the Motion for recommittal be further amended by deleting the expression “38” and substituting thereof with the expression “24, 25 and 38”.

Hon. Speaker, the justification is that this is really to ensure that the Bill is properly cross-referenced and to ensure that amendments affected subsequently in the Bill are properly anchored. So, we just want to ensure that ultimately, there is certainty in the order of the provisions of the Bill. That is all we are doing in this particular amendment.

I request Hon. Munene to second.

**Hon. Speaker:** Hon. Wambugu.

**Hon. Munene Wambugu** (Kirinyaga Central, JP): I second, Hon. Speaker.

*(Hon. Jared Okelo walked in the gangway  
as the Speaker was on his feet)*

**Hon. Speaker:** I do appreciate that the Member for Nyando has been here for quite some time and he got thirsty.

*(Question proposed)*

Hon. Members, it is important that we conclude this business.

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Justin Muturi) left the Chair]*

### IN THE COMMITTEE

*[The Chairman (Hon. Moses Cheboi) took the Chair]*

#### THE PARLIAMENTARY SERVICE BILL

*(Recommittal of Clauses 24, 25 and 38)*

**Hon. Chairman:** Hon. Members, take your seats. We want to quickly dispense with these three Clauses, 24, 25 and 38 as has been recommitted.

#### Clause 24

**Hon. Chairman:** Let us have Hon. Cheptumo.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, Clause 24 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “such services jointly shared” and substituting therefor the words “shared services”;
- (b) in sub-clause (3) by inserting the word “by” immediately after the words “shall be headed” and by inserting the words “of service” immediately after the words “terms and conditions”;
- (c) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) The provisions of sections 17A, 19, 26(2) and 26(3) shall with the necessary modifications apply to the officer heading the office of joint services”.

Hon. Chairman, the House yesterday passed this clause with amendments. It has now become necessary that the clause be recommitted to the House for the purpose of incorporating an application of section 17A. This is to ensure that the term of office for the person appointed to head the office of Joint Services is again given a limited period of five years renewable just like we have done for the Clerks of the two Houses. That is the basis of the amendment.

*(Question of the amendment proposed)*

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

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

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

*(Clause 24 as amended agreed to)*

#### *Clause 25*

**Hon. Chairman:** Let us have Hon. Cheptumo.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) The provisions of sections 17A, 19, 26(2) and 26(3) shall, with the necessary modifications, apply to the officer appointed to head the centre for parliamentary studies and training”

Hon. Chairman, again it is the same principle that we want to introduce section 17A to also apply to the officer appointed to head the Centre for Parliamentary Studies and Training so that again he has two terms, the first term of five years and another for five years if renewed, just like the Clerks of the two Houses. Basically, that is the basis of the amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted)*

*be inserted, put and agreed to)*

*(Clause 25 as amended agreed to)*

*Clause 38*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I beg to move:

THAT, Clause 38 be amended by—

(a) deleting the word “chairperson” appearing in sub-clause (1); and,

(b) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) Every oath or affirmation taken by the vice-chairperson, a member, the secretary, or any other officer pursuant to this section shall be administered by the chairperson.”

The amendment seeks to remove the word “chairperson” appearing in sub-clause 1. The Chairperson of the Parliamentary Service Commission (PSC) is provided for in the Constitution.

*(Question of the amendment proposed)*

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

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

*(Clause 38 as amended agreed to)*

**Hon. Chairman:** Mover, please, move reporting.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I beg to move that the Committee reports to the House its consideration of the Parliamentary Service Bill (National Assembly Bill No.6 of 2018) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Speaker (Hon. Justin Muturi) in the Chair]*

## REPORT AND THIRD READING

### THE PARLIAMENTARY SERVICE BILL

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, I beg to report that a Committee of the whole House has considered the Parliamentary Service Bill (National Assembly Bill No.6 of 2018) and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the Deputy Leader of the Majority Party is acting as the Whip, but because of age, he cannot run. The Members want to stay for a few minutes.

Hon. Speaker, I beg to move that the House agrees with the Committee in the said Report. I request Hon. Cheptumo to second the Motion of agreement with the Report of the Committee of the whole House.

**Hon. Speaker:** Hon. Cheptumo.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Parliamentary Service Bill (National Assembly Bill No.6 of 2018) be now read the Third Time. I also request Hon. Cheptumo to second.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I second.

**Hon. Speaker:** Take your seats for one minute. I can see that the Member for Murang'a has sat in a very unusual corner where Members are usually not recognised from this far.

*(Question proposed)*

Hon. Members, having confirmed that the House has more than the requisite quorum, I will put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

## MOTIONS

### APPROVAL OF NOMINEES TO NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND COMMITTEES

**Hon. Speaker:** I have been told that the Member for Mandera East is the one who will move this Motion.

**Hon. Omar Mohamed** (Mandera East, EFP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Section 43 (4) of the National Government Constituency Development Fund Act, 2015 and paragraph 5 (10) of the National Government Constituency Development Fund Regulations, 2016, this House approves the list of nominees for appointment to Jomvu Constituency, Ndhiwa Constituency, Nyando Constituency, Mandera East Constituency,

Embakasi Central Constituency and Ugenya Constituency Committees of the National Government Constituency Development Fund, laid on the Table of the House on Wednesday, 3<sup>rd</sup> July 2019 as follows:

- (i) Jomvu - Rehema Bahaj Saleh (Female adult representative);
- (ii) Ndhiwa - William Odeny Ogono (Male adult representative);
- (iii) Nyando - Kenneth Onyango Ogallo (Male adult representative);
- (iv) Mandera - Abdisalam Bikir Aftin (Male adult representative);
- (v) Embakasi - Bernard Mwaura Kariuki (Male adult representative);
- (vi) Ugenya - (a) Jackson Odhiambo Oduor (Male youth representative);  
(b) Owino Nicholas Ochanda (Male adult representative);  
(c) Caroline Akinyi Owino (Female youth representative);  
(d) Josinte R. Adhiambo Omondi (Female adult representative);  
(e) Josphine Adhiambo Juma (Representative of persons living with disabilities);  
(f) William Edmunds Ohande (Male nominee of Constituency Office); and,  
(g) Grace Adhiambo Wasamba (Female nominee of Constituency Office);

Hon. Speaker, Section 43(4) of the National Government Constituency Development Fund (NG-CDF) Act requires that whenever a vacancy occurs in the Constituency Committee through resignation, incapacitation or demise of a member, the vacancy shall be filled from the same category of persons where the vacancy occurred. Pursuant to the above provisions and following occurrence of vacancies in Jomvu, Ndhiwa, Nyando, Mandera East and Embakasi Central constituencies, the Board received the names of the nominees as recommended by the selection panels in the respective constituencies in line with Regulation 5.

The vacancies in the four of the above constituencies were a result of death, apart from Nyando Constituency where the vacancy resulted from a post that remained unfilled during the previous appointments.

With regard to Ugenya Constituency, there was a by-election. Regulations 5(2) paragraph (b) of the NG-CDF Act provides that a vacancy shall occur in the constituency committee upon commencement of a new parliamentary term.

It is my humble request that this House approves these names and further request the Member for Embakasi Central to second.

Thank you, Hon. Speaker.

**Hon. Speaker:** Who is seconding the Motion? Is it the Member for Embakasi Central? Do you have your card?

**Hon. Benjamin Mwangi** (Embakasi Central, JP): I have logged in.

**Hon. Speaker:** Proceed.

**Hon. Benjamin Mwangi** (Embakasi Central, JP): Hon. Speaker, I rise to second the Motion for approval of nominees to Jomvu, Ndhiwa, Nyando, Mandera East, Embakasi Central and Ugenya Constituencies Committee of the NG-CDF.

Filling the positions is crucial for the performance of the respective constituency committees. It is, therefore, my prayer that the House approves the names of the nominees.

With those remarks, I second the Motion.

*(Question proposed)*

**Hon. Speaker:** Is it the desire of the House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

REPORT ON INQUIRY INTO THE PROPOSED KENYA AIRWAYS' PRIVATELY  
INITIATED INVESTMENT PROPOSAL TO KENYA AIRPORTS AUTHORITY

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the Inquiry into the proposed Kenya Airways' Privately Initiated Investment Proposal to Kenya Airports Authority, laid on the Table of House on Tuesday, 18<sup>th</sup> June 2019.

*(Hon. David Pkosing on 3.7.2019)*

*(Resumption of Debate interrupted on 3.7.2019)*

**Hon. Speaker:** I am informed that Hon. Osotsi was on the Floor by the time the House rose and he has a balance of six minutes.

**Hon. Godfrey Osotsi** (Nominate, ANC): Hon. Speaker, the aviation industry is critical in the country because it contributes about US\$3.2 billion to the economy. Therefore, it is a very critical industry to our economy which we cannot see die as we watch. So, I commend the Committee for the good work they have done by coming up with the observations they have made in the Report.

The aviation industry is facing a lot of challenges like competition from other airports and airlines within the region. The competitiveness of Jomo Kenyatta International Airport (JKIA) is declining compared to other regional airports like in Ethiopia, Qatar, United Arab Emirates and some in Africa. Reduced investments in the aviation industry, profitability of JKIA and the decline and slow growth of passenger numbers are the other challenges. This is attributed to the high cost of flying into Nairobi because we still charge landing fees for other airlines to come to Kenya and that affects the cost of travelling. Therefore, most passengers do not prefer to use our Kenyan route. All these factors and many others affect the aviation industry in Kenya. There is also a lot of focus on aeronautical services and not non-aeronautical ones which in other jurisdictions are key in determining profitability of the aviation industry.

Having read the Report, I notice that it is about reviewing the proposal by KQ Privately Initiated Investment Proposal (PIIP). The PIIP proposed that we have a Special Purpose Vehicle that will be managed by KQ and will have 100 per cent ownership by KQ. This was another way of saying that KQ was going to take over the running operations, management and development of JKIA for 30 years. According to the Report, many of the people who appeared before the Committee were against this decision including the employees in the aviation industry who said that they were not consulted on the matter.

So I agree with the Departmental Committee on Transport, Public Works and Housing that the decision was not a good one and the Committee has come up with an alternative decision that we have an aviation holding company that will operate the JKIA, oversee the Kenya Civil

Aviation Authority and oversee KQ that will be nationalised. I have no problem with that, but I have a problem when we privatise nationalised companies then much later want to privatise or revert the companies back to the hands of the public. That is not a good sign in the country. It is a signal that privatisation process in the country has failed. The failure of privatisation in the country is largely due to the fact that the process was rushed. KQ and other profitable companies that are now down like Mumias Sugar Company were forced to be privatised because of the structural adjustment programmes. It is high time the Departmental Committee on Finance and Planning reviewed the effects of the structural adjustment programmes to our economy because the effects are being felt up to date.

With those reservations, I support the Motion. Thank you.

**Hon. Speaker:** Let us hear the Member for Mogotio.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Speaker, for giving me this opportunity to contribute to this Report. First, I would like to thank the Committee for putting in a serious effort to try to resolve the issue of KQ. I have looked at the Report and I note that the Committee has made some good recommendations. The Committee was essentially presented with two options. One option was to have KQ take over the JKIA and run it under the PPP model. The other option was to have several units being created, including KQ and JKIA and then centralised aviation services being brought together under one holding company. I note that KQ has been generally making progress recently under the new management. The losses have continued to reduce. However, they are still facing many challenges in terms of being competitive.

One of the issues facing our country is the role of Nairobi as a hub. The competition from Ethiopia and Rwanda is becoming serious. They are attracting more and more aircraft to their airports. The JKIA is not very competitive now. This Committee was trying to find a way in which they could solve two problems, namely, help KQ and also improve JKIA as an international hub.

The other challenge is that almost half of KQ's aircrafts are leased. Most of those aircrafts were bought using syndicate loans from banks through private vehicles like Samburu and Tsavo. The ownership of these two particular vehicles is unknown although yesterday the Chairman of the Departmental Committee on Transport, Public Works and Housing said it is a bit transparent. We do not really know the owners of Samburu and Tsavo because probably this is what is making the cost of leasing very expensive.

As the Committee was making recommendations, it learnt that the second vehicle is the most viable one. Through the first vehicle, where KQ takes over the JKIA, the result will be such that some of the shareholders like banks, which own 38 per cent of the shares of KQ will benefit from any injection of public funds.

The reason the Committee recommended the second option where several units, including JKIA Company, are meant to manage the airport, was so that if there is any injection of public money, then it would benefit the public. So, the second option of nationalising KQ and creating other companies which are also 100 per cent owned by the Government will enable these companies to be run under one holding company wholly owned by the Kenya Government. I support that particular option.

With regard to running of the airport, JKIA cannot be run by KQ. This is because KQ has no experience in running airports. The Committee talked about other airports like Dubai and Bole being somehow run by airlines. In our case, KQ may not have any experience in running the airport. Therefore, we have the idea of creating another company called JKIA Company, which is 100 per cent-owned by the Government. Most of the staff members from the current KAA would be seconded there. That would be a good option.

The nominated Member, Hon. Osotsi, pointed out that we have a very bad experience in terms of nationalising companies. Our parastatals are not doing very well. Most of our parastatals, over 300 of them, are not performing well. They are not giving any dividends to the Ex-chequer. Therefore, as we think about nationalising KQ, I know the Committee has also given recommendations that they will be exempted from the State Corporation Act and many other series of taxes in order to make them competitive. My fear is that we do not have a very good experience as somebody has said.

The sugar industry is on its knees. Most parastatals in the sugar industry such as Sony, Chemelil, Muhoroni and Nzoia are all performing below the radar.

As I support this Report, we need to keep a keen eye on how the company will be run. I beg to support.

**Hon. Speaker:** Yes, Hon. Elisha Odhiambo.

**Hon. Elisha Odhiambo** (Gem, ODM): Thank you, Hon. Speaker. I support the Report by the Departmental Committee on Transport, Public Works and Housing. It is important that, as a country, like all other countries in Africa and the world, we support a Kenya Airways that is robust and can stand on its own in future. If substantively, we have KAA run by a different vehicle that will ensure that our airline survives this rough patch that will be the best direction to go. I have seen how England, Qatar and US treat their citizens on their airlines, and I would like to see a situation where Kenyans who live abroad feel that we have an airline that cares for them when they come back home. This is our own brand. This is Kenya.

I support building a Kenya Airways that keeps our brand the world over.

Thank you.

**Hon. Speaker:** The Member for Kajiado East, you have the Floor.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Thank you, Hon. Speaker. I support the Report by the Departmental Committee on Transport, Public Works and Housing on the issue of KQ. I am a Member of the Committee. As a Committee, we deliberated at length on the issue of KQ. We had public participation. We invited various stakeholders - workers in the aviation industry, pilots, KQ management and officials from KAA, which is at the moment running the JKIA hub.

This was an issue that attracted a lot of public attention through the mainstream media and also attracted the attention of this House through two or so committees. We gave the matter the seriousness that it deserved. As a Committee, we found ourselves grappling with the issue of PPIP and we thought it is not in the interest of the Kenyan public. We then decided to get



consultants to take us through the various options that would be available or that we could propose to this House for consideration.

We found that the best option is having the holding company to take care of the JKIA hub and KQ. The KQ will be full nationalised whereas KAA will be taking care of the other airports, so that we can continue developing the infrastructure that is required across the country. We also need to continue giving attention to JKIA as the face of the Kenyan aviation industry.

I am convinced that this is the best route the country needs to take. The Committee came out to protect the interests of Kenyans. I know we gave it thorough attention. You can even see the reaction of Kenyans from the social media. Kenyans are happy with this direction that the Committee has taken. I believe this House will support the direction the Committee has taken.

Thank you, Hon. Speaker.

**Hon. Speaker:** It is your chance, the Member for Turkana Central.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Thank you, Hon. Speaker. I support the Report of the Committee by just one word: This process of nationalisation is transforming private assets into public assets, so that the public can manage the assets on behalf of others. There is nothing good like being proud of your country, running your own assets and putting your knowledge in your asset. When we take the assets back to the public, experts will help us to develop policies that are going to govern the assets.

This will also give every Kenyan, wherever they are, an opportunity to invest back in the country. When we nationalise KQ and KAA, people will come back saying that “this is our property”. They will say that these are their assets. Therefore, they will take care of them. The Netherlands and the Americans are very proud of their airlines. That is how Kenyans should be. The Kenyan nationals should feel part and parcel of these assets. If we privatise this one, it is only the rich who can buy the shares in the company. Other Kenyans will not have an opportunity to participate.

For me, the Committee has done a good job. We want to go that direction, so that as Kenyans, we can be proud of our airline. When using the airline, you will feel that you have invested in the airline and you need to make sure it is making profit. People are familiar with good governance in the corporate world. So, we should also make more profit and make this airline grow.

With those few remarks, I support the Report.

**Hon. Speaker:** The Member for Keiyo South, you have the Floor.

**Hon. Daniel Rono** (Keiyo South, JP): Thank you, Hon. Speaker. I rise to support the Report of the Committee on our airline, KQ.

The KQ is our pride. It is known all over. It has been selling us abroad. Tourism will equally grow as a result of nationalising KQ. We should not look at or focus on profits only. We should look at the bigger picture. Hence, I support the Committee and the Report. The KQ, as you well know, has been dwindling over time. It is just the other day that we had a new management that it came up a bit and even the losses went down. We expect the losses to be wiped out with the implementation of the Report, but as I have said earlier, we should not focus on profits alone. Kenya Airways is known the world over. It sells the country. We need to travel to make KQ go to other countries and not only the countries they have cocooned themselves to travel to. We need to expand so that KQ can be known everywhere. In extension, Kenya will be equally known. The other day we received many tourists from China because KQ had expanded to Guangzhou and other cities in China. We have been receiving tourists even from places which we have not been marketing. The Tourism Authority has not been marketing our country in some

countries but KQ has been doing that. It is like our athletes. They have been marketing us. So, we need to take KQ seriously and nationalise it. It is very important.

We have, for a long time, been riding on the likes of KLM. It is high time we stood on our own as KQ. The KQ, as we have said, is Kenya and Kenya is proud of KQ. So, let us carry it. The KQ is our burden. It will sell us.

I support the Report.

**Hon. Speaker:** Yes, Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker for giving me an opportunity to contribute to this. I will support this Report with very serious reservations.

The issue starts, as you remember, with two committees in this House trying to investigate one thing. You directed that both had mandate and they could go as long as they kept their mandate. The Departmental Committee on Transport, Public Works and Housing has gone ahead. What came was a privately initiated investment plan from KQ to JKIA. This was in an effort to improve the status of KQ. We all know that KQ has many problems.

One, it is leasing planes that are very expensive. Two, it is charging higher rates. The number of passengers to the passengers' lounge are reducing. It is not competitive. Because it is a private entity, it is subject to a lot of taxes. It is subject even to charges out landing. True, that is so. But then, it was interesting that the same KQ is putting a proposal to JKIA, which was doing well. So, somebody who is having difficulty managing itself making a proposal that it will take up an entity that is running well and improve it. That was anomalous in a way. They were saying that KQ will help JKIA to introduce measures that will improve the hub. I agree that improvement of the hub is important. It is important, not just for KQ, but for the country as a whole to improve the flow of tourism and maintain the passenger flow. They also say that they can help JKIA to earn revenue not just from aerodrome activities, but also from the commercial activities that go on within the airport. If it is true that KQ can help JKIA improve this, I am asking myself: Why can it not do that to itself? If you look at what is being proposed, you will find that they propose to literally take over KQ and split it from the other functions of the KAA. The money from JKIA will not support other airports. That is selfish. I agree with the Committee that, that option was bad.

The Committee proposes that they form another aviation holding company. If you look at all the things that KQ wanted to do, if they were to take over, it is exactly what this is going to do. The only good thing about it is that it is a national entity. What they are asking for is the same. So, I have reservations. When we form this holding company, which will run JKIA, KAA and KQ it is not clear how this entity is going to work. My other concern is that when this entity is formed, we are going to give it many exemptions. However, we are not told how exactly it is going to handle one of the major issue that KQ was involved in, namely the debt. We know last year we approved a huge sovereign guarantee of Kshs75 billion. In the Report, it is noted that the debt KQ is holding is Kshs23 billion. So, it seems the sovereign guarantee is going to pay that.

Kenya Airways was at one time State-owned. Then it was privatised. Investors then injected money in it and it did not work. Things are not going on well. We are now nationalising it. The investors who invested their money are safe because they have a guarantee of Kshs75 billion and their debt is only Kshs23 billion. The Committee does not bring this out clearly. However, it is clear to me that the money that is going to pay off the debt is Government money. These debtors are lucky people.

Ordinarily, if a private entity is failing, it will be put under receivership and the investors will know that it was a risk and they have lost. If they get anything, it will be *pro-rata* benefit. In

this case, it looks like they are going to get from the Government all the money they injected in plus more. Here, the Committee did not do a good job. They should have been clear on how the private investors will help the Government to deal with the losses. We cannot take all the loss of KQ and put it to the people of Kenya. Whether they will pay it now or later, that is not the issue. It is still on the people of Kenya. Perhaps the Committee's Report should be amended.

If the process of nationalisation is going on, it should be clear how the debts are going to be handled. It will not be fair for the people of Kenya to take over debts from private people who invested with the hope that they would get money. Now, when the issue is not getting money, they are withdrawing their money from the Government. That is not a fair arrangement. During the nationalisation process, Parliament should take interest and ensure that investors who are in KQ, also bear the burden of the KQ loss. It will not be fair that they go scot-free and the Government takes all the debts.

With that reservation, I support.

**Hon. Speaker:** Yes, the Member for Ijara Constituency.

**Hon. (Ms.) Sophia Noor (Ijara, PDR):** Thank you, Hon. Speaker for giving me a chance to contribute to this Motion. I would like to support the Committee's Report on KQ. The KQ is the pride of this nation. It is something that we are proud of as a country. Personally, whenever I see KQ, I feel that we are doing well. However, we know that KQ has been facing a lot of challenges lately. There are many issues in terms of management and the losses they have incurred. Nationalising KQ is a step in the right direction. Being a private entity, it has always given problems to this nation. In nationalising it under the process that is going on now, we have to put a lot of effort in supporting it, so that it can overcome the challenges it is facing.

Recently, I travelled by the Ethiopian Airlines, and it is overtaking KQ. If you go to Bole International Airport in Addis Ababa, you will see the kind of development that is happening in Ethiopia. You will see the level of public relations the Ethiopian Airline personnel practice, the kind of work they do and the directions they give. Now that we are going through the process of nationalisation, we need to look at how KQ can be supported holistically. I urge the Committee, together with the Ministry of Transport, Infrastructure Housing, Urban Development and Public Works, to create a holistic process that will look at the environment KQ operates in, so that we can look at the lowest and the highest cadre of personnel at the airport.

If KQ practices good public relations and creates good rapport, every person will feel comfortable to come through Kenya. But if people come through Kenya and are harassed, asked for kickbacks and many unnecessary things, then it becomes a problem. That is what we face. So, we need to change our culture. We need to have a culture that will attract people to this country and bring back the glory of our nation. This country was the hub of this region and the whole of Africa. The KQ was at one time admired by everybody in Africa. We must put a deliberate effort so that we can bring back the glory to this nation and KQ. I am very happy that the Committee brought this Report after they had done their investigations and have recommended nationalising KQ.

In any business, you need to be very competitive in order to achieve your goal. Any business that is not competitive in this era will not achieve its dream. So, we ask KQ, its management and the Ministry to stand as if you are selling in your shop and competing with the next shop. We are in an era where everything depends on the kind of systems, structure and relationships they put in place. My recommendation is that the Committee should holistically and

thoroughly look into the whole system. You need to check and give recommendations that will improve and put us in the age of achieving our dream.

Hon. Speaker, thank you again. I want to congratulate and thank the Committee. My only request to the Committee is to let ICT do a thorough job when this process is going on.

**Hon. Speaker:** The Member for Mwingi West, Hon. Nguna Ngusya, you have the Floor.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Speaker, for the opportunity given to me. This topic is coming at a time which is really good for us. I used to be a financial director in one of the most profitable companies in the world, Etihad Airways. I would like to support this Report based on what the Committee has recommended.

One, the Committee did a lot of work and I would like to appreciate that. However, it is good to note that before anything that KQ proposed to do, we must first of all nationalise it, so that we can be proud of it. When you visit cities in the world, may New York or London, and see KQ, you always feel proud. The pride is the best thing you can have when you are travelling to other countries. When you see KQ in Amsterdam, you always feel like you are at home. When you see KQ anywhere, you always feel Kenyan at heart. We need to nationalise this airline.

First of all, we must shed light that KQ is not Government-owned. It is not even Kenyan. The KLM has the majority shares. At the same time, Air France owns KLM. So we have myriads of ownership with this kind of arrangement. Nationalising this airline is going to help Kenyans.

I was very happy to see the Chairman of the Transport, Public Works and Housing Committee on one of the local stations making these recommendations. I was very proud of him. Whatever presentation you made, I do not even need to read this Report to support you. We need to, first, nationalise the airline.

Secondly, all the Committee proposals, like to take over KAA, can be achievable. It has been done by the Emirates and the Etihad Airways. The airline, first of all, has to be Kenyan. It is very important for us to own it. Kenya Airways is just a name, but owned by the Dutch and the French.

I would like to laud one of the key things the Committee has proposed. Upon the nationalisation of KQ, the Government should review the aircraft leasing agreement. Leasing is one of the thorny issues at KQ. Majority of the aircrafts are leased. There is a lot of interest in the leasing agreement that KQ entered into. That is why most of the debts are being incurred by KQ. The Kenya Airways made a mistake when they were doing fuel engine which is one of the strategic things you can initiate in an airline. Fuel has always been an issue. The procurement department of KQ needs to be organised. Most of the commodities supplied to KQ are always overpriced and the airline is struggling to make profits.

The other thing that we need to look at is the issue of rewarding agents. Agents are key. Whenever you walk to an agent anywhere in the world, they always influence the decision of which carrier you are going to fly. When I saw the KQ policy, they have not revised their agents reward system. So upon the nationalisation, we need to sit down and operationalise a lot of things, including fuel engine and leasing agreements. We need to review them. We need to review the agents reward system. We need to do many things.

With those few remarks, I support the Committee. This issue must be considered without any emotions. I support and thank you very much.

**Hon. Speaker:** Yes, the Member for Laikipia County.

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): Thank you, Hon. Speaker. I want to confirm that I come from the County of Laikipia. I stand in support of the Committee's Report and the proposal of nationalising KQ. When we talk about KQ, we talk about the pride of Africa and not only the pride of Nairobi or Kenya. The biggest question before us this afternoon is whether we have lived true to the Kenyan dream of making KQ a national airline which will not only be talked about positively in Kenya, but also in the entire Africa. I want to agree with the Chair of the Committee because they have done a good job by highlighting issues which directly and indirectly affect Kenyans when we talk about the national airline. I must say it is a mockery to the people of Kenya when we say it is time in the year 2019 that we nationalise KQ, meaning that KQ is in the hands of people. It is still in the hands of individuals.

Majority of the shareholders are private individuals and foreigners whose interest is to curtail this country. They ensure that majority of the shares, not only the profits, go to other people as opposed to the people of Kenya. How sweet would it be, now that we are eulogising the life of Bob Collymore, the former CEO of Safaricom, for us to talk about a company that is 100 per cent owned by Kenyans, or majority shareholders are Kenyans? It would mean that even the *mama mbogas* would raise the required amount to buy even a single share.

Hon. Speaker, allow me to remind our Chair that Mr. Mikosz - I do not know whether he was the CEO - resigned recently out of frustrations. We urge them to bring back Mr. Mikosz because as his name reads, it might sound like he brings misfortune. However, the misfortunes that he faced at KQ forced him to exit unceremoniously. It is the same issues that have forced the board of management to change. The issues still exist. One of the issues has to do with the revision of the mandate of managing our airports and airstrips, which must be taken back to KQ wholly without further negotiations. This is the only thing which is going to enable KAA to maintain, at least, serviceable airstrips and ensure that security, health and other emergency issues are not left to KAA without a Vote head.

The KQ is a national carrier. The biggest question is whether we have an aviation college or an institute that can be used as a centre of excellence for our aviation students. You realise that there is a majority of private colleges offering aviation courses and they have taken centre stage. The public sector, for that reason, continues to get discouraged. We need to decentralise aviation services and, therefore, aviation colleges in this country.

I applaud the Committee for making sure that all air navigation services are going to remain exclusively the mandate of the Kenya Civil Aviation Authority (KCAA), which, in addition to that, shall collect enroute charges, aerodrome and approach charges as a way of collecting revenue.

In the past, KQ has been making losses. The biggest question is whether the other agencies such as KCAA are in a position to give us income. The reliability of this income will depend on services which are not only offered to KQ, but also to other airlines coming to the Republic of Kenya. I know Members are well-travelled and they know that our airport could be one of the least competitive in the market not only in Africa, but across the world. There are certain measures that we need to put in place to ensure that KQ and JKIA are competitive just like other airports in the world.

Look at our neighbours in Rwanda. They are doing better than us. Any country which is struggling to get a modern international airport cannot afford to discourage any investor from investing in the Republic of Kenya. We want to see malls and five-star hotels coming up at JKIA. We need it to become a tourist attraction so that people on transit can leave foreign exchange here.

We seek the transfer of the management and assets of the KAA to the JKIA Company. We need to allow the aviation holding company to collect tariffs and the airport users' charges, including landing and parking charges. The amendment of the Air Passage Services Charges Act should be put in place to allow the aviation holding company to collect the air passage service charges for distribution to its subsidiaries. All that is in the Report, which has been tabled in the House.

The question of parking fees and other collected tariffs has been a subject that is not transparent. A majority of us are not able to tell how things are transacted at JKIA. There are supremacy battles between KAA and KQ. Their employees have been sucked in. The only way to bring those issues to an end and restore consistency so that the national airline is able to make business is to ensure that we nationalise KQ. We also need to ensure that KCAA is independently funded. It should run its own board of management without interference from people who have invested in the airline who are not even Kenyans. Some of them would not feel any pain if this airline comes down.

Allow me to ask the Chair to continue talking to Kenyans. I am one of the complainants. When you fly KQ, you realise that it is the most expensive airline in this region. You will realise that when you fly RwandAir, Emirates and others. That discourages majority of our businessmen from flying KQ. We would like to see these tariffs brought down. We want transparency. They need to challenge us to come up with an Act that would enable KQ to become stronger and maintain its position as the pride of Africa.

I thank you.

**Hon. Speaker:** Could we hear the Member for Kabondo Kasipul?

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you, Hon. Speaker. I know that much has been said already and I will be very brief. I support the Report.

Hon. Speaker, initially, I would have had a lot of reservations particularly with the past experience about how publicly-owned institutions have been run. However, we have also had successful stories with other organisations. I have confidence that this time round, nobody will try to play some monkey business with what is happening with regard to the unravelling of cases of poor governance and many corruption cases in this country.

Hon. Speaker, as has been said, KQ is the pride of Africa. Wherever we go, when we see the airline, it fills us with pride and promotes nationalism. I would be one of those interested in the disclosure of all the losses the company has made even as we begin this journey of nationalisation. We are not quite sure what the final figure will be, but hopefully, this shall be done so that the public gets to know the true position of what they are taking over. It would also be in the interest of the public that we know the status of the aircrafts. We need to know who has leased them to us. That can only be achieved with full disclosure.

We are not reinventing the wheel. We can clearly cite many countries that are running their airports through their respective national airlines. A good example is Emirates. They are efficient. Other examples are the British Airways, Qatar Airlines, Air Lufthansa and even RwandAir within the East African region.

I support the Report.

**Hon. Speaker:** Well, there being no other Member desirous of... Do I see the Member for Migori? There being no other Member to contribute, I call upon the Mover to reply.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Speaker for giving me this great opportunity to reply. In replying, I want to sincerely thank you for guiding the House and Committee on how to deal with this matter that has been transacted. At the particular time, there was conflict and we asked for your Solomonic direction in the House. In this Committee, we followed your direction to the latter. That is why our Report is structured in the manner you ruled because we are a House of rules and respect. Hon. Speaker, we respect you, and I thank you on behalf of my Committee.

Secondly, I want to thank the Committee Members for being very impartial when dealing with this issue because it is a national matter. We dealt with it without emotions, fear, favour or political inclinations or thinking. You know Committee Members come from different political persuasions. The Committee knew they had a serious national issue and we kept all issues aside and thought about the country as you directed. I thank them and the Office of the Clerk.

I would also like to thank Members for their contribution since yesterday up to today. They gave positive recommendations and contributions. I want to assure the House and the Members who contributed that we will live to that expectation because the journey has begun. This is the beginning and not the end. People would like to know what will happen after this Report is passed by the House. It will result to us making proposals to enable the recommendations to have legal effect. Therefore, we are still on a long road, but this will make the process clearer.

Let me address a number of issues that came out. One of them being KQ being a public entity was privatised and now it will become a public entity again. As Kenyans can remember, at that particular time, there was no choice of being either a public or private entity. We were being forced by some international institutions like the International Monetary Fund (IMF). If you can remember, there were Structural Adjustment Programmes (SAPs) and they were not a choice. We were not even given an opportunity to think about what will be good for this country. We were forced. That is why a strategic investment like KQ was privatised. If we were given an opportunity to think about it, it would have been different.

We were not there at that particular time, but today, we are thinking about our country, and that is why we took this direction. In my view, I am persuaded to say that there should be certain strategic installations for the people of Kenya which should not be privatised or sold. They should be for the people, and transport is one of them. In the same manner, the Government responsibility number one is to move its people from one point to another. This should not be left to the private sector. If this is left to the private sector, it will decide how much to charge. They can even charge Kshs1 million from here to Eldoret. That is not what we want as a people, and I thank Members for supporting this Report.

Secondly, there is an issue we are raising about the burden that will be caused by this failed company. After the adoption of this Report, I want to give the House assurance that the National Treasury and the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works will negotiate with the debtors. We want to urge them that the burden should

be translated to the investors because they failed to manage their own company. It should not be 100 per cent to the people of Kenya. We had no role on this matter, and how they were running the company.

As Members saw today, it is true there is some new life and improvements at KQ. Something is happening. If you look at the last six months or one year, you will see that KQ is improving. This is demonstrated by opening of new routes. They are now going to John F. Kennedy International Airport (JFK), and I want to assure the House that this is a very busy route. Our flag, through KQ, is landing at the JFK, one of the most prestigious airports in the world.

The other day they opened a new route to Geneva, which is a strategic centre. Remember there are only four headquarters of the United Nations (UN) in the whole world. As a people, we are proud to say Nairobi is one of them, Vienna, New York and Geneva. Today, looking at KQ, it is connecting three of the four international headquarters of the UN namely, the United States of America (USA), Switzerland and Kenya. In fact, after this, we can go to Vienna and the whole world will be covered. There is some new life at KQ including the pricing of air tickets, which are also coming down.

After approval of this Report, KQ will get a new lease and one of the priorities will be to reduce prices so that the people of Kenya can fly KQ by choice not being forced by the Government. In that respect and as Hon. Members have said, it is true there is a new management at KQ and they have transformed the airline and brought some changes. Yes, there are some talks here and there about somebody resigning. I want to say on the Floor of the House and be on record that the people of Kenya have noticed that the new leadership at KQ is better and they should not be pushed out.

The Directors of KQ should also listen to the people of Kenya and the House. They should not push away people who work very hard. Look at what was happening before the new leadership which brought this matter to be discussed by the people of Kenya and this House. So, there is change.

As I conclude, Members are asking who is behind the leasing. I had a Member say that we need disclosure. When I was moving yesterday, I disclosed the companies which KQ is leasing aeroplanes from. I said this is not unique to KQ because this is an international model. In fact, if you look at KQ, you will find that it is leasing 52 per cent of the aeroplanes while other airlines are leasing more than this. Ethiopian Airlines is at between 51 and 52 per cent and others are at about 62 per cent.

*[The Speaker (Hon. Justin Muturi) left the Chair]*

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



I was happy that a Member, who was working in one of the airlines, supports our proposal. One of the problems we entered into is leasing because it is expensive. The model KQ was operating on was because of bad financial books so they had high risk of exposure and that is why they were charged highly. With the new approach, this risk will reduce. Therefore, they will renegotiate the leases and fuel levy, and we will have equilibrium.

With those few remarks, I want to thank the House for supporting the Committee. I want to assure Members that we will walk together because we are now bringing the Pride of Africa into new ownership. So, I thank my colleagues and those who supported us up to now. I beg to reply.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Thank you, Chair for the reply. Hon. Members, from where I sit, I confirm that the House is not properly constituted for me to put the Question on the Report on the Inquiry into the Proposed Kenya Airways' Privately Initiated Investment Proposal to Kenya Airports Authority. So, I order that the Question to this will be put during the next sitting as it will be indicated on our Order Paper.

Next Order!

#### INQUIRY INTO ALLOCATION OF LAND IN KAMITI ANMER FOREST

THAT, this House adopts the Report of the Departmental Committee on Lands on the Inquiry into a Complaint by Kamiti Anmer Forest Squatters Association regarding allocation of Land LR. No.8390 in Kamiti Anmer Forest, laid on the Table of the House on Tuesday, 18<sup>th</sup> June 2019.

*(Hon. (Ms.) Rachael Nyamai on 27.6.2019)*

*(Resumption of debate interrupted on 27.6.2019)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): This is resumption of debate, Hon. Members. You are aware we do not speak twice to any Motion. There is no interest to speak on this Motion. I understand this Motion has not been debated. So, I defer the debate of the Report.

*(Motion deferred)*

Next Order!

#### REPORT ON RATIFICATION OF PROTOCOL ON FREE MOVEMENT OF PERSONS

THAT, this House notes the Report of the Departmental Committee on Defence and Foreign Relations on a Meeting with the Member States and Secretaries of the Economic Community of West African States and East African Community to Promote and Popularise the Ratification of the Protocol on the Free

Movement of Persons and its Implementation Roadmap, laid on the Table of the House on Wednesday, 21<sup>st</sup> November 2018.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson of the Departmental Committee on Defence and Foreign Relations. The Member for Yatta, where is your card?

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you. I have my card, but I was not expecting this.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You do not assume. You catch the eye of the Speaker. You must express yourself.

**Hon. Charles Kilonzo** (Yatta, Independent): I do have the card, but it came as a surprise.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You have the Floor.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Temporary Deputy Speaker, I am a Member of the Committee. On behalf of my Chair and the Vice-Chair, who are outside the country, we had requested that this matter be deferred to the next sitting.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): With that request, I order that debate on the same be deferred.

*(Motion deferred)*

Next Order!

SENATE AMENDMENTS TO PUBLIC PRIVATE  
PARTNERSHIPS (AMENDMENT) BILL

THAT, the Senate amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bill No.52 of 2017) be now considered.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party, you have the Floor. Given that the Motions under Order Nos.18 and 19 have been deferred, I had the assumption that the Leader of the Majority Party was ready for this. Now that he is not in the House, I also order that Order No.20 be deferred.

*(Motion deferred)*

Next Order!

REPORT ON INQUIRY INTO LAND ACQUISITION BY  
KDF FOR FOB IN NAROK COUNTY

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Inquiry into Land Acquisition by the Kenya Defence Forces for establishment of Forward Operating Base (FOB) in Narok County, laid on the Table of the House on Tuesday, 2<sup>nd</sup> April 2019.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Chairperson of the Departmental Committee on Defence and Foreign Relations.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Temporary Deputy Speaker, on the same basis, my Chair and Vice-Chair are out of the country. We request that the matter be debated in the next sitting.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You must pronounce yourself that you have been requested on behalf of the Committee.

**Hon. Charles Kilonzo** (Yatta, Independent): On behalf of the Committee and the Chair, I request that the matter be deferred to the next sitting.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Now that you have pronounced yourself that you have been given the mandate by the Chairperson and the Vice-Chairperson to report on the status of the debate in the National Assembly, it is agreed and I order that Motion listed as Order No.21 on the Inquiry into Land Acquisition by the Kenya Defence Forces for establishment of Forward Operating Base (FOB) in Narok County, be deferred.

*(Motion deferred)*

**Hon. Daniel Rono** (Keiyo South, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There is a point of order by the Member for Keiyo South. What is your point of order?

**Hon. Daniel Rono** (Keiyo South, JP): I do not know whether I should call it a point of order or a point of information. I realise you have deferred three Motions with reasons that the Chairs of the committees are absent.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): But there is official communication.

**Hon. Daniel Rono** (Keiyo South, JP): I thought committees normally have Chairs and Vice-Chairs. In the absence of the Chair, there should be a Vice-Chair, so that our calendar can move smoothly.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I know you are a Member of the Public Accounts Committee (PAC). You can still be given the mandate and power to represent the Committee. Of course, you know this is due to the business of the House. The Chairperson and the Vice-Chairperson could have different parliamentary business, but Hon. Rono, your sentiments are noted.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members! There being no other business on our Order Paper for today, and the time being 5.34 p.m., the House stands adjourned until Tuesday, 23<sup>rd</sup> July 2019, at 2.30 p.m.

I thank you all.

The House rose at 5.34 p.m.