

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

**Thursday, 9<sup>th</sup> June 2022**

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

**Hon. Deputy Speaker:** Order Members! We do not have numbers. Luckily, as usual the Majority Whip, Hon. Wangwe is in. So, he will whip Members to come in. Therefore, I order the bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

Okay. Let us proceed now.

MESSAGE

THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Deputy Speaker:** Order, Members!

*(Several Members walked into the Chamber)*

Those who are walking in, hurry up and take your seats.

Hon. Members, pursuant to provisions of Standing Order No.41, I wish to report to the House that I have received a Message from the Senate regarding the passage of the County Allocation of Revenue Bill (Senate Bill No.1 of 2022). The Message reads in part and I quote: "The Senate on Wednesday, 8<sup>th</sup> June 2022, passed the County Allocation of Revenue Bill (Senate Bill No.1 of 2022) with amendments."

As you are aware, the County Allocation of Revenue Bill is an annual legislation introduced in accordance with the provisions of Article 218 of the Constitution with the objective of equitably sharing and allocating the share of national revenue amongst 47 counties.

Given the urgency of the passage of this Bill, the House Business Committee prioritised its consideration in the National Assembly ahead of the *Sine Die* Adjournment. In this regard, the Bill is scheduled for consideration by the House today, in all stages, pursuant to provisions of Standing Order No.124 2(a), relating to consideration of certain Bills at all stages in one Sitting.

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Hon. Members, it is worth noting that a County Allocation of Revenue Bill is a Special Bill concerning the county governments in terms of Article 110 (2) (a) (ii) of the Constitution. This implies that the amendment proposed in the Bill in the National Assembly requires support of at least two-thirds of the Members to pass.

The House is accordingly guided and, I thank you.

### PAPERS LAID

**Hon. Deputy Speaker:** There are a series of Papers, and I hope the Members are in today. Let us start with the Leader of Majority Party.

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

On behalf of the Leader of Majority Party, I beg to lay the following Paper on the Table of the House:

Annual Report and Financial Statements of the Capital Markets Authority for the Financial Year 2020/2021.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. Let us go to the Chairperson, Select Committee on Parliamentary Broadcasting and Library. It seems he is absent.

Let us have the Chairperson, Select Committee on Constitutional Implementation and Oversight Committee.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Deputy Speaker:

I beg to lay the following Paper on the Table of the House:

The Exit Report on the Constitutional Implementation Oversight Committee for the 12<sup>th</sup> Parliament, 2017-2022.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. Chairperson, Departmental Committee on Environment and Natural Resources. He seems to be absent.

Chairperson, Departmental Committee on Communication, Information and Innovation. He is also absent.

Chairperson, Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Maybe, we give him another 20 minutes. He should be on the way.

**Hon. Deputy Speaker:** Alright.

Departmental Committee on Education and Research.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Report of the Departmental Committee on Education and Research on the Public Petition regarding violation of the right to relevant education and training by Egerton University, and submitted by a group of Egerton University students.

Report of the Departmental Committee on Education and Research on a Petition regarding a decision by the Teachers Service Commission (TSC) to refuse to acknowledge undergraduate, graduate and postgraduate qualifications attained by in-service teachers from a recognised university.

I am doing this on behalf of the Chair of the Departmental Committee on Education and Research.

Thank you very much.

**Hon. Deputy Speaker:** Okay, for the second time, the Chairperson of the Parliamentary Broadcasting and Library Committee or any representative of that Committee. Any indication?

I only see a request by one Member which is very interesting. Normally, we have many requests, but it is only the Member for Nairobi County, Hon. Passaris who has made a request. I am not sure what it is. Let us go to the Departmental Committee on Environment and Natural Resources. Any representation?

**Hon. Paul Nzengu** (Mwingi North, WDM-K): Thank you, Hon. Deputy Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment and Natural Resources on its consideration of a Public Petition regarding displacement of Kihoto home owners' self-help group, Kihoto estate by the rising level of Lake Naivasha in Nakuru County.

Thank you, Hon. Deputy Speaker.

**Hon Deputy Speaker:** Very well. Any other Chairperson who is willing to give a status report of their Committee? The Chairperson, Departmental Committee on Communication, Information and Innovation.

**Hon. Mark Nyamita** (Uriri, ODM): Thank you, Hon. Deputy Speaker. I beg to lay the following Papers on the Table of the House:

Report of the Departmental Committee on its consideration of the Start-up Bill (Senate Bill No. 1 of 2021); and

The Exit Report of the Departmental Committee on Communication, Information and Innovation for the 12<sup>th</sup> Parliament, 2017-2022.

Thank you.

**Hon Deputy Speaker:** I think that marks the end of that particular Order. Let us move to the next Order now. I do not see the Chairman of the Departmental Committee on Environment and Natural Resources.

### ORDINARY QUESTION

**Hon. Deputy Speaker:** Hon. Zuleikah, you now have the microphone.

*Question No. 119/2022*

#### UTILISATION OF NATIONAL GOVERNMENT AFFIRMATIVE ACTION FUND ACROSS THE COUNTRY

**Hon. (Ms.) Zuleikha Hassan** (Kwale CWR, ODM): Thank you, Hon. Deputy Speaker. This microphone does not seem to be working.

I beg to ask Question No. 119 of 2022 to the Cabinet Secretary for Public Service, Gender, Senior Citizens Affairs and Special Programmes:

- (i) Could the Cabinet Secretary provide a status report on the utilisation of the National Government Affirmative Action Fund (NGAAF) monies across the country with regard to projects and other development-related undertakings?
- (ii) Could the Cabinet Secretary explain when the proposals for the operationalisation of a Milk Processing Plant in Lunga Lunga Constituency and installation of Cashew Nuts Processing Machines in Matuga Constituency under NGAAF will be approved

considering that, it is now almost three years since the proposals were first submitted to the NGAAF Board?

**Hon Deputy Speaker:** Very well, there will be written reply by the Cabinet Secretary for Public Service, Gender, Senior Citizens Affairs and Special Programmes.

## REPORT AND THIRD READING

### THE APPROPRIATION (NO.2) BILL

**Hon Deputy Speaker:** Chairman, can we get to hear something from you? I can see there is a notice of recommittal.

**Hon. Kanini Kega** (Kieni, JP): Hon. Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words 'subject to recommittal'.

**Hon. Deputy Speaker:** Which one is it between the First and the Second Schedule?

**Hon. Kanini Kega** (Kieni, JP): Yes. Basically, the request was made because an item was placed in the State Department for Trade and Enterprise Development and it needs to be taken to the State Department for Industrialisation.

Should I do it now or in the Committee of the whole House?

**Hon. Deputy Speaker:** You see, if there is a recommittal, it will have to go to the Committee of the whole House. I was just trying to look at the extent of the recommittal. Let us just do it the right way. Ordinarily, it is something we could have easily resolved without going to the Committee of the whole House, since it is administrative but just for good order, do what you have asked. We will finish quickly.

I almost proposed the Question without a seconder. You should give us a seconder.

**Hon. Kanini Kega** (Kieni, JP): Sorry, I request the Vice Chair, Hon. Shinali to second.

**Hon. Deputy Speaker:** Hon. Shinali.

**Hon. Bernard Shinali** (Ikolomani, JP): Thank you, Hon. Deputy Speaker. I second.

*(Question proposed)*

*(Question put and agreed to)*

## MOTIONS

### ADOPTION OF PUBLIC ACCOUNTS COMMITTEE REPORT FOR 2019/2020

THAT, this House adopts the Report of the Public Accounts Committee on the Examination of the Report of the Auditor-General on the Financial Statements for the National Government for the Financial Year 2019/2020, laid on the Table of the House on Wednesday, 8<sup>th</sup> June 2022.

*(Hon. Opiyo Wandayi on 8.6.2022)*

*(Debate concluded on 8.6.2022)*

*(Question put and agreed to)*

RATIFICATION OF AGREEMENT BETWEEN DENMARK  
AND KENYA ON DEFENCE COOPERATION

THAT, pursuant to the provisions of sections 7 and 8 of the Treaty Making and Ratification Act, 2012, this House approves Ratification of the Defence Cooperation between the Kingdom of Denmark and the Republic of Kenya, laid on the Table of the House on Tuesday, 22<sup>nd</sup> September 2020.

*(Hon. Amos Kimunya on 8.6.2022)*

*(Debate concluded on 8.6.2022)*

*(Question put and agreed to)*

**BILL**

*First Reading*

THE COUNTY ALLOCATION OF REVENUE BILL

*(Order for First Reading read – Read the First Time and ordered to be read the Second Time today by leave of the House)*

**PAPERS LAID**

**Hon. Deputy Speaker:** Before we proceed, let us have the Exit Reports from the Chair of the Parliamentary Broadcasting and Library Committee, then the Chair of Budget and Appropriations Committee, so he can lay the Paper and proceed.

**Hon. Justus Kizito** (Shinyalu, ODM): Thank you, Hon. Deputy Speaker. I beg to lay the following Paper on the Table of the House:

The Exit Report of the Parliamentary Broadcasting and Library Committee for the 12<sup>th</sup> Parliament (2017-2022).

Thank you.

**Hon. Deputy Speaker:** Very well. The Chair of Budget and Appropriations Committee, lay the Paper and then move to the Bill.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Deputy Speaker. I stand guided. I beg to lay the following Paper on the Table of the House:

The Exit Report of the Budget and Appropriations Committee for the 12<sup>th</sup> Parliament (2017-2022).

Thank you.

**BILL***Second Reading*

## THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Deputy Speaker:** Very well. Proceed with the County Allocation of Revenue Bill. I advise you to be brief so that we can quickly dispense with it.

**Hon. Kanini Kega** (Kieni, JP): Hon. Deputy Speaker, I beg to move that the County Allocation of Revenue Bill (Senate Bill No.1 of 2022) be now read a Second Time.

This is the horizontal sharing of revenue to the counties through a formula adopted by the Senate and National Assembly. Through the Division of Revenue Bill, we discussed these issues at length and the Senate has done the same. The amount of money in terms of the shareable revenue given to the counties is Kshs370 billion. We hope in the coming year, the counties will utilise funds appropriated to them in the right manner. We have been doing this each and every year despite the fact that accountability issues are dealt with in the Senate. Yet, issues are raised here every other year. We beseech the Senate to be more vigilant and empower the county assemblies so that they can oversee these funds properly.

The other issue is piling pending bills. In as much as we have pending bills at the national level, we also have many complaints at the county level whereby suppliers supply to county governments but subsequent governments are unable to clear these bills. During this transition period, county governments operate in perpetuity. We had a situation where one governor refused to honour commitments done by the previous county government. We want to remind them that a commitment by a government should be honoured.

In conclusion, since this is an issue we have dealt with at length, we wish county governments will be allocated more funds and hope subsequent governments will commensurately fund devolved functions. Finally, we want to see county governments focusing on the Fourth Schedule of the Constitution on the devolved roles rather than dwelling on national Government functions.

Hon. Deputy Speaker, with that, I beg to move and request the Leader of the Majority Party, Hon. Amos Kimunya to second.

**Hon. Deputy Speaker:** Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Deputy Speaker. I rise to second the County Allocation of Revenue Bill which was passed in the Senate yesterday, after a lot of deliberation, notwithstanding the fact that the figures are the same as last year's. I want to thank the Senate for gathering enough Members during this busy schedule despite the vast amount of work they have to cover which is slightly different from us. They made it to the House and passed the County Allocation of Revenue Act (CARA).

I also take this opportunity to thank the Budget and Appropriations Committee. Despite the fact that we received this communication late, they were able to convene a meeting early this morning, considered the Bill and reported their concurrence.

The Constitution does not give us much leeway in terms of disagreeing with the Senate. Unfortunately, for us this year there is no room to contemplate any disagreement. This is because we approved the Budget Policy Statement (BPS) and the Division of Revenue Bill, which is now an Act. We set aside Kshs370 billion which will be allocated across the counties through horizontal allocation.

We also approved the formula that came from the Senate last time, which is the basis we are using. Since the same figures have been applied consistently between last year and this year, then we do not have much of a choice, but to concur. Ours was to ensure the formula is applied as decided by Parliament. Since that has been done, I am happy to recommend to this House to approve the County Allocation of Revenue Bill, together with the Appropriation Bill that we have passed so that they can be the basis of appropriating monies to the national Government and county governments.

I want to echo the words of the Chair of the Budget and Appropriations Committee. When you go across the countryside and talk to young traders and contractors, you will realise that most of them supply the counties. The counties have been giving all manner of reasons why they should not pay for the services provided. Many pending bills are also crippling businesses out there. It started in 2017 with some governors who came in saying that they would not honour the obligations of governors who had been voted out until they conduct some comprehensive audits. Those comprehensive audits were completed, but people have still not been paid. I would not like to name the counties because I might be travelling through them, and I want to be safe. In almost every county, there are bills which have not been paid to some of these young contractors.

Now that we are getting into another election cycle, if we do not honour those obligations of 2017 and before, some governors will lose, new governors will come in, and the same story will be restarted with the new governors saying that they will not pay the obligations of the previous regime until they have done an audit. The cycle will continue. The sufferer is the Kenyan contractor who has provided goods and services and is now being auctioned by banks because county governments have delayed payments.

I urge county governments to honour those obligations. Let us not create unnecessary poverty in the country through non-payment of obligations that were legitimately contracted by whichever government that was in office because it will also happen in future.

It is the same with the national Government, even as we appropriate funds and move towards the end. Before the end of June and the shutdown of the Integrated Financial Management Information System (IFMIS), let all contractors who are owed money be paid so that they can pay their employees and all who depend on companies that supplied to both the national Government and county governments.

I believe the rest is self-evident. I would like to take this opportunity to thank the whole team that was involved in compilation of these figures. I wish that by the time we get to next year, things will have improved so that we can have more money.

There was a Bill which came from the Senate on additional revenues. We looked at it in this House and said that it does not have to be done every year. In the wisdom of the Senate, they refused and said that we needed to go to mediation. Through a very protracted mediation process, we gave in. They said that they would do it every year. That is why we are in this current situation where we have CARA, but we need the other Bill on additional revenues, which the Senate said they will be doing every year.

We did a framework for them that covered the general principles and the only thing that needed to be attached is the schedule to the CARA, but here we are. I hope they will finish with that. Unfortunately, we will not be here to consider it. For now, counties may just have to operate with what is within the CARA. The additional revenues will come after what has been approved in this House because that was the wisdom of the Senate. For now, let us approve this one and wait for the other one to come. Should it come and it becomes necessary for the National

Assembly to consider it, we are still sitting until 8<sup>th</sup> August. Should it be necessary, I will call you to come and pass it for the sake of our counties. It just shows that when we try to do something and people do not understand it, it puts our counties in trouble.

With those remarks, I beg to second.

**Hon. Deputy Speaker:** Leader of the Majority Party, you can see that even when you call Members, they do not show up. If you call them one or two weeks to the elections, you will not have the numbers.

*(Question proposed)*

I will give a few Members a chance to contribute. We need to move fast as we also look at the numbers. There seems to be a lot of interest, but I do not see the requests. We will start with the Members whose cards I can see.

Hon. Martin Owino, proceed.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Deputy Speaker. I congratulate the team. This formula was protractedly negotiated. It is good and in force. I urge Hon. Members to support it.

I want to emphasise one thing on the counties because we are having many problems in constituencies, especially in the healthcare system. They do not pay their fair share of supplies from the Kenya Medical Supplies Authority (KEMSA). KEMSA is on the verge of holding their distributions because of that. There are no medicines in health facilities such as Levels 1, 2, 3, 4 and 5 hospitals. I would like to ask the incoming Senate to up their game in their fiduciary responsibility to county governments because household economies also depend on the money that we move from the National Treasury, through this Authority, to the counties. They should be transparent and the handover should be smooth, so that this money reaches the households. After the COVID-19 pandemic, household economies have been ravaged and people are suffering.

I support this Bill and urge counties to up their game.

**Hon. Deputy Speaker:** Let us have Hon. Kilonzo Mutavi.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Deputy Speaker. I support this County Allocation of Revenue Bill. It is unfortunate that most governors are elected as simple people, but the minute they take office, they become like demigods. Why would a governor refuse to pay a supplier?

In counties like Machakos, the healthcare system has basically collapsed because they are unable to pay for the drugs they collect from KEMSA and even for cleaning services, yet they have the money.

It happens across all counties. Most governors want to do mega projects for obvious reasons, which is personal gain. They do not want to provide services. If you move around entire counties or even constituencies, the projects you are likely to see are either those under the (NG-CDF or the national Government.

As we go to the elections, if this is a shortcoming in law, it is very important that the next National Assembly and Senate should address it. This will ensure that funds are devolved, even to ward level, so that we do not have a situation whereby governors treat this money as a personal kitty.

I support the Bill.

**Hon. Deputy Speaker:** Most Members who have made requests to contribute are those who wanted to place... Dr. Makali, proceed and be brief.

**Hon. Makali Mulu** (Kitui Central WDM-K): Thank you, Hon. Deputy Speaker. I also support this Bill. There are some fundamental questions which we must ask ourselves as a House relating to the performance of the Senate. Our Constitution clearly states that the Senate exists to serve the interests of counties. This means that their first priority is the counties. If you look at the time that has passed since we passed the Division of Revenue Bill, until when the Senate presented it to this House, you would ask yourself whether they are really serving the interests of counties.

We are now exiting, and there are a number of lessons to learn as the National Assembly, and the Senate. Matters to do with counties must be given the highest priority. Some counties are suffering as a result of not being served well by the Senate. We have been approving the money to the counties every year, and the question is how effectively the resources are used in terms of serving Kenyans. What Hon. Kilonzo and Hon. Owino were asking is: whether Kenyans are getting value for money from the resources appropriated to them. This can easily be answered by the Senate and not by the National Assembly. So, the Senate has a lot of work to do, but they are not focusing on priorities, but on other areas.

Another important area is the one that Hon. Kimunya has just discussed. You will remember that we passed the County Resource Development Bill in this House. As a House, even though counties are not our priority number one, we said that this should be a one-off Bill, so that every year, we attach a schedule. They insisted that this should be an annual Bill. The County Allocation of Revenue Bill is here, but that Bill is not attached. This means that the additional resources coming from either the Government or development partners will not be available to the counties. We are all going home, awaiting new Houses of the National Assembly and the Senate. Those coming will be new people, and so, it might take time for them to settle in. Therefore, we are talking about those resources being available in July next year. So, is the Senate serving the interest of the counties?

Another important issue is monitoring the budget. The coming House, which is the 13<sup>th</sup> Parliament, will need to be responsible when it comes to monitoring the budget allocated to counties. I think that unless monitored, there will be problems. For the national Government there is only one challenge which needs to be considered. This is the issue of the Exchequer release. Every day in the newspapers, we read about counties complaining how they do not get money on time. It is high time the national Government, through the National Treasury, ups it game so that counties are able to get money on time to deliver services and goods to Kenyans. Otherwise, we will continue debating here and, at the end of the day, we will never change the lives of our people down in the counties.

Hon. Deputy Speaker, I am sure you are aware of this because you represent people. Our people are really suffering when it comes to delivery of goods and services in the counties. They are unable to access goods because counties are almost collapsing. They do not implement projects and where they do, this is based on their own interests, forgetting about basic requirements like health.

I totally agree with Hon Owino that in most counties, the health sector is almost collapsing. You cannot imagine a county economy doing well when its people cannot get treatment when they are sick and are unable to access drugs and simple things like x-rays. It is important that the Senate takes its responsibilities seriously. I want to challenge the 3<sup>rd</sup> Senate, which will be coming on board to take the matters we are discussing here today seriously so that they start on the right footing.

Hon. Deputy Speaker, with those many remarks, I support.

**Hon. Deputy Speaker:** Hon. Lentoimaga.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Deputy Speaker. I also support the County Allocation of Revenue Bill. As my colleagues have said, there are so many pending bills in the counties. Furthermore, some of them were incurred when contracts were awarded to young contractors. The people used their funds and resources to do the projects for the counties and now they are unable to finance other contracts, yet this was a way of empowering the young men and women who had just ventured into contracts. So, if this Bill is passed, it will go a long way in assisting the contractors who have not been paid.

Secondly, there is a lot of bureaucracy in the Government, not only in the counties, but also at the National Treasury. Even if we pass this Bill, it will take a lot of time to release the funds. So, we urge the National Treasury to cut down on bureaucracies in releasing funds to the counties to enable them to clear pending bills.

Where I come from, drought has ravaged our people for the last one and a half years. People are suffering and starving because they lost their real source of livelihood; cattle, goats and sheep. So, issues addressing emergencies in the counties, which is a devolved function like water and food stuff, are not available due to lack of funds.

I support the Bill, and if passed, it will go a long way in addressing some of the problems faced at the local level. People are unable to pay fees because of the drought that has ravaged our areas. To make it worse, the cost of fuel has really gone up. Here in Nairobi and in other big cities in Kenya, people are complaining, but if you go to places like Marsabit, Samburu, Turkana, and those far-fledged counties, the cost of fuel in Baragoi Town is Kshs200 per litre, what about in Moyale or Marsabit?

We are really having a terrible situation in this country at the moment. If this Bill is passed, we need to fast-track it. Apart from this, the Government of Kenya should look into the cost of fuel. This has happened because of lack of monitoring and oversight by the Energy Regulatory Commission (ERC). If it is Kshs150 here, they need to go round the country and see how people are being harassed and exploited.

Hon. Deputy Speaker, with those remarks, I support.

**Hon. Deputy Speaker:** As I proceed to allow the Mover to reply, let me recognise, in the Speaker's Gallery, students from Moi Forces Academy Lanet, Bahati Constituency, in my county of Nakuru. They are visiting to know the workings of the National Assembly. They are very lucky because this is the last sitting of the 12<sup>th</sup> Parliament. Had they waited for tomorrow, they would have come to see the benches. They are now able to see Members of Parliament at work.

So, let us have the Mover to reply.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Deputy Speaker. As I rise to reply, I want to thank all the Members who have contributed to this very critical Bill. To the governors, especially during this transition, they need to know that these are public funds, and they should be used properly. We need to remind governors all the time about debt and pending bills. Despite the fact that there may be a change of regime, if they have an obligation to pay, they must do so on time. Also, the National Treasury should ensure that they release funds on time and not wait for the last minute.

Hon. Deputy Speaker, with that, I beg to reply.

**Hon. Deputy Speaker:** Thank you, very much. Let me put the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)*

### COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

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

#### IN THE COMMITTEE

*[The Temporary Deputy Chairman (Hon. Christopher Omulele) took the Chair]*

#### THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order, Members. We are now in the Committee of the whole House to consider the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022).

#### *First Schedule*

**Hon Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the First Schedule to the Supplementary Appropriation (No.2) Bill, 2022 be amended with respect to Vote No.D1175 (State Department for Industrialisation) under Programme 0303000 (Standards and Business Incubation) by deleting the expression “Kshs24,917,000” and substituting therefor the expression “Kshs10,083,000”;

*(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)*

*(First Schedule as amended agreed to)*

#### *Second Schedule*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Proceed, Chair.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Second Schedule to the Supplementary Appropriation (No.2) Bill, 2022 be amended with respect to Vote No.D1174 (State Department for Trade and Enterprise Development) under Programme 0307000 (Trade Development and Promotion) by deleting the expression “Kshs80,000,000” and substituting therefor the expression “Kshs115,000,000”; and;

THAT, consequential amendments be effected in the affected sub-class, class and grand totals in the two Schedules.

Basically, it is a minus and plus. We are moving from the Department of Trade to the one of Industry. It was a question of misplacement when we were doing the Committee of the whole House.

*(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)*

*(Second Schedule as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We have completed that business. I now call upon the Mover to move reporting.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman.

I beg to move that the Committee does report to the House its consideration of the Supplementary Appropriation (No.2) Bill (National Assembly No.33 of 202) and its’ approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we shall now consider the County Allocation of Revenue Bill (Senate Bill No.1 of 2022) in the Committee of the whole House.

THE COUNTY ALLOCATION OF REVENUE BILL

*(Clauses 3, 4, 5, 6, 7, 8, 9 and 10 agreed to)*

*(First and Second Schedules agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We shall now move the reporting.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman.

I beg to move that the Committee do report to the House its' consideration of the County Allocation of Revenue (Amendment) Bill (Senate Bill No.1 of 2022) and its' approval thereof, without amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well, we have completed that business up to that point. We will now move on to consider the Kenya Revenue Authority (Amendment) Bill (National Assembly Bill No.24 of 2022) in the Committee of the whole House.

THE KENYA REVENUE AUTHORITY (AMENDMENT) BILL

*(Clauses 2, 3 and 4 agreed to)*

*Clause 5*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a proposal to amend this clause by Hon. Aden Duale. Proceed.

*(Hon. Aden Duale spoke off-record)*

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Chairman.

I beg to move:

THAT, Clause 5 of the Bill be amended by inserting the following new subsection immediately after subsection (5) –

(5A) A person who, immediately before the commencement of this Act, held the office of Commissioner General, member of the Board or Commissioner shall continue to hold office only for the unexpired period of their term.

This amendment is intended to limit the term of the current Commissioner-General of the Kenya Revenue Service, if the House agrees with me, and the members of the board. This means that they shall continue to hold office for the unexpired term, and then the new members shall be recruited. If this House changes the name from the Kenya Revenue Authority to the Kenya Revenue Service, that will be a different body.

So, we must insulate the current Commissioner-General and the current board in a transitional way so that the change of name does not affect their current status. They will be in office until the expiry of their time. This is a very fair amendment. It will protect the Service from any further litigation by busy bodies who are always around the streets of Nairobi. The current Commissioner-General was recruited by the Kenya Revenue Authority. So, as we change the name to the Kenya Revenue Service, we must protect the holders of those offices.

I beg to move and ask the Chair of the Budget and Appropriations Committee to support this.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The first to go will be the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chair, while I agree with the need for protection, I want to inform the Members that I had already provided for that in the Bill. Clause 5 basically protects any person who held office as a member of the board, or as an officer or a member of staff of the Authority. They shall continue to hold office as if they were appointed under this Act. So, every job is already saved. We went further to provide for all the obligations in Clause 4, that subject to this Act, rights, duties, obligations, assets and liabilities at the commencement of this section shall be transferred to the Service. So, the change of name does not affect the ongoing obligations or contracts. They will continue as if they were entered under this Act. All we are doing is changing the name from Authority to Service. All the ongoing obligations, including contracts with the contractors and tenderers, continue as if they were contracted with the Authority. That is the essence of the transitional clause that we put.

Hon. Duale is limiting the term of the Commissioner-General and the board or commissioners. Those ones will be the only ones who will continue until the expiry of their terms. This has a contradiction for other members of staff, who are on a certain contract. What happens to them? We are talking of members of the board and the Commissioner-General. If you specify this, and you do not put the same specification for everyone else, you will get two different things.

So, from your legal background, Hon. Temporary Deputy Chair, you can guide us on this. If it is already provided for, there is no additional value to be created by specifying these three officers, including the Commissioner-General and the board. The Commissioner-General and commissioners are members of staff of the Authority. So, they are already provided for, they are saved and I do not see what value we will be getting from this amendment. It is just a superfluous amendment that could also attract some litigation, since this has not been subjected to any public participation. The Bill has only been subjected to public participation with respect to the change of name. Change of officers and everything else has not been subjected to public participation. We could have this thing bringing a litigation that we are changing the terms of the Commissioner-General, and we are limiting it only to a term. We are saying that he is probably not eligible to start. We are then going further to re-designate the way they will be appointed, which is not part of the original Bill. That has not been subjected to any public participation. We do not know what the public would have said about it, hence, I would urge that we limit ourselves to the substance of the Bill and not expand its scope beyond what it was intended, which was to change the name from Revenue Authority to Revenue Service.

I oppose the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Martin Owino, Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I think the concern of Hon. Duale is taken care of. When you specifically go on to say who should remain and who should go, then you will be drafting another Bill. So, instead of voting no, Hon.

Duale, I think the Leader of the Majority Party has really explained. If you could withdraw, it will make it easy for us to move on.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Okello.

**Hon. Jared Okelo** (Nyando, ODM): Thank you very much, Hon. Temporary Deputy Chairman. Basically, I do not see a big variance in these two arguments between the Leader of Majority emeritus and the current Leader of the Majority Party. However, it cures a real malady. Firstly, we are transiting from an Authority to a Service. If we do not, with certainty, decipher those issues, then it may be assumed that you have commissioners beginning a new term under a new Service. So, this needs to be specified categorically that it is a continuation of what has been in place, awaiting their exit. Basically, they will exit at the end of the day, but again, it helps to protect the institutional memory of the Kenya Revenue Authority transiting into a Service. So, I only wish the two Majority Leaders would sit together and come up with a concurrence. If it is a matter of semantics, let us sit down and put them in good shape.

Otherwise, I support both.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Baya

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Temporary Deputy Chairman, thank you very much for giving me this opportunity. My question is on the process. If Hon. Duale proposed an amendment and it has not been seconded, would it be right for this matter to move forward? He asked the Chair of the Budget and Appropriations Committee to second and he declined, yet this matter is proceeding to debate.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Baya, when we are in the Committee of the whole House and an amendment is captured on the Order Paper, there is no need for seconding.

Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, the gist of the matter is that we must state it in law that by transiting from the Kenya Revenue Authority to the Kenya Revenue Service, the current Commissioner-General and the board do not take it as a fresh start. The Commissioner-General and the board can say that this is a different entity, and so they are starting afresh. Let us put it clearly. We are law makers. Transitional and consequential amendments are very critical and fundamental in drafting of laws.

There is a current Commissioner-General, and a board. So, it is like you are changing the names of the Kenyan National Assembly to the Kenya National Representative. What will be the fate of the Clerk as of now? We must have a safeguard to make sure that as we change the name, the current Commissioner-General and the board will not, on the face of it, take it that they are starting a new organisation. I came all the way from Mandera because this amendment was critical, even when I was the Leader of Majority Party. The Kenya Revenue Authority is critical. By the way, if the House convinces me, I have no problem, but what I am saying is that transitional and consequential amendments in law-making in this House are very fundamental. You cannot just have a law hanging.

So, I really want to ask the Leader of the Majority Party if that safeguard has been provided in the Bill. I have read the Bill, and it is not provided. Let us not try to play balls. I do not want to become the Commissioner-General, but the current Commissioner-General has a renewable term limit. When we establish a new organisation, can we just put it in law that the Commissioner-General will continue to serve his or her unexpired term in the new board? But if the Kenya Revenue Service renews his or her term, we have no problem. My amendment is a

transitional and consequential one in terms of drafting laws for this House. I have been around with Hon. Kimunya.

**Hon. Jared Okelo** (Nyando, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is nothing out of order, Hon. Odoyo. You have had your say. Let others also speak. Let us have Hon. Kamket. Let us have Hon. Kizito.

**Hon. Justus Kizito** (Shinyalu, ODM): Thank you so much, Hon. Temporary Deputy Chairman. I support Hon. Duale's amendment. There is nothing wrong with reiteration in law, as long as it evokes clarity. Transition matters can become something else if we do not take care of that. I urge the House to accept that amendment for purposes of clarity. Even if it is a reiteration, it does not break a bone.

I support that amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Wahome, Member for Kandara.

**Hon. (Ms.) Alice Wahome** (Kandara, JP): Thank you, Hon. Temporary Deputy Chairman. Unfortunately for Hon. Kanini Kega, he is not sitting in the Speaker's Chair.

I rise to support Hon. Duale. This is a legal issue. We are coming up with a Service. Are those opposing the amendment saying that the proposal to change from Authority to Service was just semantics? We want to be clear on the period that the current Commissioner-General will serve. We have come up with a new entity by law, and we must be very clear on whether he will exit with his board, or whether they will continue serving during the unexpired term.

I support the amendment. The Leader of the Majority Party is not listening. Hon. Kanini Kega is making sure that he does not listen. You know Hon. Kanini Kega has secured a new name.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Member for Kandara, do not be unduly concerned with what Hon. Kanini Kega is doing.

**Hon. (Ms.) Alice Wahome** (Kandara, JP): Let me not be distracted because...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): What is important is that the other Members are listening.

**Hon. (Ms.) Alice Wahome** (Kandara, JP): Well guided. He is my friend. The Leader of the Majority Party, Hon. Amos Kimunya, should agree that we need to secure even the unexpired period of the current Commissioner-General and the board. If we do not do so, unless there is clarity in law, it will be assumed that we will have to recruit afresh. It is not necessarily right for people to exit mid-way. If there is only a year or two left, for purposes of institutional memory, to secure a better transition and good governance, we should secure the transition period. However, it cannot be assumed that they will start afresh.

Therefore, I support Hon. Duale.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I think you have all spoken to this. Hon. Alice Wahome will tell you... Just relax. The Chair is speaking. You cannot force the Chair to give you an opportunity by raising your hand. Just relax. I will give you an opportunity to contribute.

Hon. Alice, you will remember that in the practice of law, there is the doctrine of being abundantly cautious. That is what you are speaking to. I believe that is what Hon. Duale is speaking to as well. You will recall that in Burundi, they had a Constitution that was not clear about the length of the term of office of a president. The President insisted that he is starting a

new term. There is no harm in being abundantly cautious to clearly provide that they will continue to serve, as Hon. Duale has done.

Again, that is for the House to decide. I will allow two or three more people to speak to this, so that we can put the Question. First will be Hon. Ogutu Abel, Member for Bomachoge Borabu.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Chairman. I agree with you that the sentiments that have been shared are for the welfare of the entity that has been renamed. The question we should ask is whether we want to add to the wordings of the document. Hon. Kimunya has already alluded to a clause which takes care of the remaining serving period of the existing commissioners and staff of the Kenya Revenue Authority.

We have done similar amendments before, and we have always provided the caption that the current membership in commissions or authorities will remain in office until their term expires, from which time the new board starts operating. It is a question of whether we need to add to the volume of the document, because that is already taken care of, or whether we want to go with the clause that has already been mentioned by Hon. Kimunya.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. The Professor has just taken words from my mouth because that is what I wanted to say. We have the Bill with us. Why not read Clause 5 and see whether it provides for what Duale wants? If there is a gap, we will include what Hon. Duale has said. Hon. Kimunya is quoting a clause in the Bill that must already be written. We can just read through that clause and see whether it takes care of Hon. Duale's interests. If not, we can include whatever Hon. Duale is saying. It is important that we accommodate both. We do not want a situation where somebody loses a job as a result of enacting a new law.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. Hon. Members, this is what we are looking at. Just follow along as I read. Clause 5(5) of the Bill states:

“Any person who held office as a member of the board, or as an officer or member of staff of the Authority immediately before the commencement of this section shall continue to hold office as if that person had been appointed under this Act.”

That is what is in the Bill. The Member for Garissa Township is proposing to reinforce that clause by adding a new subsection immediately after subsection (5), which will read as follows:

“(5A) A person who, immediately before the commencement of this Act, held the office of Commissioner-General, member of the board or commissioner, shall continue to hold office only for the unexpired period of their term.

Those are the two competing clauses that we are considering.

Hon. Shinali, you are the one who has not spoken.

**Hon. Benard Shinali** (Ikolomani, JP): Thank you, Hon. Temporary Deputy Chairman. I have listened and you have added clarity. The Bill covers what we are looking for. The only difference is that according to Hon. Duale's amendment, once you have served and your term expires, even if you are due for renewal, your term cannot be renewed. This amendment must fall. If you are serving and are eligible for renewal for another term, you must be granted that opportunity because the Constitution allows you to serve. However, if we include this

amendment, if you are the Commissioner-General, once your first term expires, you cannot get a second one. That is my understanding.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Kanini Kega.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman. The Vice-Chair has clearly articulated the issues I wanted to comment on. When you say ‘shall’ and ‘only’, it is limiting. It means that these commissioners and the Commissioner-General will only be eligible to serve for one term. If they want to seek renewal, it is not provided for.

So, I beg to oppose.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Since all these are arising from the proposals made by Hon. Duale, I will allow him to have the final say on this. Leader of the Majority Party, I will allow you. Of course, it is your Bill.

**Hon. Aden Duale** (Garissa Township, JP): This is the last day of the 12<sup>th</sup> Parliament and I want to close my parliamentary business with this amendment, so, it will go to vote. I want to ask those who are saying ‘only’ and ‘shall’ a very moral fundamental question. I am securing the current contract of the Commissioner-General of KRA in my amendment. Why are you anticipating? When his term expires, he will be subjected to a performance contract by the new board.

Hon. Kimunya, I was the first Leader of the Majority Party and I served for seven-and-a-half years. When a Member is talking, I do not talk. By the way, the current Commissioner General of KRA is a very good friend of mine. He appeared a number of times before the Public Accounts Committee when it was chaired by Hon. Eseli and he is a very competent officer.

We make laws for posterity and not for individuals. Since KRA is changing from an Authority to a Service, I am securing his term. How the second term will be dealt with is subject to the board that will be in place. So, I do not know why you are caring about ‘only’ and ‘shall’. You are anticipating what will happen when he is subjected to a contract. I have spoken 17,000 times in this House. I have checked in the *Hansard*, and I want to finish at 17,020 because this afternoon, I have other issues to raise. So, put the Question. Also, I brought about 2,200 amendments.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): It is well, Hon. Duale. There is no doubt you are leading in the aspect of number of times spoken on record.

Finally, Hon. Kimunya, before I put this Question.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. The issue goes beyond what is on paper. When you see a toad jumping during the day, something is chasing it. The current Commissioner-General and the commissioners of KRA have been under constant attack by a certain group of politicians because of the stand they have taken in revenue collection.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Just hold on, Leader of the Majority Party. Hon. Duale, what is out of order?

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman. We are not discussing politics. I have an amendment, which I had justified. If you allow him to go that route, then you would be very unfair to me.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale, you have made your point. Let me guide the Leader of the Majority Party. Kindly, this is the letter of the

law. Let us leave politics out of it and make good laws. We are not making laws for specific individuals, but for the country. Let us deal with the dry bones of the law before us.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. The import of this amendment is to specifically limit the service of the current commissioners, the Commissioner-General and members of the board to only the unexpired term. Thereafter, they will not be eligible. This is such a fundamental alteration of the original Bill. I want to save this House time of debating this amendment and the subsequent amendment by withdrawing the Bill.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order, Hon. Members! The Leader of the Majority Party has gone on record that he wishes to withdraw this business. I have fortified myself by looking at Standing Order 140 (1), and he is permitted to do so. He has withdrawn his business. Therefore, the Bill stands withdrawn in accordance with Standing Order 140(1). Hon. Duale, there is nothing for us to discuss further. It is not available. It is gone. That horse has fled.

*(Bill withdrawn)*

Hon. Members, we shall now move to reporting progress.

### PROGRESS REPORTED

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, you must now go on record that you have withdrawn that business, so that the House can move on.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Kenya Revenue Authority (Amendment) Bill (National Assembly Bill No.24 of 2022) noting that the Bill has been withdrawn, pursuant to Standing Order 140.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

### REPORTS

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, we shall now proceed to reporting, starting with the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022.)

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## THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move that the House doth agree with the Committee on said Report.

I request Hon. Shinali to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Shinali.

**Hon. Bernard Shinali** (Ikolomani, JP): Thank you, Hon. Temporary Deputy Speaker. Indeed, the Committee of the whole House considered the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022) and approved it as per the Report.

I thank the Committee and the Members who have deliberated on it.

I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I also direct that this business will be concluded when the matter will be set down on the Order Paper probably today in the afternoon.

*(Putting of the Question deferred)*

Next is the County Allocation of Revenue Bill (Senate Bill No.1 of 2022).

## THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the County Allocation of Revenue (Amendment) Bill (Senate Bill No.1 of 2022) and approved the same without amendments.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Shinali to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Shinali.

**Hon. Bernard Shinali** (Ikolomani, JP): Thank you, Hon. Temporary Deputy Speaker.

As I rise to second the Motion for agreement with the Report of the Committee of the whole House on the County Allocation of Revenue Bill, allow me to say one or two things. One is the issue of pending bills. This House and the Senate need to make a deliberate move to make sure that money goes to the counties as the law says. Pending bills should take a first charge.

Secondly, there are issues to do with Early Childhood Development teachers (ECD). We have variations from one county to the other in terms of salary payment. It is an issue that we need to look at. As "Baba" gave his manifesto, he said he would employ all teachers. I hope all the ECD teachers will be employed as well. Their salaries should also be paid across the board without any variation from county to county.

I support.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I also direct that the next steps on this Bill will be undertaken in the afternoon. There is the third one that was withdrawn.

*(Putting of the Question deferred)*

Let us proceed, Chair.

#### THE KENYA REVENUE AUTHORITY (AMENDMENT) BILL

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to Report that the Committee of the whole House has considered the Kenya Revenue Authority (Amendment) Bill (National Assembly Bill No.24 of 2022) and that pursuant to Standing Order No.140, the Bill has been withdrawn.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Mover.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Waihenya to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Isaac Ndirangu** (Roysambu, JP): Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I also direct that the final rites in that regard be undertaken when the matter is put on the Order Paper this afternoon.

*(Putting of the Question deferred)*

#### MOTION

##### ADOPTION OF REPORT ON SCRAP METAL DEALERS RULES, 2022

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): This is from the Chairperson of the Select Committee on Delegated Legislation, Hon. Kamket. Please, proceed.

**Hon. William Kamket** (Tiaty, KANU): Thank you, Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Scrap Metal Dealers Rules, 2022, laid on the Table of the House on Wednesday, 8<sup>th</sup> June 2022, and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013, annuls the Scrap Metal Dealers Rules, 2022, published as Legal Notice No.84 of 2022.

Hon. Temporary Deputy Speaker, the Cabinet Secretary for the Ministry of Industrialisation, Trade and Enterprise Development published the Scrap Metal Rules on 5<sup>th</sup> May 2022. The Rules were submitted to the Clerk of the National Assembly on 26<sup>th</sup> May 2022 and were tabled on 31<sup>st</sup> May 2022. The Rules seek to regulate dealings with scrap metal and provide for licensing of scrap metal dealers as a condition for lifting the moratorium on dealing with scrap metal issued on 20<sup>th</sup> January 2022.

The Committee examined the Scrap Metal Rules 2022 against the Constitution, the Interpretation and General Provisions Act, the Scrap Metal Act, 2015 and the Statutory Instruments Act. Scrutiny was undertaken following publication of the Rules. Having examined the Constitution and the other laws, the Committee made the following observations:

First, the Rules were tabled in Parliament outside the statutory timelines contemplated under Section 11(1) of the Statutory Instruments Act. The Rules were published in the Gazette on 5<sup>th</sup> May 2022, laid on the Table of the House on 31<sup>st</sup> May 2022, being the Ninth Sitting Day since publication, which is not in line with the statutory timelines contemplated under Section 11(1) of the Statutory Instruments Act.

Secondly, Part II of the Rules contain provisions on the Council, including nomination and qualifications for appointment of the Chairperson and the Council members. This is *ultra vires* to Part II of the Scrap Metals Act, which deals with matters relating to the Council which is contrary to Section 13(a) of the Statutory Instruments Act, 2013. The explanatory memorandum submitted indicates that the Ministry subjected the Rules to public participation and sought for comments from various stakeholders. However, the memorandum fails to give evidence of the consultations. We know that in matters such as this, public participation is important.

On the matter of the regulatory impact statement, the regulatory-making authority further failed to submit to the Committee the statement as required under Section 6 of the Statutory Instruments Act.

Having examined these Rules against the Constitution, the Interpretation and General Provisions Act Cap 2, the Scrap Metal Act 2015 and the Statutory Instruments Act (No.23) 2013, the Committee recommends that this House annuls in entirety, the Scrap Metal Rules for non-conformity with the Constitution, the Scrap Metal Act and the Statutory Instruments Act.

Hon. Temporary Deputy Speaker, with those few remarks, I beg to move and ask my friend, Hon. Baya, to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Owen Baya.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me an opportunity to second Hon. Kamket on the Regulations.

I support his position and the Committee's that the Rules be annulled on the basis that the statutory timelines were not met. This Parliament gives the Executive and the members of the Executive ample time to present any Regulations, so that they can be looked at in this House before they take effect. When the Executive fails to do that, it is important that Parliament puts its foot down, and does the right thing by ensuring that the statutory timelines are followed to the letter.

Secondly, public participation under Article 10 and 118 of the Constitution was not undertaken. There is no evidence that there was public participation in making these Regulations on scrap metal dealings. In the absence of proper public participation by dealers and other stakeholders, it is right for this House to say that the law must be followed by the Executive and whoever has the role to make Regulations in this country.

Lastly, we need to know the social and economic impact of the Regulations that they passed. The scrap metal business contributes significantly to the economic activities of this country. Even if we want to control it, we must do so when we have a good assessment of the social and economic impact of the same. That has not been provided. We would like to have a portfolio that works for the country, but also under certain regulations, and spur economic growth in this country.

With those many remarks, I second the annulment of these Regulations in its entirety by this House.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well.

*(Question proposed)*

Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Temporary Deputy Speaker, I support. When rules do not follow the laid down rules, that is an offence. The scrap metal issue needs to be revisited, especially when it comes to vandalism and illegal trade. We urge the Executive and Parliament to look into this matter and strengthen the law regarding the trade.

I commend the Committee, the Chair and the Members in the annulment of these Rules.

I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. John Kiarie

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Speaker. First, I would like to commend the Committee on Delegated Legislation and single out the Chairman for the good job he has done in securing the scrap metal sub-sector.

Hon. Temporary Deputy Speaker, if your memory serves you right, you will remember that I presented to this House a petition seeking the lifting of what I consider to be unconstitutional, illegal moratorium, which is semantics and not a moratorium. It is a blanket ban on the scrap metal trade in this country. Some of us who are standing here are not supporting any illegality or sabotage of installations or infrastructure. We are saying that you cannot ban the trade of meat in butcheries just because there is cattle rustling in Baringo. It will not make sense and it is not logical.

There could be fraudulent scrap metal business going on, but there are legit dealers of scrap metal in this country. Some of them are doing extremely specialised business. For example, we have metals that come out of technological gadgets whether they are phones, television sets, radio sets, computers or microwaves. These metals carry hazardous materials that we cannot afford to leave to litter our environment. Hard metals like lead must not be allowed to sink into our soils and rivers. Since the banning of the scrap metal trade in the country, the accumulation of electronic waste, especially in this city, is alarming. We are all sitting ducks waiting to die from cancer caused by moratoriums that are not very well-thought through.

I support the annulment of the Regulations in their entirety because even with the opportunity to go and prepare, the Ministry came back to this House and tabled Regulations that are out of the statutory timelines. They missed the deadline. Secondly, if you look at the Regulations being stipulated, and specifically in Part II, you will find that they are contrary to the Statutory Instruments Act. Most important is the issue of public participation. Kenyans are stakeholders in this trade. Where is the evidence that robust public participation happened in making these Regulations?

I support the Committee on Delegated Legislation and encourage the Chairman to talk to the Ministry, so that we can have an unconditional lifting of the ban on the scrap metal trade. The ban is illegal and unconstitutional. On the basis of the Regulations being unconstitutional, going against the Scrap Metals Act, and contravening the Statutory Instruments Act, I support their annulment in their entirety.

Finally, this was unnecessary. A law was put in place in 2015 that regulates the scrap metal industry. If we implemented that law to the letter, we would not need to have all these other physical education games being played around the scrap metal trade with illegal moratoriums and bans that are strangling an industry.

This is not unique. The same thing is happening to the timber industry and loggers. Cities and towns close down when we impose mandatory blanket bans on industries without considering the welfare of the hustlers who eke a living out of them.

With those few remarks, I support the annulment of these Regulations in their entirety with all the strength that I have.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kiarie, is the expression “these physical education games” proper English or is it a direct translation of the new language that is emerging in the country? It is part of it? I believe so.

Let us have Hon. Nassir, Member for Mvita.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker. First, I would like to congratulate the Committee on Delegated Legislation because they did the right and honourable thing by rejecting the Regulations. They were time-barred. This House is setting a record that you will not just come here and use Parliament as a rubber stamp. The message should go to State corporations and ministries that, they must not break the law. There have been instances in the past where Regulations did not necessarily come to Parliament, but were gazetted, yet they had a financial impact in terms of charging fees and levies. We need to have proper systems in place. That is what we intend to achieve in this country.

More importantly, I wish to speak on behalf of the people of Mombasa. We have quite a number of *jua kali* sheds. In Mvita Constituency, where I come from, we have a very beautiful *jua kali* shed that we built on behalf of the *jua kali* artisans who work there. The *jua kali* sector contributes a significant amount of revenue compared to people in white collar jobs. Those who work from 8.00 a.m. to 5.00 p.m., or in shifts, contribute a very small percentage of the revenue compared to those who fend for themselves on a day-to-day basis. With just the stroke of a pen, you render thousands of people jobless. It is evident that there are bad people who are spoiling the whole industry by vandalising transformers and manhole covers, like where I come from in Mombasa. Let us ensure that punitive measures are imposed if one is caught with manhole covers or transformers. However, shutting down a whole industry without following the right process is totally wrong.

The wording of the Constitution of Kenya in terms of the democracy that we enjoy is that sovereign power belongs to the people. That power has only been delegated to all of us here. That is why when such pieces of legislation come through gazette notices, they have to pass through this House, so that the voices of the people can be heard.

I want to warn some parastatal heads who think that they can do anything they want, that this will be a huge audit matter. Your neck will be on the line if you decide to pass things unconstitutionally without going through Parliament. On its last day, this House is putting its foot down by saying that it will always be firm. It will not just rubber-stamp matters.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Well spoken, Hon. Nassir. Indeed, power belongs to the people. Even this House is subject to those very people. As you have correctly pointed out, this House will adjourn *sine die* at some point today, to again, submit the membership to the will of the people. That is correct.

Hon. Owen Baya Yaa, Member for Kilifi North, what is out of order?

**Hon. Owen Baya** (Kilifi North, ODM): Thank you very much. I rise under Standing Order No.95 to request that the Mover be called upon to reply. We have discussed this matter enough.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Baya Yaa, you are out of order.

**Hon. Owen Baya** (Kilifi North, ODM): I quoted Standing Order No.95. Looking at the quorum of the House...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): No, return to your seat. Hon. Baya, you know very well that your right to invoke the particular Standing Order vanished after you contributed to this debate. Now you do not want Hon. Nzengu to also contribute. I will give him this opportunity to do so. Hon. Nzengu, proceed.

**Hon. Paul Nzengu** (Mwingi North, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I support the Report of the Committee on Delegated Legislation on the annulment of the Scrap Metal Dealers Rules. I support the Members who have contributed to this Report based on the fact that the ban on scrap metal was ill-informed and has caused untold suffering to many people, ranging from industries to individuals who collect scrap metal in my village. That has been their livelihood and they are currently unable to put food on the table. It has also affected industries that depend on scrap metal to manufacture various steel products, and this has resulted in loss of jobs.

That decision was hasty. It was reached without consultations and it was reactionary. The fact that some people have been involved in smuggling scrap metal from important government installations does not mean that every Kenyan who deals and depends on scrap metal must suffer. I agree with the Member who said that proper legislation should be in place so that people who vandalise public infrastructure are properly punished but not punish the entire country.

I support the Report. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, allow me to recognise, in the Speaker's Gallery, the presence of our daughters from Chania Girls High School, Thika Constituency, Kiambu County. They are welcome to observe the proceedings of the House. We wish them God's blessings in their studies.

We will now have contribution from Hon. Duale Aden, Member for Garissa Township.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I thank the Chair of the Committee on Delegated Legislation not only on this matter but also on a number of Regulations. He has served the Committee diligently in terms of procedure.

The essence of the formation of the Committee on Delegated Legislation is to deal with matters of Statutory Instruments, to see that Regulations that are brought to this House are basically legal, whether they comply with the law. So the Committee looks at regulations not on the basis of anything else. They look at Regulations whether they comply with the Statutory Instruments Act No.23 of 2013. On the face of it, they have annulled this Statutory Instrument because it does not comply with Section 11(1) of the Statutory Instruments Act No.23 of 2013, which I had an opportunity to participate in its legislation. The Scrap Metal Dealers Rules, 2022, Legal Notice No.84 of 2022, were published in the Gazette Notice No.84 of 2022 on 5<sup>th</sup> May

2022 and were laid on the Table of the House on 31<sup>st</sup> May 2022. That being the 9<sup>th</sup> sitting day since they were published, that itself gives this House and the Committee authority to say that the Gazette Notice did not comply with the statutory timelines provided for or contemplated under the Section 11(1) of the Statutory Instruments Act of 2013. On the basis of that, the Committee did not need to deliberate it. If, for example, the Hon. Speaker is supposed to start the proceedings of the House at 2.30 p.m. in accordance with our Standing Orders, the Speaker of the National Assembly cannot begin the proceedings at 3.30 p.m. It is as simple as that.

Secondly, Section 11(4) of the Statutory Instruments Act stipulates that if a copy of a statutory instrument that is required to be laid before the relevant House of Parliament is not so laid in accordance with this section, the Statutory Instruments shall cease to have effect immediately after the last day for it to be laid but without any prejudice. I want my brother Amos Kimunya to rein on Government. During my tenure as the Leader of the Majority Party, I was not even allowing them to table. Once the legal team of the National Assembly told me that they had violated the timelines, I would not table it. So, even the tabling of it was wrong. Why would you table when they have not conformed to the timelines?

Today is the last day of the 12<sup>th</sup> Parliament. This House under my leadership as the Leader of the Majority Party, my signature is appended on the Scrap Metal Act. It gives the Cabinet Secretary powers, talks about exports but somebody somewhere goes to the streets and says that it is null and void. In fact, there is a law existing. Do not kill the hustlers who are struggling to pay school fees. We saw the other day someone wants to ban *mitumba*. Scrap metal is being fought because there are big people in Government and in the private sector who want to establish steel manufacturing factories. They want to have few and make millions in poverty. They are fighting *mitumba* and scrap metal and denying the people ....

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Okelo Odoyo, Member for Nyando.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Temporary Deputy Speaker. Hon. Duale is a bit jittery. I also thank the Committee on Delegated Legislation headed by the serious, Hon. Kamket.

Scrap metal industry has thrived for a long period of time and created employment opportunities to hundreds of thousands of our people. What we can do instead of killing this industry as has been done by the current Government is to ensure that we put enough measures in place to enable this business to thrive. When it thrives, our people thrive. The unilateral decision that was employed by the Government to apply brakes on this business was insensitive, uncalled for, unwarranted and should not have been allowed to see light of day. That is why this piece of document that has been presented by the Committee is timely. Otherwise we never know how Governments operate. We may have another Government that will be as insensitive as the one that closed the business of dealing in scrap metal.

Whereas we acknowledge that these opportunities exist, we must also take cognisance of the fact that we must be responsible. That feeds into the responsibility that must be bestowed on those who carry out this business. I reckon that we have professional bodies that have managed to self-regulate and by that it gives the Government no reason to put its ugly head on their affairs. This therefore means that those who do this business must rise above board, must protect the interest of the business and must ensure that the clandestine damages of installations in the name of perpetuating a business must stop. The Government did not just wake up and apply brakes on the business. It was informed by irregular, illegal and unacceptable activities. That is why the Government did what it did. Therefore, when we ask them to self-regulate, that means

the road signage which are constantly destroyed by the business community under this subset must stop. We need the signage to prevent accidents on the roads, especially in the Rift Valley. Those metals have been juicy to scrap metal dealers. They have to also go an extra mile to protect this business by not engaging in things that may make the Government stop it.

I support the Report by the Committee on Delegated Legislation and thank you for the opportunity.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Before I give the next Member a chance, it is important to remind that you have five minutes to contribute to this. It is a discussion of a Committee Report. In that, you had set the time limit to five minutes. The next Member is Hon. Kilonzo, Member for Yatta.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Temporary Deputy Speaker.

As I support this Report by the Committee on Delegated Legislation, I want to share my experience. The scrap metal dealers industry is a very crucial sector in this country. My personal experience within my constituency and even within the county is that this is one of the hated sector. Why? It ceased being scrap metal trade. It moved to metal trade. Unscrupulous people will go and remove windows from schools, gates from churches and fences. Even in my farm, they uprooted greenhouses at night. The bitterness in the residents of Yatta and Machakos County was unbearable. They would go and remove road furniture, new road signs and road railings. It ceased being a scrap metal trade. For Government to have suspended the trade to put the house in order is something that is understandable.

As we revisit this trade, it is very important to regulate how it is done. The rules must be very specific. The penalties must be so high, to make sure the people who are buying what is supposed to be scrap metal know what it is. It is important to have this trade on scrap metal. It is recycling metal. It is good for the environment. It is the same way we are saying we recycle plastic and waste. It is good. But, it should not be done at the expense of the economy of this country and the public sector.

Hon. Temporary Deputy Speaker, do you know they were stealing spoons and *sufurias*? They were going to a trading centre in one of my centres called Sofia and another one in Matuu and would buy *sufurias*, spoons, folks, knives and anything metal. It is important that we regulate the trade. It should be purely scrap. What we have today is not scrap, it is metal trade.

As I support this Committee and as new rules come, I encourage the next Parliament to ensure they promote the trade of scrap metal and not metal only. Thank you, Hon. Temporary Deputy Speaker. I support the resolutions and recommendations of the Committee.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kilonzo, well-spoken. I recall when my mother was still alive, God rest her soul, telling me that she did not have any spoons in the house anymore. When she put them out there, boys would put them in the pockets. I visited one of my grandmothers and she told me she was making some *githeri* on a *jiko* outside. When she went back into the house and came out, the *sufuria* was gone and the *githeri* thrown. So, the scrapping of the entire business needs to be balanced. This speaks to a lot of things in our country—the poverty levels of our people, and the utter distress our young people find themselves in. But we also must build our country. We are not going to build our country by destroying the little infrastructure we have out there. It is a conundrum. I do not know what the solution might be but having this debate here is a starting point.

Hon. Wanyonyi Kevin, Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, Ford-K): Protect me from my neighbour here. He is bringing in something else. Thank you very much for the opportunity, Hon. Temporary Deputy Speaker.

I agree with what the Committee has come up with. What we lack are regulations to regulate this industry. As you know, this is an industry that employs many of the youths. We have people who have degrees in engineering and what have you and there is no other start-up kit. We have that problem in this country. We have the problem of unemployment which is coming up every year and time. Students like the ones sitting are leaving. Maybe they will be leaving. I do not want to discourage them. But you will find that there is no work or opportunity other than scrapping off this trade which gives an opportunity to so many Kenyans to do little business here and there and the *jua kali* businesses in this country. The ministry should have come up with Regulations and severe penalties for those who are found dealing with scrap metals. I know there is a lot of work out there. The youths who do not have anything to do go destroying even electricity metres. You have just mentioned your grandmothers having left a *jiko* out there to boil *githeri* but it had been taken away by these unscrupulous boys and girls. I want us to look at it logically and say the Report we have received from the Committee on Delegated Legislation is good and I am supporting them. But, the Ministry should sit down and come up with Regulations and penalties for those who are destroying installations in this country so that they earn their living. You are not helping by scrapping it away completely. You are multiplying problems in this country. There is a lot of unemployment in this country. You cannot blame a guy who cannot even put anything in his mouth because he has nothing to do other than getting involved in the scrap metal business.

Much as I support, I think the Ministry or whoever is concerned should come up with Regulations and penalties for those who are dealing in vandalising installations. I support the Report.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Maanzo, Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I am a Member of the Committee on Delegated Legislation. Having been in this House for 10 years, I am aware we passed a scrap metal law. It is applicable in the country. When you have a law, regulations must follow. We are alive to the fact that there was a presidential order recently dealing with this scrap metal menace. It stopped being scrap metal to dealing with metal. I have an experience in one of the rivers in a place called Nziu in Makueni Constituency where the Kenya Rural Roads Authority (KeRRA) did a bridge and put metal bars on the right and left side to make sure nobody drops into the river. Within two days after KeRRA did this, somebody came at night and cut all that metal on both sides of the road and went to sell it. Therefore, school children were at a risk.

This has happened in a number of occasions. Dealing with scrap metal has become a multi-billion criminal enterprise. Many people are making a kill out of it. They collude with the people who smelt metal. They give bribes and their lorries are packed with stolen Government property.

These regulations would have been very important but the Government should know that there are timelimes in making regulations. There is the Statutory Instruments Act, the parent law and the Constitution. The moment those are not followed and there is no proper public participation, then obviously the Government should know that it is doomed to fail even when it means well for the nation. We want to be a House that makes law that conforms to the

Constitution and other existing laws. There is a need to regulate this industry. The presidential order has already been upheld by the courts. The courts have said that a presidential order ceases to exist when a law is made to deal with the issue. I believe the presidential order to keep the *status quo* suffices and it serves Kenyans on this matter.

There needs to be protection of well-meaning Kenyans who make true living through scrap metal trade. We must have a system of making sure those who deal with metal and not scrap metal are properly dealt with as per the law. This can be done through enacting serious penalties. The only penalties for somebody caught with illegal metal are heavy bribes to the police. Therefore, we really need a law. The next House must pass the law for the benefit of the country. There are many people who have lost business. Recently they demonstrated in the city and at the Ministry of Trade and Industrialisation. That means there has not been proper public participation, which needs to happen. Traders should organise themselves into groups, SACCOs or cooperatives so that they are able to regulate themselves the way the *boda boda* sector does. When a criminal tries to get into the *boda boda* sector, members of the sector are able to stop them from committing any crime. I propose that scrap metal dealers form cooperatives. I believe if they do that, they will be able to regulate themselves even before the Government regulates them.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mizighi Mnene, Member for Taita Taveta.

**Hon. (Ms.) Haika Mizighi** (Taita Taveta CWR, JP): I thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute. From the outset, I want to support and commend the Committee for a job well done. When the ban on scrap metal trade was imposed, it left so many families with no food on the table. At some point, the business became a nuisance to the community, because it turned from scrap metal trade to metal business. I have an experience because there is a time my *jiko* was stolen. I had visitors and was lighting my *jiko* outside, but when I went to pick it I could not find it. I wanted to prepare food. I really got annoyed. All in all, we cannot say we are going to abolish the trade because so many people depend on it. So many hustlers make a living out of the business. What it needs is to be regulated. Therefore, I support the report. Public participation has to be done for the law to be put in place and for the business to continue.

Thank you, Hon. Temporary Deputy Speaker, for the opportunity.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ogutu Abel, Member for Bomachoge Borabu.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker. I thank the Committee for the report that has generated a lot of discussion. I support the report. I would like to make comments on a number of issues. When we talk of scrap metal industry, we are talking of a huge population of Kenya that earns their living from this industry. As other Members have pointed out, the same industry also wrecks the lives and livelihoods of other people in the society. You have had of cases of metals and scrap metals being stolen. This is one area that we really need to address. In most cases, the people who have worked in this industry tend to assume that they are being blamed for involving themselves in scrap metal trade. The point is that we would like them to be accountable for the activities they undertake. The proposal for public awareness instead of public participation is good. We need more public awareness for those in this industry to understand that they can only trade in scrap metal and not unused metal.

The people in the industry include the youth, many of whom are unemployed. We know that scrap metals are recycled to produce new metals and other products useful in society. But the idea that the business is being conducted under an environment that deprives other people of their livelihoods needs to be condemned. I support this report.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mawathe Musili, Member for Embakasi South.

**Hon. Julius Mawathe** (Embakasi South, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I stand to support this Motion. There is need for regulation of the scrap metal industry. I will give you the example of the Old Airport North Road. All the guardrails on the road were removed by a scrap metal dealer approximately two weeks after they were put. A lot of street lights disappear, thanks to one or two scrap metal dealers. Most scrap metal dealers are good people who do honest jobs. But there are some who have sticky fingers.

At Mukuru kwa Reuben, you will find Mama Wavinya, a scrap metal dealer, or their Chairman, Mr Mutunga. They do their jobs honestly. But there are a few bad apples who mess up their reputation. The young boys at Mukuru kwa Njenga, led by Kajohny, look for scrap metals using metal detectors and magnets. They collect the metals, sell and make honest living. I stand to support.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Khamala.

**Hon. Titus Khamala** (Lurambi, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I laud the Committee for the good work and the report.

I have been a victim in my constituency in Lurambi whereby we build roads and especially bridges. On those bridges, we put guardrails and those guard rails do not last. We have to support work. People have to work. We have to be a working nation. Definitely people that deal with scrap metal are doing a good job and they are contributing to our economy in our country and we have to support them. However, you cannot do business without regulations. Regulations just do not come with bottlenecks or to stifle freedom of doing business but there must be discipline in every business. Sometimes when you go to markets, you find people selling plumbing materials and some of them are old. You wonder if they come from somebody's house or how they find their way into the market. Work has been done by this Committee to make sure that we have this business in place. There must be a difference between people that are just dealing with genuine scrap metal and those who are vandalising equipment and important installations to the detriment of Kenyans. Because of the Committee Report and what we are discussing here today, I throw in my weight and support that indeed scrap metal dealers have to do their work. They have to do their business but there must be a way they do it so that it is genuine and not a business where they vandalise materials from elsewhere to sell. You can imagine where you build a bridge and this bridge is going to support the community but when you wake up in the morning and visit the same bridge, all the guardrails are gone. This is because one person thinks that they should make a business out of that at the expense of the entire community.

I support and as I take my seat, I thank the people of Lurambi for bringing me into this House for five years. I pray for every Member in this House that they get an opportunity to come back. I leave that to God and the electorate.

Hon. Temporary Deputy Speaker, I also pray that God gives you life in Luanda so that you can continue to serve the people of Kenya in this House. God bless you all.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Bishop Khamala, you have touched my heart. Thank you for that prayer. It is a wonderful prayer. I wish you well also in Lurambi, Kakamega. I have confidence, with the Lord's guidance, it will be well. Next is Hon. Mwalyo Mbithi, Member for Masinga.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Report on the Annulment of the Scrap Metal Dealers Rules brought by the Committee on Delegated Legislation. While it is a good business to earn a living especially in these times that there is no employment and the Government is not employing people, it looks as if it has gone out of hand. This business is very lucrative and people earn a lot of money out of it. In fact, in one of the committees that I am a member of, that is the Committee on Implementation, a case of scrap metal dealers was brought up and we dealt with it, concluded it and they were licenced. However, after they were licenced...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Member for Masinga, just hold on. There seems to be a point of order by Hon. Mwambire, Member for Ganze. What is out of order, Hon. Mwambire.

**Hon. Teddy Mwambire** (Ganze, ODM): Thank you very much, Hon. Temporary Deputy Speaker. Considering the mood of the House and the deliberations going on, it appears that Members are in concurrence with the Report. So I stand under Standing Order No. 95 to call the Mover to respond so that we can move to another matter.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is it the mood of the House?

**Hon. Members:** Yes.

*(Question that the Mover be called upon to reply put and agreed to)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mwalyo, you will finish your contribution and then the Mover will reply.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker, for allowing me to finish. What is lacking in this industry is, the committees that are charged with monitoring and also enforcing the rules that are supposed to be followed by the industry are not able to do it because it has become a rogue industry. We have heard our Hon. Members say that even *sufurias* are taken away when food is boiling. This is a very bad image and it shows a very bad monitoring policy, especially when the Government has spent so much money building our roads and the rails along the roads. You wake up in the morning and you find they are all gone. If a car slides near a river, it goes all the way to the river and those people just perish.

Therefore, we need these regulations and rules to be followed to the letter. This Committee needs to come up with good rules that will be followed by this industry. The other thing is that people should not be greedy to the extent of destroying their country and the infrastructure that has been put by the Government. The Government is spending billions and billions of shillings and then somebody just comes and picks metal and sells it for peanuts or for a one day's meal. That should be discouraged and also punishment should be severe so that

people can fear because now they are losing business, revenue and income. That should be a learning point that they should have some decorum in the scrap metal business.

Therefore, we do not want to punish them but if regulations are followed, people will be earning their living peacefully without destroying anything that the Government is putting up.

With those few remarks, I support the Committee and pray that it shall continue doing its work.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kamket, reply now.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, I beg to reply. I sincerely thank Hon. Members who have supported the Committee Report and all those who have spoken without mentioning each of them by name. I just want to say that it is not right to be overenthusiastic in responding to a problem. There are genuine scrap metal dealers and there are vandals. Of course, vandalism cannot be tolerated but there are genuine scrap metal dealers. Therefore, by the regulatory-marking authority coming up with those rules out of time and not involving the genuine scrap metal dealers in public participation, the Ministry made a mistake. As earlier articulated by my colleagues, it is important that in anything that Ministries do, they always involve the people. Somebody once said you cannot respond to a mosquito bite with a hammer. That is typical of what happened in these regulations.

Hon. Temporary Deputy Speaker, I want to give an example of what the Cabinet Secretary for Interior and Coordination of National Government did yesterday in my constituency. He went there and instead of responding to a few cattle thieves who are known and whose names have been given to the police officers, he issued curfew orders for the entire constituency. You wonder whether the Cabinet Secretary has really taken things into consideration, knowing that we are in the period of campaigns. Some of these curfew orders that the Cabinet Secretary makes must be regulated. One of the reasons this Committee was created is to look into the excesses of the Executive.

Hon. Temporary Deputy Speaker, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Hon. Members, I direct that the next action will be undertaken in regard to that business, when it will be set down next on the Order Paper. I direct that we move on to the next business on the Order Paper.

*(Putting of the Question deferred)*

## MOTION

### ADOPTION OF PUBLIC INVESTMENTS COMMITTEE REPORT ON LAKE TURKANA WIND POWER PROJECT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nassir, I believe you are the Chair of the Public Investments Committee. You may move your Report.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you. Hon. Temporary Deputy Speaker, I would like to move this Report. I hope that we will finalise it today in the morning.

This is a very intriguing Report that this Committee wrote. It is my last special audit Report that I am moving in the 12<sup>th</sup> Parliament. The Lake Turkana Wind Power Project was very beautiful and feasible. It is one of the largest public-private partnership (PPP) projects that this

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country has. When it was conceptualised, the company that was meant to construct the project was supposed to construct transmission line together with power stations. Then, instead of doing that, it was decided that they would construct the line separately with the birth of the Kenya Electricity Transmission Company (KETRACO). As usual, all over the world, if a company has already finished its part and you are not ready to collect the renewable energy or power, then you have to pay what is being generated.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nassir, move the Motion first. You need to look at the way the Motion is on the Order Paper, so that you can move it and then say the justification.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on its consideration of the Special Audit Report on the Lake Turkana Wind Power Project, laid on the Table of the House on Thursday, 2<sup>nd</sup> June 2022.

The Kenya Electricity Transmission Company (KETRACO) did not do a risk assessment to realise what would happen in the event of a delay. In the process of that, they signed addenda which were for the purposes of the transmission line. When they did this, they did not put in mind that it would have a replica effect financially on a company that is now charging us for power that was generated, but was not used by Kenyans. Equally, amongst the recommendations, we have now said that the accounting officers then in the Ministry of Energy and KETRACO should be held accountable for not conducting an independent legal risk assessment prior to the execution of the contracts.

Secondly, there was an excess amount of money that was paid to this company. In the process of doing that, the amount of money that was paid was 6,173,296 Euros. The people in charge of the Lake Turkana Wind Power Project wrote back to the Ministry of Energy and Kenya Power and Lighting Company and told them that they had overpaid them. However, it took a whole year for them to give them an account number where they would return that money. Those people who were procrastinating need to be held accountable for a loss of more than 30 months.

They connected the transmission lines but there were failures. There were people who paid the wayleaves and signed addenda without even explaining that there would be a replica effect. As I quickly wind up, all these power purchase agreements should not be taken to the Attorney-General's office after being signed for consent. They should be taken there before they are signed, so that he can give his input. Right now, the Attorney-General's input is more ceremonial. We want this to be reversed.

Other companies were given a contract to finish the transmission line. Nari Group Corporation and Power China Guizhou Engineering Company Limited did an excellent job. They finished this work before the time limit. They signed a clause which said that if they did not finish in time, they would take responsibility. Those companies have not been paid. Courtesy of this Committee, part of the funds that were overpaid to Lake Turkana Wind Power Project were returned. I congratulate my colleagues and the Office of the Auditor-General. That money should be paid to those Chinese companies, so as to avoid an extra amount of interest. It is right to do so because they finished their work on time.

Lastly, the National Land Commission (NLC) and the Ministry of Lands and Physical Planning should look into this matter to finalise, if there were any land transactions that had to be

done. The Ethics and Anti-Corruption Commission has already been directed on who will be held responsible.

With those remarks, I beg to move the Motion. I hope that my brother, Hon. Hire, who is a member of this Committee, will second it very briefly, so that we can finalise it.

**Hon. Mohamed Hire** (Lagdera, KANU): Thank you, Hon. Temporary Deputy Speaker. As I stand to second this Report, I want to make a few brief comments on it. Basically, Lake Turkana Wind Power has two components: the power plant and transmission line.

We had issues with delay in the construction of the transmission line. The contract was awarded to a company that did not have the capacity to construct it. It is called Isolux Corsan. Eventually, it filed for insolvency. Then, we got another company. Basically, this energy or power from the power plant at Turkana was idle. The company that constructed the power plant ended up now charging us this energy which was to be evacuated from the power plant to the distribution places.

This Report has quite a good number of recommendations. We expect them to be implemented so that we do not get those kinds of issues in future. As I sit down, I congratulate the Chairman of PIC who has shown us great leadership for the past five years. I honestly believe he deserves to be the governor of the great county of Mombasa. I want to request the great people of Mombasa to give a chance to Hon. Abdullswamad Nassir. He has been a great leader. He has shown me some good leadership. If you look at the Public Investments Committees reports through our recommendations and through his leadership, we have saved this country billions of shillings.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, allow me then to propose.

*(Question proposed)*

Yes, indeed, I agree with you Hon. Hire that Hon. Abdullswamad has been an astute Member of this House and we wish him all the best in his pursuit of his dreams. His dreams are legit and valid. We hope that God will give him the wings for him to fly.

The first contribution will be by Hon. Ogotu Abel, Member for Bomachoge Borabu.

**Hon. (Prof.) Zadoc Ogotu** (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker. I congratulate PIC for a very clear report that has been presented ably by the chair who is the potential candidate for governorship, Mombasa County. Before I proceed, I thank the Chair of PIC. I have listened to his Report since yesterday. I did rise for an amendment and had to withdraw it after looking at the weight of the recommendations that were coming from the Committee. I wish to thank him and also say that his reporting has been quite substantive. I believe that the spirit he has demonstrated on this Floor will eventually drive his agenda, should he become the next Governor of Mombasa. Having said that, this country has one problem even as we talk about unemployment: The greatest problem in this country is workmanship. Our young people driving various sectors in this country are not giving it their best. However, they are out to use their positions as outlets to scuttle the development of this country.

Wind energy is one area that has the potential to take this country forward. However, when you listen to the Report, I get so disturbed that the technical people in the ministries are not giving us the best. I want to use this forum and say that this country is going to continue

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suffering not because of lack of employment, but because of lack of workers who are committed to deliver what we expect from them.

It is a disease that is cutting across all sectors beginning from the household level to the drivers, the maids and everybody. You recruit someone but the moment he or she joins the job, they start to extract from the same job. I congratulate the Committee and support this Report.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. (Dr) Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me also take this opportunity to sincerely thank the Committee under the able chairmanship of the outgoing Member of Parliament for Mvita and the incoming Governor of County 001, Mombasa *Raha*. I hope that when you get there, you will continue with Mombasa *raha* philosophy so that when we come to Mombasa, it will be all *raha* as we leave the stress in our constituencies. I have fond memories of Mombasa. The warm weather and the humidity makes the bodies relax. I hope you will continue with the same mantra. Clean up the garbage as you drive from Central Business District (CBD) all the way to Nyali. I wish you all the best and I am sure you are equal to the task. I have no doubt about it. The ODM only attracts the best and the best are always found in ODM. The rest go to other places where they accept mediocrity. However, in ODM, we only deal in meritocracy and people who perform and that is why many of the places with ODM have always had the best brainpower.

Hon. Temporary Deputy Speaker, coming to the subject matter at hand, Lake Turkana Wind Power Project, if you recall some years back, it became eminent that Kenya has a serious shortfall of electricity or power to run the various domestic and commercial activities. All the years we have continually complained of high electricity costs in this country. Therefore, all efforts have been done in the past 20 or 30 years to reduce the cost of power and look at green power, friendly and less environmentally damaging to the environment. So the mooted of the Lake Turkana Wind Power Project was a good idea. However, as has always been typical case in this country, in any good idea there will always be devious people looking for ways and means of making illegal income or illegal funds.

As we stand here today, it is amazing that it took 30 months for the money to be refunded. I believe the interest earned needs to have been explored to find out where that interest went to and who pocketed it. In addition, indeed, what was the intention of overpaying? It is typical that before you enter into a contract of this nature, there are some basic background checks you need to do. You need to take risk assessment and risk evaluation so that you put into place mitigation measures. It is inconceivable that a body like KETRACO could have failed to do this, unless it was driven by some ill motive and that has always been the case. I just hope in the next Parliament, the Committee on Implementation, together with EACC, will follow up on the recommendations of the Committee and deal decisively with this matter.

Moreover, I like the way *Baba* has put it very clearly that the greatest disease in this country is not lack of resources, economic models or propaganda or the rest. It is the fight against corruption. If, indeed, we can fight corruption and that kind of mentality that I, as someone overseeing public resources, must always get my cut, then we would move this country very far. We would not need any sloganeering. We simply need to infuse into our people, those who hold executive positions that, when you hold that executive position, it is a position of trust and you hold it in trust for the people of Kenya. You must give them value for money. For whatever shilling we spend, the multiplier effect must be positive and not negative.

As I conclude, Hon. Temporary Deputy Speaker, I also take this opportunity to wish you well. That is because Luanda is where my happiness comes from. My wife comes from around that area and I wish you success. Whenever I drive through and see how Luanda is coming up, I just wish that you stay there for another five years, so that I can always be stopping there and taking a cup of tea with my in-laws and the usual “stuff”, if the head can allow.

Thank you for giving me the opportunity and we wish you the best.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): What a day. Thank you. Let us have Hon. Waruguru Wanjiku, Member for Laikipia.

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me to also take this opportunity to add my voice to the Committee’s Report led by Hon. Abdullswamad, the Member for Mvita and to weigh in on this conversation around the Lake Turkana Wind Power Project. We all know that we are wasting money and resources every single day in Turkana County. If you weigh into this conversation from an ordinary Kenyan eye, it is true the cost of power and energy has really gone up.

It just looks like a mockery to the ordinary citizen any time they hear about the Ngamia Wells in Turkana County that were supposed to be selling crude oil in the international market, and clean energy and wind power, which till now as we lay this Report on the Table of the House to be adopted by this House, still remains a conversation leading to nowhere. The EACC was called upon by this Committee to shed more light in regard to involvement of the Kenya Power Company, the former managing director, the board of directors, the community, the private sector and private partners who were engaged in this project. As it were, the loser in this is the taxpayers who will continue to fund this project so long as it is idle. Nevertheless, the people who partnered with the country, the private investors, will still get their money whether the project is ongoing or not.

I agree with the rest of the Members of Parliament that this is a question we need to address, whether we want to commit public money into projects that have no certainty and projects on which enough feasibility study and risk assessment have not been conducted. This is the question that is before us. It is my sincere desire that whoever becomes the President, and I hope Dr. William Ruto becomes the next President, will be in a position to bring this matter, including many other stalled projects across our counties, to an end.

Turkana County has been insecure since the beginning of this year. The reason we have been having insecurity is because of resources. If the Ngamia Wells and the Turkana oil was up and clean energy (wind power) was running, it is certain that money would be circulating in Turkana County. I weigh in this in many of our counties that have Government mega project that should be taking place like the Galana Kulalu, the dams which are supposed to be continuing but most of them have stalled, or the many roads the Chinese Government has taken up. We have committed money but they have abandoned sites because they were disgruntled or there were questions of funding. Many other counties have failed to benefit from money that was committed because we could not agree on issues to do with management or analysis from independent bodies.

I support. I wish my good brother, the MP for Mvita, the very best in Mombasa. He has been my friend. I do not know what he is going to do with the Kalonzo factor now that all of them are in Azimio. We wish them the best as they continue playing their friendly fires inside Azimio. For us, we have a candidate of United Democratic Alliance (UDA) and I wish him the best but I wish you better best.

Thank you, Hon. Temporary Deputy Speaker and greater thanks to the great people of Laikipia for giving me a chance to serve them as the second woman MP.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Thank you Hon. Waruguru. Hon. Waweru Kiarie, Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this.

I join my colleagues in congratulating this Committee. It has proven in the last five years that there is work that gets done in this Parliament. I would also like to single out the Chairman for what he has done in the last few days and, especially, in the last two weeks while presenting his reports from his Committee; a Committee that has been overworking.

They say that the road to hell is normally paved with good intentions. Green energy is a great intention for this country and it is the future that we would want to walk into. But it is in such mega projects that the evil schemers want to reap what they have never sowed. This Report shows us the anatomy of the making of a white elephant project. This is how they are made. You dream big and invest big initially, but never see through with the project. This is exactly what the Report is telling us.

It is even speaking to the discussion that we shall be having as a country towards 9<sup>th</sup> August, where we shall be deciding as a country on who we shall elect, whether we shall go with the side that believes in mega capital investments or whether we are going to support a side that believes that this is a country that can be built bottom-up by investing in labour based development that gives work to the people and development that lets people build their country, and puts money in people's pockets by investing in the talents of Kenyans. If an investor needs capital, we invest capital in that investor. If we know a farmer is able to put up something, we subsidise their input and invest in their farming. We have seen what capital based projects have ended up becoming. I support this Report. I pray that we can, as a country Kenya, be building post August 9<sup>th</sup>, and see that we start with the basics. We can first feed our country. No countries have ever developed before they fed their people. After feeding our people, we can go to basics and make sure everyone is meaningfully engaged in their talents.

I would like to conclude by saying that these are the dying minutes of the 12<sup>th</sup> Parliament. I wish each and every Member an awesome campaign as they make their bids, either for a return here or other offices. For you Hon. Temporary Deputy Speaker, I have been following and seeing what has been happening in Luanda. I pray that the goodwill you have invested in your people shall be repaid with a re-election in this coming election. I also would like to single out the Chairman of the Committee that has laid this Report, Hon. Abdullswamwad. He has been exceptional in the 12<sup>th</sup> Parliament. I believe, in the coming election, the people of Mombasa will look back and see the amazing work he has done. They say if you can be trusted with small things, you can be trusted with bigger things. In Mombasa County, I pray for our gubernatorial candidate in the UDA and Kenya Kwanza ticket, but also tell him that he has a great challenge in the person of Hon. Abdullswamwad. He is a fitting competitor who, given the chance, would also take Mombasa to very high heights.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kiarie, I hope the things you have done in Dagoretti South, especially the feeding programme you initiated and for which you have been a trailblazer, will come back to the things you have done for the people and the goodwill you have shown in Dagoretti will shine through. You are the kind of person I like to associate with. I hope that your path will be lit and you will find your way back here and to the leadership of this country. I wish you the very best, my brother.

Hon. Okelo Odoyo, Member for Nyando.

**Hon. Jared Okelo** (Nyando, ODM): Hon. Temporary Deputy Speaker, I join my colleagues in thanking PIC for coming up with such a Report. It is startling with various revelations quite unknown to Kenyans. On the same breath, let me thank the Committee Chair, the indomitable outgoing MP of Mvita who is now poised, barring any providential intervention, to be the next Governor of Mombasa County. We are all in agreement that Mombasa is poised for real transformation with his position as the Governor of Mombasa.

Delving into the agenda that is before us, it is quite puzzling how the Ministry of Energy operated, particularly in this project. No wonder we needed a serious clean-up.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Okelo, just hold on. Hon. Mishi Mboko, Member for Likoni, what is out of order?

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): There is nothing out of order. I am looking at the time and standing under Standing Order No. 95. Looking at the mood of the House, I see everybody is supporting this Report. I request the Mover to reply so that the House can adopt this Report. I am looking at the time.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Is the mood of the House that the Mover be called upon to reply?

**Hon. Members:** Yes.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

Hon. Odoyo, you could wind up so that the Mover replies.

**Hon. Jared Okelo** (Nyando, ODM): I thank you, Hon. Temporary Deputy Speaker. I was making reference to the startling revelation by the Committee on how money was being siphoned using Government agencies, with certain companies being registered abroad while the real owners are Kenyans who live here. It startles everybody how a project of this magnitude could have taken shape without the involvement of the Attorney-General. This should be notice to all State agencies and corporations. I want to give an early warning to them, now that Hon. Raila Odinga is going to be the president, that those kinds of activities will never ever be tolerated. What must be done will have to be done. If the participatory role of the Attorney-General is key, that must be put in place and his advice must be sought.

An equivalent of Kshs50 billion was taken out of the country. It tells you how our morals are so different from other people out there. What the Committee is saying is that it is a company out there that wrote to Kenyan authorities, advising them of over-payment. The company was over-paid for reasons that it could not understand. And it took 30 months to provide information on where the excess money could be channelled back to. That tells you there was more than meets the eye in this project. These are the things that we must confine in our history books so that together we can come up with a new country.

Finally, let me thank the people of Nyando most sincerely for giving me the mandate to serve them from 2017. I am sure they are going to give me the mandate a second time to champion their ideals to 2027. I wish everybody in this House great success. Those who are moving to the next ladder, such as my friend Hon. Abdullswamad, I wish you well.

Hon. Temporary Deputy Speaker, I know you very well and I have visited Luanda Constituency. When word goes round that you are around Luanda, the whole centre comes to a standstill because of their love for you. Three months ago, I visited your constituency with the

Prime Minister, Rt. Hon. Raila Amolo Odinga. We landed at a school where you picked us from and took us to the venue where you had organised an event. I was humbled that you firstly prayed for us. Politicians and prayers are usually invariables. You prayed for us and it came from your heart, as I listened pensively to those prayers. Those same prayers that you said for us have pushed us to where we are today. You are aware that the numbers have started changing and the Prime Minister is now way ahead of the pack, courtesy of those prayers you offered. We will continue to beseech our Father in heaven to provide all that we need so that we can serve our people better.

I thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): You are still in my prayers that the people of Nyando will hear you prayer and cry and that the work you have done for them will speak for you. I am confident that you will find your way back in the House. Just as River Nyando flows into Lake Victoria, you will surely flow back into this House. I pray for you.

Before I call upon Hon. Abdullswamad to reply, I wish to recognise the presence, in the Public Gallery, of students from Kimbo Githurai Primary School, Ruiru Constituency, Kiambu County, who have come to observe the proceedings of the House. I wish them God's blessings and success in their studies. I wish them life and a better tomorrow in this country and that, some of them will surely find their way to this Floor to debate the issues of Kenyans in the future as we are doing today.

Hon. Abdullswamad, I am sure the things that I have listened to here in regard to this Special Report are just a tip of the iceberg in regard to this Turkana Wind Power Project and the whole Loiyangalani line debacle. From what I have heard, it surprises me that a country such as ours and the kind of poverty that strangles us, we have produced power in enormity that we did not have the plan to use and it just went to waste in billions of shillings. It is a tragedy surely. It is terrible. We must find a way to punish the people who have done this. I want them to know that, as long as we are here, and we know that this happened, the perpetrators of this heist upon Kenyans must find their day in the court of justice before the people of Kenya. What has happened with this project is terrible. We will definitely not forget what has happened as long as we are breathing and Kenyans are still there. The perpetrators must be brought to book.

Proceed, Hon. Abdullswamad.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Temporary Deputy Speaker. First and foremost, I thank every single one of you here. It has truly been a beautiful journey. Most importantly, it has been a journey of learning. As I beg to reply, I thank every one of you for the accolades that you have showered me with. This was not a one man army. I would not have been able to do this if it was not for the support of my colleagues, the members of staff who were attached to my Committee and definitely the secretariat, the Clerk's Office and the Speaker for having supported us. It has been a very exciting journey. We were able to work even during the COVID-19 period remotely or otherwise and in some instances, we did what needed to be done. We have set records and I hope I have made the people of Mvita and Mombasa at large proud for being their representative. I wish the next lot which is going to come after us the best of luck as they take the mantle even higher.

With those many remarks, once again, I am truly honoured and humbled. I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Thank you very much, Hon. Abdullswamad. Members, I think we have come to the end of today's session but, again, I just want to wish all the Members the very best in their endeavours as they seek to exit from the House to move on to different positions. Whatever your heart seeks, may you find it. I just want

to remind all of us that leadership, at the end of the day, comes from God and this country really needs leaders who will serve the needs of the people rather than our own desires from the heart, that is, our personal desires. Therefore, I will end my sojourn in this seat. I am sure probably this is the last time I am sitting here in this particular 12<sup>th</sup> House with a prayer for Kenya that it gets the very best leaders who will redeem them from the want that they seem to have and deliver them to the very best. I wish all the Kenyans who aspire to a better tomorrow that their dreams may be true.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time now being 1.00 p.m., this House stands adjourned until today, Thursday, 9<sup>th</sup> June 2022, at 2.30 p.m.

The House rose at 1.00 p.m.