

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 31<sup>st</sup> May 2022**

The House met at 2:30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** It is clear that we do not have the Quorum. I order that the Quorum Bell be rung.

*(The Quorum Bell was rung)*

**Hon. Speaker:** Very well. We may commence business.

**COMMUNICATION FROM THE CHAIR**

## DEMISE OF HON. WILLIAM KAMOTI MWAMKALE

Hon. Members, as you may be aware, this week started off on a solemn note for the National Assembly and the country following the untimely demise of the Member for Rabai Constituency, Hon. William Kamoti Mwamkale. The late Hon. Kamoti Mwamkale passed on at night on Sunday, 29<sup>th</sup> May 2022, following a tragic road accident that occurred at Mnarani in Kilifi County along the Mombasa–Malindi Highway.

The late Hon. Kamoti was born on 21<sup>st</sup> July 1962 in Kaliang’ombe Village in Rabai Constituency. He attended Kaliang’ombe Primary School where he sat for his Certificate of Primary Education before proceeding to Dr. Krapf Memorial Secondary School for O-Level education. Thereafter, the late Hon. Kamoti joined the prestigious St. Mary’s Yala School where he sat for and excelled in the Kenya Advanced Certificate of Education (KACE). His excellent performance earned him a place at the University of Nairobi where he pursued a Bachelor of Laws Degree and graduated in 1987. Thereafter, he pursued and deservedly earned a Diploma in Law from the Kenya School of Law in 1990, following which he was admitted to the Roll of Advocates.

After completing his studies, the late Hon. Kamoti began his legal practice in earnest by establishing Kamoti and Company Advocates in 1996. He is celebrated as having been a friendly, humble, fearless, sharp and astute legal mind. In addition to private legal practice, the late Member had a stint as a Registrar of Titles in the then Ministry of Lands and Settlement, as a Registrar of Titles at Ardhi House and as a District Registrar of Lands in the then Mombasa and Kwale districts.

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In 2013, the late Hon. Kamoti took a stab at elective politics and won the seat for Member of Parliament for Rabai Constituency. He was re-elected to Parliament in August 2017 and was at the tail-end of completing service for two terms of Parliament. The departed colleague still quested for service to the people of Rabai Constituency and the nation. At the time of his untimely demise, he was returning home after successfully submitting his nomination papers to the Independent and Electoral Boundaries Commission (IEBC) to seek re-election for a third term in the forthcoming General Elections in August.

Until his premature demise, the late Hon. Kamoti was an active Member of the Departmental Committee on Justice and Legal Affairs and the Select Committee on Delegated Legislation. The National Assembly, Rabai Constituency and the nation have lost a dependable and astute leader who served his constituents and the nation with utmost dedication. In him was an amiable legislator who epitomized non-confrontational politics, a stance that he exhibited both in this House and outside the House.

Hon. Members, in accordance with the Islamic tradition, the remains of our departed colleague were interred yesterday evening, Monday, 30<sup>th</sup> May 2022, at his ancestral home in Kaliang'ombe Village in Rabai Constituency. That notwithstanding, in line with the Parliamentary Service Commission's Bereavement Policy, I already constituted an *ad-hoc* funeral committee, chaired by the Member for Ganze Constituency, Hon. Teddy Mwambire, MP. Although the burial rites for the departed colleague were conducted yesterday, the Committee is requested to liaise with the family of the deceased Member and coordinate the National Assembly's support to the family in accordance with the Parliamentary Service Commission's Bereavement Policy.

Hon. Members, on behalf of all Members, parliamentary staff and indeed on my own behalf, I wish to convey our heartfelt condolences to the family of the late Hon. William Kamoti Mwamkale, the people of Rabai Constituency, all his relatives and friends.

In honour of the dedicated service that the late Hon. William Kamoti Mwamkale rendered to his constituents, the community and the nation, I request that we all stand and observe a moment of silence.

*(A moment of silence was observed)*

May God dwell him in the most beautiful and highest paradise. I thank you, Hon. Members. Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker, for giving me an opportunity to eulogise the late Hon. Kamoti. I served with him in the Committee of Delegated Legislation for 10 years. Unfortunately, we lost him this weekend. Mine is to pass condolences from the people of Makueni to his family and constituents.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Nyando.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, very much, Hon. Speaker. I join you and my colleagues in immortalising our departed colleague. Just as you have said, Hon. Kamoti did not present himself as a politician, the bravado that is constantly expressed by Members of this House was far off in his radar.

I remember in December 2019 that he and I joined you for a visit in Abu Dhabi. That is the time I got to know him at a personal level. He was such a humble person. To begin with, little would somebody ever imagine he was a lawyer. During the one week you took us out, he presented

himself as a gentleman. I can remember when we visited our ambassador in his majlis in Abu Dhabi. He was just a fine person.

The people of Nyando Constituency where I represent, join you and the entire House to wish his family and the people of Rabai grace from the Almighty God. This is a person who had dedicated his life to serve humanity. At the party level, the Orange Democratic Movement (ODM) where he was an ardent support, we have lost a gem within us.

Hon. Speaker, we join you in mourning the death of our departed colleague. I thank you for the opportunity.

**Hon. Speaker:** Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. On behalf of the great people of Navakholo and my own behalf, allow me to pass my sincere condolences to the family of the late Hon. Mwamkale Kamoti.

I happen to have served with him in the Departmental Committee on Justice and Legal Affairs. Before then, in 2013 when we both came to this House, he invited us to Rabai when he was celebrating his homecoming party. I had the privilege of sharing with the people of Rabai. This man was such a humble person. Whenever we were in the Committee, he was very patient and accommodative in terms of consultations. Therefore, we will greatly miss him but may his soul rest in eternity.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Adagala.

**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ANC): Thank you, Hon. Speaker, for giving me this opportunity to mourn our departed colleague, Hon. Kamoti Mwamkale. He was a humble man and I worked with him in the Departmental Committee on Justice and Legal Affairs. He was a good colleague and we will miss him. On behalf of the people of Vihiga County and Amani National Congress (ANC), I wish to convey my condolences to the family. May God see them through this trying moment.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Oduol Adhiambo.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Speaker. I would also like to join you and the entire House in mourning the loss of our very distinguished colleague, Hon. Kamoti.

It is refreshing when we come to the House and find there are many Members whose countenance, manner of engagement and deliberation reflects humility, leadership and professionalism. On behalf of the ODM Party that enabled me to join the National Assembly and had the honour to work with him, I would like to convey sincere condolences to the family. May his soul rest in peace.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Members, before we proceed, allow me to recognise the presence in the Public Gallery of students and pupils from the following institutions: Suwerwa Girls, Cherang'any Constituency, Trans Nzoia County, and those from Mwili Primary, Ruiru Constituency, Kiambu County. They are all welcome to observe the proceedings of the National Assembly this afternoon.

Hon. Fatuma Gedi, you have put an intervention.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Thank you, Hon. Speaker. I take this opportunity to eulogise and pass my condolences to the family of Hon. Kamoti. I served with him in the Committee on Delegated Legislation where I was the Vice-Chair. I remember at the onset

of Corona, when it was new in Kenya, he got the disease and there was a big panic in the House. Before he got it, I was in contact with him and the Clerk was very concerned. Hon. Kamoti called me and told me to quarantine myself. He was somebody who cared not only about himself but also the welfare of his friends.

This is a big loss. I was in Wajir when I heard the news and was shocked because as human beings, we have our own plans but God has his own plans. So, may Allah rest his soul in eternal peace.

Thank you, for the opportunity.

**Hon. Speaker:** Hon. King'ara? I think there is a problem with the machines.

**Hon. Simon King'ara** (Ruiru, JP): Thank you, Hon. Speaker for according me...

*(Technical hitch)*

**Hon. Speaker:** Put off that one!

**Hon. Simon King'ara** (Ruiru, JP): Thank you, Hon. Speaker, for according me this opportunity to mourn my good friend, Hon. Kamoti. He used to speak Swahili and that made me like him very much. He was also very humble. We have lost a good mentor but we leave it to God.

Secondly, I thank you for your leadership, and allowing us an opportunity to have our pupils attend the National Assembly proceedings and learn real time on what happens here. I want to put it across that this is one of the most populated primary schools in this country with over 4,000 pupils. As I stand here, over 700 of them will be sitting for the Class 8 examinations. The unfortunate bit which I wish goes on record is that they are sitting on half an acre piece of land. You can imagine that. They are so squeezed, and as we look forward to improving our education sector, this is one of the exposure the Chair of the Departmental Committee on Education and Research would assist us so that we progress, and I am grateful that you have given me this opportunity.

Thank you, very much.

**Hon. Speaker:** Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Speaker, I join you, and the rest of our colleagues to say *pole* to my colleague, Hon. Kamoti whom I invited to come to Trans Nzoia for an *harambee* in 2015. On behalf of the people of Kwanza, I want to pass my condolences to the family who will miss him. I have just arrived from Trans Nzoia and the memory is very clear. He was such a humble person but what happened is God's will. Let him rest in peace.

Thank you.

*(Several Members raised their hands)*

**Hon. Speaker:** I do not know...I think it is the staff who are responsible for the hitch in the microphones; whoever it is. I can see a number of Members raising their hands to say the machines are not working.

Hon. Sabina Chege.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR), JP): Thank you, Hon. Speaker.

I want to join this House in mourning our colleague, Hon. William Kamoti. I was with the Member two or three weeks ago when we had gone to Kilifi. He was a staunch supporter of the Orange Democratic Movement Party (ODM), and also active in Parliament.

On my behalf, and of the people of Murang'a, I take this opportunity send our condolences to the family. This is very sad because we are coming to almost the end of this Parliament. Majority of the Members would be seeking for their re-election. I want to pray to God, that He protects our colleagues who are here, and those are who out in the fields looking for votes so that we do not lose any other person through accidents or any other means.

As I conclude, I pray that God will preserve us as they get busy trying to look for votes.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Nambale.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you very much, Hon. Speaker, for giving me this opportunity to condole with the family of Hon. Kamoti.

I got to know Hon. Kamoti by him being friendly on this Floor. We became personal friends, had frequent communication and conversations. He had a deep mind and a humble demeanour. Not many people with political positions can manage all that but he did. It was particularly shocking because of the high efficiency of the Islamic faith in managing the time between death and interment. The time was so short and by the time you hear and ask the burial date, you are told that he has already or was about to be interred. Let us pray that the Almighty God receives and keeps him in eternal peace.

Thank you.

**Hon. Speaker:** Member for Kieni.

**Hon. Kanini Kega** (Kieni, JP): Asante sana Mheshimiwa Spika.

Kwa heshima ya Mhe. Kamoti ambaye wakati mwingi alipenda sana kuongea Kiswahili, nataka kumpea mkono wa buriani. Kwa familia yake, ningependa tutoe bega la kujiegemeza wakati huu mgumu wakati wamempoteza mmoja wao.

Tulichaguliwa pamoja na marehemu Mhe. Kamoti. Tumekuwa na yeye na nilimjua vizuri. Nimeshawahi elekea mpaka kwao Pwani kwenye Eneo Bunge la Rabai. Alikuwa mpole sana lakini alipokuwa kule mashinani watu walimpenda sana. Tulipoenda na "Baba" miezi miwili iliyopita, tulikuwa na mkutano mkubwa wa kufana na alionekana mtu wa watu sana. Kwa niaba yangu, familia yangu na ninaowaakilisha Eneo Bunge la Kieni, ninatoa mkono wa buriani kwa familia ya mwenda zake, na tuiombe familia yake amani ili wawe na ujasiri wakati huu mgumu.

Asante sana, Mheshimiwa Spika.

**Hon. Speaker:** I have noticed that Members have assumed that when they get a chance to condole the family of our colleague for two minutes, thereafter, I see them walk out. I do not know who is going to be left here to do the rest of the business. The best thing therefore, is to cut all of you off. Yes! Look, everyone else who has spoken other than the great lady here and Hon. Wanyonyi have taken off. Hon. Members, there is still serious business and you have to appreciate it.

Member for Matungulu.

**Hon. Stephen Mule** (Matungulu, WDM-K): Thank you very much, Hon. Speaker.

On behalf of the people of Matungulu and the entire Kamba nation, we want to pass our condolences to the family of the late Hon. Kamoti of Rabai whom I have served with for two terms in this House. He was a very humble Member, down to earth and connecting to the people.

At the same time, I want to pass my condolences to the people of Kajiado for the loss of our colleague, Mhe. Memusi, who lost his wife this morning through an accident too. It is a very trying moment. I urge my colleagues and friends to be careful as we traverse the country looking for votes. May their lives and souls rest in eternal peace. God bless this country.

**Hon. Speaker:** Member for Kisauni, at some point, your card was showing.

**Hon. Mbogo Ali** (Kisauni, WDM-K): Asante Mhe. Spika kwa kunipa fursa hii kama Mbunge wa Kisauni. Kwa niaba ya watu wa Kisauni, ninataka kuchukua fursa hii kutoa pole zangu na kupeana mkono wa buriani kwa mwenzetu aliyetuacha jana kutokana na ajali ya barabarani.

Mhe. Kamoti hakuwa Mjumbe tu bali aliishi eneo bunge langu. Eneo Bunge za Kisauni na Rabai zimeshikana. Kwa hivyo, ni mtu aliyekuwa karibu sana na mimi kwa sababu mahitaji yake kama mwananchi anayeishi katika eneo langu, yalinipitia ili niweze kuyatatua.

Hivi majuzi, niliweza kutengeza barabara iliyopitia pale alipoishi marehemu Mhe. Kamoti, lakini Mwenyezi Mungu alikuwa na mipango mengine. Tumekuwa naye juzi alipokuwa anapeleka makaratasi yake pale *Independent Electoral and Boundaries Commission (IEBC)*, akawa *cleared* na akapewa cheti chake. Ni wakati alipokuwa akirudi nyumbani, ndipo maafa yakampata barabarani. Nachukua fursa hii kwa niaba yangu na kwa niaba ya watu wa Kisauni, kutoa pole nyingi sana kwa familia ya marehemu Kamoti.

Asante, Mhe. Spika.

**Hon. Speaker:** Member for Nandi Hills.

**Hon. Alfred Keter** (Nandi Hills, JP): Thank you, Hon. Speaker. I would like to join my colleagues in sending my condolences to the bereaved family of Hon. Kamoti who I served with in the 11<sup>th</sup> and 12<sup>th</sup> Parliaments. As you have heard from my colleagues, he was very humble and reserved. He was not outspoken like some of us. One thing that I realised about Hon. Kamoti is that he was very organised in terms of representation of his people. I remember supporting him in two fundraisings. I also recall the Motions that he brought before this House which were touching on the Rabai and the Mijikenda communities in Kilifi County.

We also want to pray for this country to have peaceful elections. May all the aspirants maintain peace.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Lamu.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP) : Asante, Mhe. Spika. Ningependa kutoa rambirambi zangu kwa familia za Mhe. Kamoti na ya mke wa Mhe. Memusi. Nilipata nafasi kuenda Marekani na Mhe. Kamoti na tulipata nafasi ya kujuana kitabia na kujieleza. Alikuwa mtu mkarimu, mpole na mtendakazi. Mungu amuweke mahali pema na aipe familia yake nguvu wakati huu mzito.

Ni kweli amepata ajali ya barabara, lakini naomba Serikali ifanye uchunguzi zaidi. Huu ni wakati mgumu na una changamoto mingi. Isije ikawa kuna sababu zingine za ajali hiyo. Sisi Wabunge tuna maadui wengi. Mtu anaweza kufikiria ni ajali ya barabara ilhali amepangiwa. Kwa wale ambao tunatumia mashua huko Lamu, inaweza kuonekana kuwa mtu amepata ajali ya kawaida ilhali mtu amekupangia. Naomba Serikali ichunguze kwa kina na idhihirishe kuwa ni ajali, isiwe mtu amejificha hapo na kusema ni ajali.

Asante, Mhe. Spika.

**Hon. Speaker:** Member for Mathioya.

**Hon. Peter Kimaru** (Mathioya, JP): Thank you, Hon. Speaker, for giving me this opportunity. On my own behalf and on behalf of the people I represent, I also pass my sincere condolences to the family of our brother and friend. We sincerely say *pole* to his family and to the people of Rabai Constituency. May his soul rest in eternal peace. This, unlike other terms of Parliament, has been very challenging. We have lost so many Members. We pray that the hand of death will not continue robbing us such astute leaders like Hon. Kamoti. We pray that God will comfort the family, the people of this country, especially this House.

Thank you, Hon. Speaker for that opportunity. May his soul rest in eternal peace.

**Hon. Speaker:** Member for Roysambu, do you have a card?

**Hon. Isaac Ndirangu** (Roysambu, JP): I do. Thank you, Hon. Speaker, for allowing me this chance to mourn my colleague and dear friend. On my own behalf, my family and the people of Roysambu, I would like to send a message of sympathies and condolences to his family, his spouse and the people of Rabai. We pray that his soul rests in eternal peace, in the bosom of Abraham.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order.

### PAPERS LAID

**Hon. Speaker:** The Majority Whip.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No. 84 of 2022 relating to the Scrap Metal Dealers Rule 2022 and the explanatory memorandum from the Ministry of Industrialisation, Trade and Enterprise Development.

Implementation status of the Special Funds Account Committee Report for the year 2016/2017, 2017/2018 and 2018/2019.

Report of the Auditor-General and financial statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2020 and certificates therein;

- i) Chemelil Sugar Company Limited.
- ii) Agricultural Development Corporation.

Report of the Auditor-General and financial statements in respect of the following institutions for the year ended June 30<sup>th</sup> 2021 and certificates therein;

- i) Occupational Safety and Health fund.
- ii) Cooperative Society Equalization Fund.
- iii) Management and Supervisory Fund.
- iv) State Department for Cooperatives.
- v) Salaries and Remuneration Commission, Mortgage and Car Loan Scheme Fund.
- vi) Insurance Regulatory Authority.
- vii) Development Revenue Statements.
- viii) Revenue statements for the Ministry of lands and Fiscal planning.
- ix) Street Families' Rehabilitation Trust Fund.
- x) Kenya Institute for Public Policy Research and Analysis (KIPPRA).
- xi) The Judiciary.
- xii) National Land Commission.
- xiii) Agricultural Information Resource Centre Revolving Fund.
- xiv) The Ministry of Energy.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well there was an indication that the Chairman of the Public Investments Committee (PIC) was to Table the 24<sup>th</sup> Report but, I see that he is conspicuously missing. That business will be skipped.

There are no Questions or Statements, therefore, we proceed to the next Order.

## MOTIONS

## CONSIDERATION OF BUDGET ESTIMATES FOR FY 2022/2023

THAT, this House do agree with the Committee of Supply in its consideration of the Budget Estimates for the FY 2022/2023 and pursuant to the provisions of Article 221 of the Constitution, section 39 of the Public Finance Management Act, 2012 and Standing Orders 240A, approves the issuance of a sum of Kshs.2,103,838,811,446 from the Consolidated Fund to meet the expenditure for the National Government during the year ending 30th June 2023 in respect of the Votes as approved in the Schedule to the Order Paper.

**Hon. Speaker:** Hon. Members, this is going to be a unique year. As I had said earlier on, Members come in, make a one minute or 30 seconds comment, *bonga points zinaingia*, then they go out. Members who have seen it fit to pay attention to today's business, I am supposed to put the Question. There is no way any responsible leader can put the Question on the Budget Estimates when we do not have more than 50 of you here, unless at some point in the course of this sitting, the House can attain quorum. Even those Members who were there when we started have since left. It means that I may not put the Question. By not putting the Question today, it means the National Treasury cannot prepare the Appropriations Bill for the 2022/2023 Financial Year. It is good for us to keep doing these refresher courses even as we come to the tail end of the 12<sup>th</sup> Parliament. It is good for Members to know that. If the intention is that there should be no Budget, Members can indicate, so that they can stay in the village and do not bother coming here. There is no point of coming to the House to tick, press your finger and stay for two minutes and then disappear.

I have sat in this House in the 8<sup>th</sup>, 9<sup>th</sup> and the 11<sup>th</sup> Parliament. This 12<sup>th</sup> Parliament is a unique one where people do not even read what is coming before the House. A lot of these information is always made available to the public by Friday evening. Therefore, I expect that every Member who cares to know that they are State officers, have a duty as Members of Parliament - if Parliament seeks to sit on Tuesday, you have Friday, Saturday, Sunday and Monday to look at the business coming. Therefore, you will know that you will take part. Even if you know you are going to vote against a business, it is good that you are here. Now, look at the Members who are here.

The Constitution has placed a quorum of 50 Members. I am conscious that quorum is important, particularly when you are making a decision. You can debate the rest because the House is a House of records, but when a decision as momentous as this one where you are being requested to approve the issuance of a sum in excess of Kshs2.1 trillion and not more than 50 members are here, I find it difficult. There is no way I can put the Question. So, Hon. Members, I have no option. Even if there will be no Budget, there is no way I am going to assume that... Nobody has raised the issue of quorum, but I can see you are not 50. You are barely thirty something. So, unless...

*(An Hon. Member spoke off record.)*

The Quorum Bell was rung when we started and we attained quorum to start. You can transact any other business, but not where it shows Questions are to be put. So, the business appearing as Order No.8 which was to put the Question on the Report of the Committee of Supply



on the Budget Estimates for the Financial Year 2022/2023 is deferred to Thursday, 2<sup>nd</sup> June in the afternoon, hoping that we will have quorum.

*(Putting of the Question deferred)*

## CONSIDERATION OF REPORT AND THIRD READING

### THE NG-CDF (AMENDMENT) BILL

The next business, again, Order No.9 is a Report of the Committee of the whole House on the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No.4 of 2021). Question was to be put as well as the Third Reading. Even that which I thought touches many Members should have been business enough to attract more than 100 of you here. Again, I cannot put the Question because you do not have the requisite quorum. So, we move on to the next business.

*(Putting of the Question)*

## MOTION

### ADOPTION OF FIFTH REPORT ON AMENDMENTS TO STANDING ORDERS

**Hon. Speaker:** Deputy Speaker.

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Speaker. I beg to move:

THAT, this House adopts the Fifth Report of the Procedure and House Rules Committee on Amendments to the Standing Orders, laid on the Table of the House on Thursday, 26<sup>th</sup> May 2022 and pursuant to the provisions of Standing Orders 264 and 265, approves the proposed amendments to the Standing Orders as contained in the First Schedule to the Report; and further resolves that –

- (i) pursuant to the provisions of Standing Order 265, the amendments made to the Standing Orders shall commence upon the expiry of the term of the Twelfth Parliament; and,
- (ii) despite paragraph (i), the proposed new Standing Order 259F(5) (*Members' Biodata and Roll*) shall take effect immediately.

Basically, we are writing the 12<sup>th</sup> Parliament political will. Members, I can tell you, when this is done in the House, it is to tell you that you have less than a fortnight remaining in your term in Parliament. Of course, because of the amendment in the Constitution, Members of Parliament serve until the end of their term on a specific period.

However, when this House is adjourned *sine die*, we will not be having work within the Assembly. What we are doing is writing a legislative will preparing for those who will be taking over in the 13<sup>th</sup> Parliament. The only good thing about this will is that it is possible you will enjoy the benefits of the will. Some will enjoy and some will not. Some, obviously, will not because they have chosen to go to other offices, others have decided they will not run while others, as is normal,

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will face the normal attrition of the House. So, as I have said, this is the Will. I expect Members to be very keen because it tells us what to expect in the next Parliament.

Hon. Members, I want you to be very keen. I will be brief. You will see that many things will come in the course of this. For example, some Bills are being saved. When a Bill starts and you are sponsoring it, if the House is adjourned *sine die*, and it will, you can take over from where you had left it if you come back to Parliament. Members know that to serve in this National Assembly, you have to be in a Committee. There is a part in the Report that makes you know that new committees will be created. If you pass this Report, you will want to know them well before you go home, so that if you come back, you will be sure which one you want to serve in and you have the qualification to do so. Let me leave that for now.

There are many ways of amending the Standing Orders and this is one of them. Standing Order No.263(1) stipulates that:

‘A Member may, with the support of, at least, fifty other Members, request the Procedure and House Rules Committee to consider an amendment to the Standing Orders.’

Additionally, Standing Order No.264 provides that, at least, once in every term of Parliament, the Procedure and House Rules Committee shall review the Standing Orders. This is what we are doing. That Committee is chaired by our Speaker. Many times, some Hon. Members think that I chair it. I do not. I only chair it when it is a sub-committee of the main Committee, which is chaired by the Speaker himself.

Once that is done, you can amend the Standing Orders. The beauty of this is that this is the only opportunity that we have in normal circumstances. Sometimes, extraordinary circumstances demand that the Speaker presides over committees of the whole House. Those are special circumstances, of which, this is not. When this matter will be dispensed with, the Chairperson of the Committee of the whole House will be the Speaker himself because it is very important. The Speaker will be preparing this House for the next one. Having served in the 12<sup>th</sup> Parliament, he knows the specific areas that need to be polished and he will sit here to do so with the help of other Members.

I want to make special mention of the fact that committees received and considered views from Hon. Members, committees of the House and Parliamentary caucus groups within Parliament. For the first time, the public was requested to submit memorandum. It was done deliberately because of instances when Parliament has been taken to court. Unfortunately, this is an area which the public is not very interested in and for good reason. This is a basic thought for Members of Parliament themselves and they did not give any representation. Members of the National Assembly, together with some committees, gave some views which we considered as a Committee.

The first one was the Constitutional Implementation Oversight Committee (CIOC) which made submissions on raising of points of order, lapsing and reintroduction of Bills proposed, expediting and processing of Bills, and incorporation of the CIOC in the Standing Orders.

Hon. Aden Duale, Member for Garissa Township, also made submissions on, amongst others, the place of omnibus Bills. I am sure Members are quite familiar with omnibus Bills in the legislative process. He also proposed the strengthening of leadership offices, namely, the offices of the leaders of the majority and minority parties and majority and minority whips. He also mentioned the consideration of the Constitution of Kenya amendment Bills and handling of Members’ personal data.

The Parliamentary Caucus on Business and Economy made submissions regarding the handling of treaties by Parliament which you will get to know. I urge Members to read the Report.

It is very large and we cannot go through it in detail. Read it because you will shortly have an opportunity to debate it.

The fourth Member who also made submissions is Hon. Patrick Musimba. He submitted on the introduction of a parallel debating chamber. This is one that can be cited in the House of Commons, where sometimes when business is so heavy, there is an alternative chamber where you can go and actively participate.

For example, look at a situation where some Members have been accused of not actively participating in Parliament because they do not have the opportunity. Currently, if every Member here wanted to speak, they would get time because many other Members are probably handing over their documents to the Independent Electoral and Boundaries Commission (IEBC) in their constituencies, or campaigning. At the height of consideration of business in a House like this, sometimes Members do not get opportunity. I am not saying this is what we ended up adding to the Standing Orders, but I am just trying to give you the rationale by Hon. Musimba.

He also raised the thought of recognition of independent Members in the definition of a parliamentary party. There are many parties here and there will be more in future, some forming the majority and others the minority. But there is also the likelihood that there will be an increase in the number of independent Members and I will tell you why.

One, some parties gave out direct tickets. Obviously, there is always a situation where a candidate will claim they should have won. That is politics. They may decide to vie as independent candidates and win. Also, some parties have conducted primaries. I beseech the Members who will be in the next parliament to consider the issue of party primaries because it is a huge area which is very difficult for political parties to handle because of resources and other general difficulties. It is not about blaming political parties for not holding credible processes.

Currently, we believe it is only the IEBC that can do that. There are parties that held primaries and some of their members felt they were not ably given an opportunity to compete, and so, they decided to vie as independent candidates. There are members who simply decided to vie as independent candidates. So, in the coming Parliament, there is a possibility that we will have many independent Members. Hon. Musimba, who is an Independent Member, is saying that they should be recognised, a caucus should be placed in the Standing Orders and they should be given opportunity to serve.

The next Member is Hon. John Kiarie. He submitted on among other things, the proposed strengthening of leadership offices like Hon. Duale did, the consideration of the Constitution of Kenya amendment Bills, and handling of Members' personal data.

An interesting one was by Hon. Zuleikha Hassan. I am sure you know her well. She has served for two terms. She is the Member who came to the House with a stranger, according to the current Standing Orders. She came here with her daughter. According to the current Standing Orders, her daughter would be a stranger, but the good thing is that you, Hon. Speaker, managed to get a way of making a difficult situation better. Members who are willing and interested to give birth to children while serving in Parliament have a good place where they can go and do everything that a mother does to make the child happy. In fact, we are also encouraging male Members who have sired children to bring their families here if they want to see them. I am told that Members have said that they can deal with that back at home.

Administratively, the Speaker and the Parliamentary Service Commission have created something which I cannot pronounce well. I do not know whether it is called a crutch or a crèche. I am sure that a gynaecologist that I can see in the House would ably know what it means. It is a place where you can breastfeed and change your child. By the way, it is not just for Members of

Parliament alone, but also for the staff. They have an opportunity to continue increasing the population comfortably. That is what Hon Zuleikha requested. We will tell you what we did eventually.

Some of the things that the Members suggested were accepted, some were modified and we agreed that others could be handled administratively. Hon. Caleb Kositany also proposed a variation of the sitting hours of the House. Hon. Millie Odhiambo submitted among other things, a proposal on ranking Members and recognition of caucuses.

Hon. Speaker, the Committee very seriously considered your rulings in Communications issued to the House, including the one on entitlement of slots in select committees and discharge of Members from committees, which you gave on 9<sup>th</sup> June 2020. Additionally, the Committee also considered various proposals from directorates and departments of the National Assembly on possible areas of amendment noted during this term of Parliament.

Hon. Speaker, in the course of its work, the Committee isolated the following themes that have informed the proposal of amendments recommended in the Report. I will only mention them and not go into discussion. They considered the issue of public participation, efficiency in committees and the Chairperson's Panel, recognition of constitutional offices of Members and Members service to the House, the place of parties other than parliamentary parties and independent Members.

Hon. Speaker, a few things have changed in our proposals. I will start with the issue of committees of the House because I know Members are very keen. First, there is a proposition of creating additional committees, both departmental and sessional ones. There is also a proposal of increasing the vice-chairs positions, so that every committee will have one chair and two vice-chairs for a very good reason. We want the committees to work seamlessly.

Committees that serve more than one department of the Government should have separate chairs. There are some committees which serve more than four departments, and they can share them out and this will make work easier. We have seen situations where some committees are unable to run well because there is too much work. Sometimes, they have to reduce themselves to sub-committees. So, they can have one vice-chair chairing one sub-committee and the other chairing another one, and then report to the main committee.

We have also proposed an increase of the Chairperson's Panel from four to six Members. For us who have served in the Panel, we know for sure that there is a lot of work. Many times, Members of the Chairperson's Panel find it very difficult to seek re-election because they spend quite a lot of time in the Chair because they are only four. When Members are walking in and out, they are here either for the Session in place or for the coming one. So, we proposed to increase the number.

We decided to split the committees. Let me start with sessional committees because they seem to be juicier for Members. There is established additional five sessional committees. The first one is Committee on Diaspora and Migration Workers. Hon. Members will realise that our citizens in diaspora send quite a lot of money to the country. They are a very important component in terms of foreign currency and earnings that they send to their families and investments in the country. Sometimes it is good for us to handle them in a special way because they give quite a lot to the country.

The second one is establishment of a Public Debt and Privatisation Committee. It will tell us how much we have, how much we can borrow, what is the difficulty in borrowing and look at issues of privatisation. This Committee will be created, if this goes through. The third one is establishment of a Decentralised Funds Accounts Committee. This is a split from the Special Funds

Accounts Committee. It has been discovered that there are other Special Funds, for example, the National Government Constituencies Development Fund, chaired by Hon. Wamunyinyi, which do not specifically oversight in terms of audit. So, it is audited by the Special Fund Accounts Committee.

Therefore, it becomes very difficult to deal with 290 constituencies, the National Government Affirmative Action Fund (NGAAF) and other Special Funds like the Youth and Women Enterprise funds. Therefore, it is difficult for them to handle one year's work. It has been divided, so the work can be shared out and they can operate a bit more easily. I almost said, Order!, then I remembered I am not in the Chair for now, but processing this.

There was also the creation of a Public Petitions Committee. Members bring Petitions by members of public in this House. Also, other Petitions are sent directly to the Speaker for presentation to the House. They are many Petitions so, we proposed to create a Public Petitions Committee. We understand it will be a very tall order because the Petitions will be many, but this is a step in the right direction.

There is also the Public Investment Committee (PIC), which will be divided into three. As you realise, the Public Accounts Committee (PAC), chaired by Hon. Wandayi, has done a good job in terms of processing the Audit Reports and are almost up to date. This is a very good thing and should go on record that this Parliament has brought accounts almost up to date. This is a success on our part, but for the PIC, because of the huge workload, they were unable to do so. So, we have proposed it to be divided into three.

For the departmental committees, we have added the Housing, Urban Planning and Public Works Committee and the Regional Development Committee, which are fairly straightforward. Then, we have one on Social Protection, which is shared out from the Departmental Committee on Labour and Social Welfare. This will deal with matters relating to social welfare, security, pension, gender affairs, equality and affirmative action, affairs of children, youth, persons with disabilities and senior citizens like Hon. Angwenyi, who was here a few minutes ago.

We have proposed a Departmental Committee on Tourism and Wildlife, which we hived from the Departmental Committee on Sports, Tourism and Culture and the other bit is from the Departmental Committee on Environment and Natural Resources. It will deal with matters relating to tourism promotion, management and tourism research and wildlife management. There is also another one which is very critical on Water, Fisheries and Irrigation, which was hived from the Departmental Committee on Environment and Natural Resources and Departmental Committee on Agriculture and Livestock. It will deal with matters relating to use and regulations of water resources, irrigation, fisheries development, including promotion of aqua-culture and fish farming.

Hon. Speaker, I have tried to be as brief as possible because I know Members have read through the Report and want to contribute. I have highlighted the specific areas which I know are probably of a lot of interest to the Members of this Assembly. I have shown you how we arrived at what we have brought before you today, which is through propositions by Members and committees.

Hon. Speaker, as I conclude, I wish to inform the House that where committees were constrained in proposing amendments owing to the limits imposed by existing statutes, the Committee has proposed a draft amendment to laws identified to reflect the findings it arrived at after considering the issues before it. The following legislative proposals are, therefore, proposed to be annexed to the Report of the Committee and at the end, I will be tabling them.

- (a) The Political Parties' Amendment Bill, 2022, which seeks to amend the Political Parties Act, 2011 to require the Registrar of Political Parties to convey a certified copy of any

coalition agreement deposited in his or her office to the Clerks of Parliament, to assist Parliament to transact its' business; and,

- (b) Petitions to Parliament's Procedure and (Amendment) Bill, 2022, which seeks to amend the petitions through the Parliament Procedure Act, 2012, to empower the relevant committee of the House to process all aspects of petitions made to Parliament.

Hon. Speaker, on this one, there was an issue I did not speak about when we were dealing with the issue of the Petitions Committee. Sometimes, there are members of the public who come to picket around Parliament. They at times sleep outside Parliament, and at times stay there for two to three days. We are trying to create a system using the Petitions Committee, when somebody wants to picket, they would be given a specific place to do so for a certain restricted time. Surely, even if you want to picket, within an hour, you would have been heard and the particular petition that you are bringing to the Assembly would have been picked and processed. We do not want our electorates to be outside here, suffering overnight and maybe, stay for two days when we can manage. We have, therefore, created this particular one under the Petitions Committee where they would process some of the petitions the public would want to bring here or to picket, or any of those other things.

- (c) The Public Finance Management (Amendment) Bill, 2022, seeks to amend the Public Finance Management Act, 2012, to increase the period of consideration of the Budget Policy Statement by the House from 14 to 21 days.
- (d) There would also be the Structural Instrument (Amendment) Bill, 2022, which seeks to amend the Statutory Instrument Act, 2013, to require a regulation making authority to submit evidence of compliance with annulment of Regulations to the House.
- (e) The Parliamentary Powers and Privileges (Amendment) Bill, 2022 which seeks to amend the Parliamentary Powers and Privileges Act to remove the Speaker as the Chairperson of Committee on Privileges, and to require the House to consider Members who have served in leadership positions of the House, and those who possess particular qualifications when constituting that crucial Committee.

I want to point out that as a Committee, we thought that, as much as possible, we should retain the Speaker in some to these very serious committees, including the Committee on Petitions because we considered that a Speaker is a true representation of Parliament in terms of power and stature. The only thing that seriously improved on the issues that arise out of powers and privileges was to create a more serious Membership.

Now that you are here, Members, and some of you are first termers, when you come back in 13<sup>th</sup> Parliament... I can see the Member of Kabuchai Constituency, who, is not only a first term, but has also served here for a few months. I hope his constituents - and I am not campaigning for him because I would be happy to campaign for everybody else - would be very sad if he were to go home this early because he has not even known the procedures and yet he has tried to learn the procedures. Some of you are first termers, but when you come in the next Parliament, you will be second termers, and it does not matter if you served a month or two in the 12<sup>th</sup> Parliament.

The Parliamentary Powers and Privileges Committee should be a replica of the Standards Committee in the House of Commons. You would want to put there very serious Members of this Assembly. Am not saying first termers are not. I am saying that when you are a first term, there are a few things that you have not acquainted yourself with to deserve a situation where you can preside over issues to do with discipline of your colleagues. You will not even have probably familiarised yourself that when you get to such a committee, you need not to have some political

or party nationalism in you. You should judge your colleagues, and judge them fairly or unfairly. This, for example, would be a replica of the military term where we would be having this replicating itself like the military police, which is slightly above the ordinary military in terms of discipline. In this one, we have asked the House to allow Members who have served a little longer, have some specific qualifications, so that, for example, if you have Hon. Wamunyinyi in the next term - and his looks are very promising - you would want to have him.

Hon Speaker, I do not know, because you have declared that you do not want to be here in the next Parliament, yet, you are the person we would have wanted to manage such a committee because of experience. If you want such experience from somebody other than the Speaker, we would be talking about people like Hon. Wamunyinyi, who have been here for a very long time, and who would understand that once you come in here, even if you came from a certain political party, all the Members would be your colleagues. You will need to deal with them as colleagues. It does not matter whether they are from FORD-Kenya, ODM, Jubilee or any other party. The kind of Members who will rise above things, and this can only be done by a person who has served here a little longer.

Member for Kabuchai, if you come back, and I think you will, you will qualify as some of the Members who are qualified, but just know there are others who will be more qualified like Hon. Wamunyinyi, Hon. Jimmy, and the ones serving in certain offices like the Majority Whip, who has served here for this term and is now in a leadership office. If he came back, he would deserve to be in some of the committees that are being created. Hon. Jude Jomo and others happen to be one of the senior Members. There are quite a number of senior Members too, but I am saying that this is a creation.

I will not want to go into everything because it is in detail. It is a challenge that you have just given to us that Members should read. Once a document has been tabled here, Members should simply go to the Table Office between Room 7 and Room 9, take the document and read it. You should go through it. By the way, we are not late. The amendments would probably not be done today. Today is for debating. You have opportunity to look at some of these things, modify them, if you wish, and I hope you do not modify them too much because it has gone through a lot of thought. But if there is something that you need to add that will add value, that will be good.

As I finalise, and as I started before, we are doing a political will on how the Standing Orders will serve in the next Parliament.

Hon. Speaker, I take this is opportunity to thank you because of how you have managed to steer this House for the last ten years. Let us put it to nine years because in the last term, we had a shorter period to serve. You have done well. It is not easy for people to tell you this because many times, you are steering debates here, you are not in the public, and the public is happy with you, but most importantly, the Members are extremely happy with the way you handled this House. You may not find time, Hon. Speaker, to be in all these social places that are here for Members to tell you personally that they are very proud of you.

I served in many offices down here including one that is very close to the chamber, and truly, we are proud of you. As it is now, when we become a little bit sophisticated, this is like when you are in a flying plane, the pilot arrives close to the destination, and he or she will advise that we are about to begin to descend to the land. This is the beginning of our descend; the 12<sup>th</sup> Parliament is descending, and we hope we will fly again.

Hon. Members, as I wish the Speaker well in all his endeavors, I also want to take this opportunity to wish you well. I know this is a speech that should be made when there would be an adjournment *sine die*, but many will want to speak at that time. I hope I will still have

opportunity to say something else because I will not lack words. I wish you and the Members well.

Also, I hope the Standing Orders that we are improving on will serve you; there are not many of you in the House, but I can safely say that, at least, those who are in the House today. As you make the Standing Orders, you will use them. It will not be a will that will be used by others. I hope you will be here when this will is opened in the next Parliament for you to transact it.

Thank you, Hon. Speaker. I thank the Office of the Clerk for the support accorded to the Committee. This includes the Clerk himself, the two deputies and the directorates. They did a good job. I do not have a lot of time to go into details, but the Clerk's office went through some of the things we were proposing with a fine-toothed comb and gave us very good insights into some of these things.

I beg to move and request the Majority Whip to second.

**Hon. Speaker:** Let us have Hon. Wangwe.

**Hon. Moses Cheboi** (Kuresoi North, JP): Sorry. Just a minute. I had forgotten something small, which is procedural.

I wish to now lay the said draft pieces of legislation as an addendum to the Report, which I had indicated earlier.

*(Hon. Moses Cheboi laid the Documents on the Table)*

**Hon. Speaker:** Very well.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I beg to second the 5<sup>th</sup> Report of the Procedure and House Rules Committee on amendments to the Standing Orders.

I wish to contribute to one or two issues that are of importance to me, which I feel reflects the real situation that I have gone through in the two Parliaments that I have served in.

With regard to the issue to do with chairpersons, you are assisted by four Members in the Speaker's Panel. Last week, we were processing the Committee of Supply. The Committee sat for three and a half hours, and the Chairperson was replaced twice, which means they were still overworked. Why can we not expand the Speaker's Panel? The proposal to increase the number of presiding officers from four to six is real. I welcome it and invite my colleagues to support it.

There is the issue of processing of Bills. Some of us who have processed a few Bills in this House know that it is a challenge when it comes to the issue of pre-publication. I wish to look at what the Committee has recommended. For example, the Committee has made a proposal regarding a Bill arising from a resolution of a House. If a Member brings a matter to the House, we discuss or debate it and a resolution comes up, that resolution should be good enough such that we do not need to send it for pre-publication scrutiny, so that he moves on and processes the Bill.

Hon. Speaker, it took your intervention for the House to pass my Education Bill, which proposed the scrapping of the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate Secondary Education (KCSE) fees. I thank and salute you. You intervened for that Bill to go through. Therefore, the proposal to move straight from a resolution of the House to a Bill is a good thing.

There are also proposals that were passed by the House, but lapsed at the expiry of the preceding term of Parliament. Time is money. If Members have taken time to discuss and go through a certain Bill, and then you want to start it afresh, that is another process. If we can exempt the resolutions from pre-publication scrutiny, it will be a good thing so that Bills can move faster.



The final one, which I am happy about, is the proposal on Bills that have been considered for a second time, but lapsed at the expiry of the preceding term of Parliament. I sit in the House Business Committee, and when you look at how many Bills Members have had to push to get to the First Reading, have been lucky enough to get to the Second Reading and the term of Parliament has lapsed, it means that time has been wasted and the Members' efforts will not be realised. It is a good reward which, if drafted and implemented, will be a good thing.

I stand here as a Chief Whip. The reduction of the general Membership of committees from 18 to 15 is a good thing. It is very difficult to draw a matrix to accommodate 18, 21 or sometimes 23 Members in one committee, and other committees to accommodate 27 or 29 Members. It is a good thing that, at least, we make the number 15, not only in terms of the whip having an easy time in getting Members, but also in terms of congestion of Members in committees. If there are 21 Members, the level of concentration also becomes a challenge, but if there are 15 Members, one chairperson can manage.

I thank the Committee for looking at the issue of the Public Investments Committee. The PIC is a very good and sensitive committee. Splitting it into three is a good thing for effectiveness and for it to also look at the reports from the Government in terms of investments in various corporations. It will also be faster in terms of implementation.

As I conclude, I want to walk in the footsteps of your Deputy to thank you. I appreciate you. We have been together for two terms and you have been of great help to us. As a Whip, I came into office and you gave me direction on what to do. I owe you a great deal of gratitude which I express today. I wish you well in your political journey and in everything you wish to do.

I want to thank my colleagues. We have worked and travelled the journey together. It has been very difficult. This has been a House where we have had dissenting voices amongst the majority. It takes courage to engage both sides. Within one side, there are two sides, but you must unite the two, so that we can move together. It has been difficult, but I thank my colleagues for working together.

I thank the Deputy Speaker. He has a very good home office where we sometimes go to listen to him as he gives us eulogies of the past and predictions for the future. He has been very good. I thank you, Hon. Cheboi, and also salute you once more.

I beg to second.

**Hon. Speaker:** Hon. Members, even as I propose the Question, I just thought about today's situation. Notwithstanding the constitutional requirement that the House quorates at 50, the House on the other side quorates at 15 and is deemed to have quorum. Here at 50 and 15 in the Senate. I do not know if we should qualify that quorum shall at all times be necessary when decisions are being made. When we come in the morning or in the afternoon, prayers are said and the House can begin business, notwithstanding the numbers. Some of the things being done at that time are purely procedural.

There are no decisions being made by the House, but where the House has to make a decision, we insist on quorum. That way, perhaps, it will help us to remind ourselves that we can start with 15 or 20 Members, but we know that in another 30 minutes, the House will be full to capacity. If we have to wait and we know that there are challenges with transportation, traffic jams, Members' engagement in various offices and activities, we may be gagging ourselves much to the detriment of service to the country and the House. That is an area that we may, perhaps, need to see if we should qualify that unless raised, quorum shall only be necessary when a decision is being made. That is food for thought, Hon. Members.

*(Question proposed)*

Member for Kiambu.

**Hon. Jude Njomo** (Kiambu, JP): Thank you, Hon. Speaker.

**Hon. Speaker:** Are you Member for Kiambu or Kiambu Township?

**Hon. Jude Njomo** (Kiambu, JP): Hon. Speaker, I am the servant of the People of Kiambu.

**Hon. Speaker:** I am just wondering what we call the County Women Representative.

**Hon. Jude Njomo** (Kiambu, JP): This has happened severally. Even people have a problem pronouncing my name and call me Judy, which I accept. I am sure the women of Kiambu would be very happy for me to represent them.

I support the Committee's proposed amendments to the Standing Orders. First and foremost, it shows this House is not static but dynamic and ever changing. So, the Standing Orders must keep changing to suit the dynamism of this House. I am happy that they have addressed picketing and demonstrations that are done outside this House. I have addressed people out there severally just to calm them down. When you see people coming to picket or demonstrate around Parliament, they have come to the end of the road. There is nowhere else they can go and their hope is that they will get a solution from this House. Therefore, as a House, we must think of how we will be addressing those desperate people in an honourable and dignified way, so as to solve their problems. I am very happy about this particular amendment.

I also founded the Committee on Economy and Business in this House. I am very happy and thank the Members of this Committee. They have done very good work in this Parliament. Currently, we are doing an exit Report, which we will table very soon. One of the proposals that this Committee is suggesting is to amend our Standing Orders so that Parliament is involved when our country is making treaties with other countries. If you remember the last treaty we dealt with between the United Kingdom (UK) and Kenya, this House felt it was used as a rubber-stamp. This is because the document had been discussed and we were told not to change a sentence and yet, it was brought to this House for ratification.

These amendments will provide this House with an avenue where it is involved right from the negotiation of treaties. So, we will have teeth to bite and make changes in them. We will feel that we are part of treaty making, and not just being used as a rubber-stamp. This will help a lot. I have been a member of the Committee on Powers and Privileges, which you Chair. Honestly, you have so much in your hands for you to also chair a Committee. I think you can be accommodated as a member so that the Committee can run effectively.

Secondly, as the Speaker, you arbitrate. The Committee on Powers and Privileges also acts as a disciplinary committee. So, it becomes very difficult for you to discipline the same Members you are supposed to arbitrate. I think this will be a very good amendment. We need more experienced Members in this Committee and, with the relevant training; they will help strengthen it and ensure there is discipline and order in this House.

There are proposed amendments on how Bills are processed, which is very good. I would like to address Private Members' Bills. It is a lot of work to draft a Bill, have it go through the parliamentary process, debate and finally having it signed. For a Member, this is a lot of work. I think we should change the tail-end of a Bill. This is because when it goes for signing, the Member only sees in the media that it has been signed. I think it is important to reward the Member by involving him in the signing of the Bill he or she worked so hard for. I know in other jurisdictions, a Member is normally present during the signing, gets a copy and the pen used for signing so that he can keep it in his office, and is proud every day for the work done. These are some practices we can emulate to encourage Members to draft Bills and appreciate them for the hard work done.

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In signing off, I would like to take this opportunity to send my message of condolence to the family of our late colleague, Hon. Kamoti. I encourage them and ask God to give them strength. I would also like to condole with our colleague, Hon. Memusi, who lost his wife.

Lastly, Hon. Speaker, I would like to commend you for the good work you have done. We have benefited from your wealth of wisdom and guidance. Thank you, very much for the good work. I wish you all the best in your future endeavours. I also wish other Members success in the forthcoming elections. I ask our electorate that it does not matter who you will elect, but elect peace. We need peace in this country.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Member for Mavoko.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. I pressed this button to talk about the late Kamoti. I do not know whether we are still there. Let me join my colleagues and Kenyans at large in mourning the late Hon. Kamoti. He was my friend. Death has robbed Kenyans a staunch leader in this country. I learnt of his death with a lot of sorrow. I know the people of Rabai and his family are also mourning. This was as a result of a road accident. We have many measures and laws put in place to bring sanity on our roads. Maybe Hon. Kamoti was on the right side, but that particular road has claimed many lives. However, it is a wakeup call for all of us to ensure road safety at all times, and maintain good speeds. I hope the people of Rabai will go back and elect an equal to the late Hon. Kamoti.

Hon. Speaker, with those few remarks, may his soul rest in eternal peace. Thank you.

**Hon. Speaker:** Prof. Oduol.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Speaker. From the outset I would like to support the Report because of the manner in which the key issues were presented by the Deputy Speaker and the core concerns are fundamental. Looking through it, there has been very clear progression of adjusting and taking into account the very fundamental principles that would allow Hon. Members to discharge their duty.

In particular, I would like to single out, as I noticed during the 8<sup>th</sup> Parliament, that the idea of ensuring that the female Members of Parliament could not come in with their bags was realised in the 9<sup>th</sup> Parliament. It is extremely important that we can see the progression. In the 12<sup>th</sup> Parliament, we are moving from the perspective where we were only looking at the manner of dressing but, indeed, also recognising that the female Members of Parliament come at different ages. It is fundamental that no Member should be told – as Hon. Zuleikha was – that their child is a stranger. Although there are very many other aspects that I find useful here, to me this is a true indication that we, in the 12<sup>th</sup> Parliament, even as we somehow do not seem to recognise the significance of the two-thirds gender rule, it brings some sense of balance. This is because it shows that we are grappling with trying to reconcile the desire of the voters and seeking to bring this realisation of the law on elective posts. We can recognise that we would like the female Members of Parliament to be encouraged that they can be across the age.

As I close, I also want to indicate and agree that in any arena, there must be seniority, and this would be best placed by the number of terms one has served. It would have been useful to recognise that there is a sense in which there could be Members who might not have come, and would be serving their second or third terms, but who would bring other critical skills.

As a Member who is serving her first term, I happen to have served as a Permanent Secretary in this Country. As I looked into it, I felt that it is good that the Standing Orders will be using the time within which one has served. I, however, note as I look at other aspects of the Report, that this is only procedural and useful. But as a matter of fact, and as I have seen it in my

two Committees – and I can see my Chair, the Hon. Member for Mavoko is here – that there has been recognition that, as we serve as Members serve, there are times when it has been recognised that what is useful is the capacity and ability to look at Members in terms of their representation and duties, and not what would be party affiliations which falls outside the committee. I am glad that the Standing Orders recognise this.

Allow me to thank you, Hon. Speaker, as we come to the end of this 12<sup>th</sup> Parliament, for the very democratic, wise and balanced manner that we have been able to undertake the discussions; and seeing that a number of the Standing Orders borrow from the wisdom and rulings that you have made.

Thank you, Hon. Speaker, and I support.

**Hon. Speaker:** Thank you. Member for Lamu.

**Hon (Ms.) Ruweida Obo** (Lamu CWR, JP): Ahsante, Bwana Spika. Moja kwa moja naunga mkono Ripoti hii. Nimependezwa zaidi kwa maoni ya kubuniwa kwa Kamati ya Maombi (*Petition Committee*).

Tumekuwa tukiweka malalamishi mengi kwa sababu tunatoka maeneo yaliyo na shida nyingi. Kuna maombi yaliyoendelea hadi mwisho, na pia kuna yale ambayo hayakufika mwisho. Kamati hii ikibuniwa, itatusaidia sana. Tunapoenda kuwasilisha ombi, saa zingine, tunaelezwa tuliwasilisha kwa Kamati nyingine, hata baada ya kuwasilisha hilo ombi. Pia, hizi Kamati zinaingiliana. Kwa mfano, ukiwasilisha ombi kwenye Kamati ya Bunge ya Kudumu ya Uchukuzi, unaambiwa Kamati husika ni Kamati ya Bunge ya Kudumu ya Ardhi. Kwa hivyo, hii *Petitions Committee* itatusaidia sana ili tuweze kuleta maombi ya kutetea watu wetu kwenye Bunge.

Pia, nimependezwa zaidi na Kamati ya *National Government Constituency Development Fund (NG-CDF)* kupewa nguvu ili iweze kuangalia zile pesa kwa makini na kina, ili ifanye kazi ya Wabunge ya uangalizi.

Inasikitisha kuwa kuna maeneo yaliyotengwa kupewa fedha sawa na maeneo yaliyoendelea. Sababu ilikuwa kuwainua kimaendeleo wawe sawa na yale maeneo bunge yaliyo mbele kimaendeleo, kama barabara na vinginevyo. Inasikitisha kuwa kuna sehemu ambazo mpaka sasa bado zinajiita “jamii zilizotengwa”, ilhali pesa zinazopeanwa ni nyingi na inafaa ziwainue ziwalete hapo. Tutatengwa siku ngapi na tumepewa pesa na hatufikii wenzetu walipo? Hii itatusaidia sana.

Kwa mfano, pesa ya *NG-CDF* zinasomesha kupitia kwa ufadhili. Katika Eneo Bunge la Lamu Mashariki, fedha za ufadhili ni zaidi ya milioni arubaini, ilhali wanafunzi sio wengi. Tunafaa tuwe na waliohitimu kama madaktari na watu wanaosimamia nyanja mbalimbali ili tuwafikie pale wenzetu walipo. Mpaka sasa, sisi tunalia tu kuwa tumetengwa, licha ya kupewa nafasi. Hii Kamati ikitilia mkazo, itasadia sana maeneo yaliyotengwa.

Kitu kingine ambacho kinatusumbua na ambacho kitakachotufanya tuzidi kuwa nyuma na kujiiita kutengwa ni wakaguzi. Wakifika Mjini Lamu, kwa mfano, watasema hapo ni maeneo ya *Al Shaabab* na vinginevyo. Hili silo kweli kwa sababu sisi tunaofanya siasa, tunazunguka maeneo yote. Hili linafaa liwape wakaguzi nguvu ili nao wafike mpaka Kiunga. Hii ni maana kwamba kuna sehemu unaambiwa kuna miradi na ilhali hakuna, na mkaguzi hawezi kufika pale. Ndio maana tunaendelea kutengwa siku zote. Kila tukikaa tukisema hayo maeneo hatutafanya maendeleo, ndio inakuwa maeneo ya uhalifu. Lamu Mashariki isipokuwa na barabara, kwa mfano, na barabara ziwe Lamu Magharibi pekee, ule msitu unakuwa nyumba ya wahalifu. Uhalifu unaongezeka kutokana na ukosefu wa maendeleo, kwa maana tukipata shida Lamu, tumepata shida Kenya.

Nimependezwa na hii Ripoti na kwa mapenzi ya Mungu, wananchi wa Lamu watakapoona wanichague tena nije hapa niwatetee tena, *In shaa Allah*, tutaweza kuendeleza hii Ripoti.

Ahsante.

**Hon. Speaker:** Member for Kibwezi West.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): Thank you, Hon. Speaker for giving me this opportunity. At the outset, I want to commend our Deputy Speaker, Hon. Cheboi, for chairing such a momentous task of amending our Standing Orders. It has enabled us to have greater progression in terms of our responsibilities of oversight, legislation and representation.

The strides that we have taken into accommodating the views of all the Members, and trying to seek out the talent that is brought to this House by our citizenry in Kenya are outstanding. This is through the expansion of Committees and seeking to see how we can govern better the issues that the people give us to mitigate against.

When it comes to oversight over the various Departments within Government or the Executive, Parliament has taken a great stride. Yet, we do not get any accolades. That, indeed, when Kenya talks about a growth of 5 or 7 per cent, a lot of this is attributed to the efforts that this House has puts in. It has to go on record that politicians play a big role in growing our country through the role that Parliament plays through the Committees; and the able staff that we have. We have outstanding resources in this House, which is also outstanding.

To this end, I want to commend you, Hon. Speaker, as the Chair of the Parliamentary Service Commission (PSC), and the staffing role that you play in enabling this House to have quality staff, whom when we reach out to, they give us great input and enable Members to contribute greatly. We, therefore, look forward to the prosperity of the next House.

At this juncture, I also take this opportunity to thank all the Members whom we have served with, and support them as they go out to seek votes to enable them come back and serve Kenya in the bigger roles that they will come in, in growing our Country. Again, we will be participating in the next level, which is the actual inculcation of these great amendments to our Standing Orders, and be custodians for posterity of the generations of Kenyans to come.

I thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, Ford-K): Thank you so much for giving me this opportunity. I am looking at this document and I am quite impressed in the way it was presented, only that I have not had time to scrutinise the areas that I have an interest in. I think it is a good preparation for the next Parliament. I hope I will be among those who will come in with the next Parliament, *In Shaa Allah*, God willing.

I have done what I can. However, I would have differed with rescheduling agriculture. It is agriculture and livestock that are in the Second Schedule, leaving out fisheries. Basically, fishing is agriculture. The New Schedule is placed elsewhere to have environment, with water, fisheries and irrigation. We have to relook at that if there is an opportunity to amend because fishing is agriculture. Of course, as far as I am concerned, irrigation is also part of agricultural activities. Rescheduling this might raise eyebrows of those who will be in the next Parliament.

Otherwise, the document is well set out. I thank you and the Deputy Speaker for doing this very good presentation, and preparing for the next Parliament. I take this opportunity to thank you. I have known you for a very long time, if you remember. You have done a very good job here. When I come back, I will miss you. I do not know where you are going, but the world is dynamic. You never know about tomorrow. You have made a lot of corrections and guidance to Kenyans in

general. The Members who will come in as new ones may not know, but for some of us who will come back, you can count on me, because I have been here.

I do not want to do anything else. I have been requested to go for other seats, but I thought that I should come back and continue doing what I am doing. In fact, I could amuse you that they call me the President of Tanzania in my constituency. *Hapa kazi tu*. They call me Magufuli. I think it is not just for nothing, but due to what I have done.

I thank you and the Deputy Speaker for coming up with this very good document. I have not read it, but I have listened. This presentation is very good. I hope that those who are coming in will pick up from there and move on. I thank you and wish you well in your next endeavour. Thank you so much.

**Hon. Speaker:** Thank you. Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I did not intend to speak on this.

**Hon. Speaker:** Sorry. Hon. Arbelle Marselino.

**Hon. Marselino Arbelle** (Laisamis, JP): Thank you, Hon. Speaker, for giving me this opportunity. At the outset, I join in sending my heartfelt condolences to the people of Rabai for losing Hon. William Kamoti. I extend my condolences to the people of Kilifi County.

I support the amendments of the Committee to the Standing Orders. I have noted that, indeed, as much as the Offices of the Leader of the Majority Party and the Leader of the Minority Party are anchored in the Constitution, their election and removal from office has not been anchored in the Standing Orders very well. Therefore, it will be very vital to us if we know the process of their removal and election into office.

Secondly, as much as we have brought many Petitions to this House – I have brought almost three Petitions – I have never known or been informed about the tail-end of those Petitions or their outcomes. That affects our people so much, particularly my community in Marsabit County and Laisamis Constituency, which I represent. You can imagine we are engulfed in insecurity. Just the other day, two weeks ago, the Assistant Chief of Logologo Location and five other people were killed as they pursued cattle rustlers from the neighbouring county. Until today, even after we have lost civil servants and many animals, we have not recovered those animals. I have placed a Petition and I am waiting for the Departmental Committee on Administration and National Security to visit that area. We also have within that locality quite a number of people, about 6,000 people, from neighbouring countries, all the way from Somalia and Ethiopia. They have converged there trying to earn their livelihood, but they are also engaged in some illegal business. They have illegal firearms and that is what is creating insecurity around that area. So, you can imagine that kind of environment where people are being harassed. People are not sleeping in their homes because of the influx of illegal firearms into the country from neighbouring communities or countries. Even if I bring that Petition here, there is no much information that we, as the peoples' representatives, get so that we know whether the Government is defeated or something like that.

For those few remarks, I support.

**Hon. Speaker:** Of course, there was some reasoning behind the previous consideration of Petitions. I would largely agree that a specific Committee is to handle all manner of Petitions. If there are Petitions to do with matters of security, they will set a day when those in the security sector will appear before them and respond to all the questions. If there are others to do with matters of land and the environment, the Committee will schedule its business accordingly. That is part of the reason the Committee has felt we need to change and form a specific committee. The Departmental Committee on Administration and National Security is also dealing with other issues of immigration and others. Sometimes, you have seen the frustration that Chairs of Committees

have gone through here. That is what has informed the creation of these stand-alone Committees dealing with all manner of public petitions.

Hon. Arbelle, we will, perhaps, see some improvement. Pray to God that you are back in the 13<sup>th</sup> Parliament. You may be the one chairing that Committee. Member for Migori.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you very much, Hon. Speaker, for giving me the opportunity to add my voice to the other Members by supporting---

**Hon. Speaker:** Hon. Wanyonyi, do you have a point of order?

**Hon. Ferdinand Wanyonyi** (Kwanza, Ford-K): Yes. Sorry to interrupt. I am, as a Kenyan, very concerned by what my colleague is just mentioning. We have a Committee here and we have a CS in charge of security in this country. It is embarrassing what I heard from a local radio station, that Kenyans and people are being killed left and right.

**Hon. Speaker:** What is out of order?

**on. Ferdinand Wanyonyi** (Kwanza, Ford-K): There is nothing out of order. I just wanted to say that the Committee...

**Hon. Speaker:** No, Hon. Wanyonyi. Sorry. A statement is never transacted that way. What kind of House shall we be in where somebody feels that something has been said and he wants to sympathise and empathise. Let the Member for Migori make her contribution.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you, Hon. Speaker, for your intervention. I thought this was a ranking Member and if there is nothing out of order, I wonder why he was interrupting.

I wanted to appreciate the Committee chaired by you, Hon. Speaker. Apart from this Report, I still remember that this is the Committee that has also seen the translation of the Standing Orders from English to Kiswahili. I think this is a commendable job and it shows good progress and good concern for what is happening in this House, which actually affects the entire nation.

I know the Report has taken a lot of work. Being one of the Committee members, it is good to appreciate all the Members who have contributed and brought forth the amendments. The Committee is sometimes being ably chaired by your Deputy, Hon. Cheboi. I would like to appreciate this Report for the section that may not look very attractive to most Members, that is, the concept of having Members' data and details kept accurately and elaborately by the House. I think it is good that the public knows who their leaders are, including details and data on education, social standing and other accomplishments so that when the details of a Member of the House are required anywhere, the House can ably give that information without hesitation. I pray that Members who will be coming back in the next election continue in the same spirit and continue to review and make better our Standing Orders and rules and regulations that govern this House. This is so that the debates that come out of this House can always enhance the true stature of our august House and be inspirational even to the young people that are out there who are also wishing to be one day like the Hon. Speaker who is seated right there. Otherwise, I support this Report and I highly commend the team that has worked on it. Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Speaker, it is not in my nature to come to the House this late. It only happens that this is the day I got the slot to go and get cleared or nominated by IEBC and so, I was racing from Dagoretti South so that I can catch this debate and put in my word to it. The first thing I would like to do is appreciate the work that has gone into preparing this Report. To quote and paraphrase you, this is actually very important business because it sets the pace for the 13<sup>th</sup> Parliament. I was honoured to be among the people whose proposals were actually adopted by the Committee. For that, I am grateful. However, beyond that,

I also recognise the work that the Committee had to do up to and including the support they got from our support staff in Parliament. It would be sacrilegious of me to talk about this Report without commending all the people who have put the hard work and the heavy lifting to painstakingly prepare this Report.

This is a very robust Report. Hon. Speaker, I had made a number of proposals and I would not want to dwell into each one of them individually but, with your permission, I will just highlight them as headliners and say that it was in my view that we should change the way we appoint the Leader of the Majority Party. I had made one proposal on the mode of appointing the Leader of the Majority Party and the Leader of Minority Party once they have been elected by the respective parties. My proposal had been that after the Leader of the Majority Party is elected or selected by his party; this should actually be formally communicated to the Speaker by the chairperson or secretary-general of the majority or minority party that is appointing this individual for information to the House. This is seeking to remedy a situation where we have not had a clear way of this communication getting to the Speaker.

Secondly, I had thought that the Office of the Leader of the Majority Party and the Office of the Leader of the Minority Party are extremely important offices. These are people who do work beyond the sittings in Chamber and the sittings in committee and I was looking for a way where we would strengthen those leadership offices so that we can facilitate them to discharge their duties. Thirdly, I had made a proposal on how we can align the process of removal from office of the Leader of the Majority Party and the Leader of the Minority Party with due process and fair administrative action. I had also made a proposal where I was looking for a way we would increase Members participation in committees. When we joined as fresh young Members, we realised the problem that the leadership faced in placing each and every Member in a committee. So, we were comfortable going into committees that have 19 Members. However, the moment the work began, I personally observed that it becomes increasingly difficult for people to conduct committee business. Hon. Speaker, you have severally told us that Parliament in plenary is actually parliament in exhibition and that the actual work happens in committees. So, I was seeking to see if we could be able to increase Members participation in committees by reducing Members from 19 to 15.

I had also looked at the establishment of a Public Debt Committee. This is in light of the situation that this country is in. Our debts are actually an existential threat for this country. So even as we have the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning, it was my view that to address the very peculiar and special situation that we have in Kenya, we should have a Public Debt Committee that actually interrogates the debt situation in this country, and puts a pulse on the finger on the debt of the country but, most importantly, assists our Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning. This is because we are normally told that a debt problem is actually a budgeting problem. So, if we had a debt committee, it would ably advise our Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning and we could start walking the path towards a better debt for this country.

I had proposed that it would be important for us to have a conference with the Senate. I know we have had sibling rivalry since the onset of this arrangement where we have a bicameral house that was brought by the new Constitution. I thought that it would be good if the Houses of Parliament could actually organise formally conferences that would help us tackle what we call sibling rivalry between the two Houses in this bicameral Parliament. Finally, I had made a proposal which was the Members' Roll and the details of it exist in the proposal I had made. I am grateful



that the Committee interrogated my proposals and was able to get some few things that they can incorporate into this Report. For that, I am grateful.

Hon. Speaker, it is my prayer that, as we go into this election, these Members shall be guided by the Almighty and hopefully, I am praying that the attrition rate that we see in *Bunge* will be broken with this election. We shall have a bigger number of Members of Parliament coming back because institutional memory is important. In each election throughout the five years, Kenya invests heavily in the Members that we have in this Chamber and so a high attrition rate of Members of Parliament is actually an unnecessary expense on Kenyans and their economy.

My prayer is that the attrition rate in this *Bunge* that is put at around 70 per cent in every election cycle will be broken so that a bigger chunk of Members of Parliament can come back to the 13<sup>th</sup> Parliament, so that the institutional memory and the investment that has been made on them for five years do not go to waste.

Thank you very much, Hon. Speaker, for your magnanimity in allowing me to contribute, although I walked in late. As I explained earlier, I was presenting my papers to the Independent Electoral and Boundaries Commission (IEBC). After being cleared, I am a duly nominated flag bearer of the United Democratic Alliance (UDA) Party in Dagoretti South.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Kiarie, you are quite lucky. It is only that you came in late. When the Deputy Speaker was moving this Report, he acknowledged your very astute proposals which were taken on board by the Committee. Some of them which are administrative, like strengthening the offices of the Leader of the Majority Party, Leader of the Minority Party and Whips, have been taken up by the Parliamentary Service Commission (PSC) to handle. As you pointed out, it is true that they handle a lot of other work outside what is just here in the Plenary. Thank you for still reminding us about the proposals. Many of them were captured and reported earlier on.

There being no other Member ready to contribute, I call upon the Mover to reply.

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Speaker. At the outset, I want to thank the Members of the Committee, led by you. I did not mention that clearly. The Members of the Committee did quite a good job. This is their product, including the Clerk and this team.

This afternoon, I also want to thank all the Members who have contributed, led by Hon. Njomo, Hon. (Prof.) Oduol, Hon. Bore, Hon. Musimba, Hon. Makau, Hon. Wanyonyi Ferdinand, Hon. Arbelle, Hon. (Dr.) Pamela and Hon. K.J. They have buttressed the Report with their contributions. I want to mention one thing for you to know, Hon. Members. The Report is big or huge. It is not something that I could go through. There are quite a number of other very important things. I encourage Members to kindly go and pick their Reports and look at them. That is because we will still come back to the Committee of the whole House. There are quite a number of areas that I did not touch. I just gave some highlights of areas which I consider a bit more interesting for Members. There are other issues, including Bills, which you really need to look at. There are many other things that I did not touch on because of time.

Having said that, I beg to reply. Thank you.

**Hon. Speaker:** Very well. The Mover indicated that it is one of those occasions that I sit for many hours. The Americans say that if something is not leaking, do not fix it. So, where it is not being proposed to fix, then we will move like we did in the Committee of Supply on Thursday last week so that Members can then pay attention, particularly to what Hon. Deputy Speaker has just said when he was replying. He said that there were many proposals. Some of them are quite

exciting. It will be good for Members to take a little bit of time to understand them and contribute whatever suggestions they may have in the Committee of the whole House.

Thank you very much. We will move to the next Order.

## BILL

### *Second Reading*

#### THE SUPREME COURT (AMENDMENT) BILL

**Hon. Speaker:** Hon. Wangwe.

*(Hon. Emmanuel Wangwe consulted Hon. Speaker)*

Before he moves the Bill, I will allow him to go back to Order No. 5 to table an extra Paper. Proceed.

## PAPER LAID

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker for allowing me to go back to Order No. 5.

Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Legal Notice No.89 of 26<sup>th</sup> May, 2022, on Public Finance Management (National Government Amendment Regulations 2022).

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. I also wish to make this announcement. The business appearing as Order No. 13 titled the National Rating Bill (National Assembly Bill No.10 of 2022), whose Committee Report has not been filed, will not be considered today. The Departmental Committee on Finance and National Planning must be responsible. I can see that the Vice-Chair is in the Chamber.

Hon. Waihenya, I do not know whether you have considered this Bill. I know that you have been very busy with the Finance Bill.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Speaker. It is true that we have not found a good opportunity to discuss it. I do not know whether it is in order for me to also comment about Orders No.15 and 16?

**Hon. Speaker:** What about them?

**Hon. Isaac Ndirangu** (Roysambu, JP): Order No.15 is about the Kenya Revenue Authority (Amendment) Bill (National Assembly Bill No.24 of 2022). Order No.16 is about the Public Finance Management (Amendment) Bill (National Assembly No. 21 of 2022). We had slated to receive the memoranda and hear the stakeholders of both Bills on 26<sup>th</sup> May, 2022, which is the day that we held the Prayer Breakfast.

Hon. Speaker, we are begging for more time to sit with the stakeholders in the future so that we can table the reports next week.

**Hon. Speaker:** We do not have a very long future of the House.

*(Laughter)*

Hon. Waihenya has requested that business appearing as Order No. 13, 15 and 16 be taken out of the Order Paper.

**Hon. Isaac Ndirangu** (Roysambu, JP): Yes, Hon. Speaker.

*(Bills deferred)*

**Hon. Speaker:** I believe that even going by the title of the National Rating Bill, it has a lot to do with counties. So, you require a lot of extensive consultations. In my view, this is a Bill that ideally should have started in the Senate. If you are to have a basis for setting up rates in the various counties, it is not just something that you can clear in a day. It may look mischievous to bring it at the tail-end of this Parliament. We do not want to mess up the counties. There may be a good reason to revise the basis of setting up rates as it is proposed and obviously setting up the Tribunal, which is proposed in the Bill.

I have that Bill here. Hon. Waihenya, its long title is: An Act of Parliament to provide for the framework for imposition of rates on land and buildings by county governments; provide for the valuation of rateable property; provide for the appointment and powers of valuers; provide for the establishment, powers and functions of the National Rating Tribunal; and for connected purposes

Hon. Members, even from that long Title, this is a Bill that requires quite a lot. I hope there has been sufficient stakeholder engagement. I am sure Hon. Waihenya, you have to provide a comprehensive framework for imposition of rates on land and buildings by county governments.

It requires extensive consultations so that you do not disadvantage certain counties by coming up with certain rates or parameters which may not apply appropriately in certain counties. However, I agree with you that there is need for further consultation in this and not just one day. Unless the proposals of the promoters of the Bill can show evidence through the memoranda, maybe from the National Treasury, that they have undertaken such extensive and comprehensive consultation as to result in one policy being adopted as “one size-fits-all”. I do appreciate that Thursday last week was taken away by the National Prayer Breakfast. It therefore means for the House businesses appearing as Order Nos. 3, 15 and 16 are taken out and should not even be on the Order Paper on Tuesday next week.

If I understood Hon. Waihenya, they require time. Maybe you can be ready to bring the report on Tuesday. In any event, tomorrow is a public holiday and so you only have Thursday, Friday and Monday. So, if you are ready, Hon. Waihenya; as a Committee, you can Table your three reports on Tuesday. We will only have Tuesday, Wednesday and Thursday. I know that some of them are Budget related and it is good to see how much ground you can cover within the short time available.

**Hon. Isaac Ndirangu** (Roysambu, JP): I am most obliged, Hon. Speaker. Most likely on Thursday because they require very extensive public participation.

**Hon. Speaker:** Thursday next week?

**Hon. Isaac Ndirangu** (Roysambu, JP): Yes, Hon. Speaker.

**Hon. Speaker:** Is that not the day the House is scheduled to go on recess *sine die*? It is not *sin die*. I have heard some Members say *sin die*. No, this is Latin. It is *sine die*. It is adjourning to an indefinite date. Even though we can predict because the Constitution provides that the next Parliament must sit not more than 30 days from the date of the next elections. So, you can always predict that the date will not be definite because that is the only time under the current Constitution

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that the President of the Republic of Kenya has power to summon Parliament. However, he also has been constricted. Remember in the previous Constitution, the President had power to send you home anytime. Under the current Constitution, 30 days after the general election, the next Parliament must be sworn-in. His powers were also contained so that he does not keep you out there indefinitely. You will have gone through elections and I am sure villagers will be harassing you in your homesteads. So, you would want to be in Nairobi. That is why the Constitution provided that within 30 days you must be sworn-in. The Salaries and Remunerations' Commission (SRC) provided that you cannot begin earning unless you have been sworn-in. Previously, Members would begin earning from the date they are gazetted as having been duly elected. So, we had to strike some balance. It is one of those interesting things.

Let us have the Hon. Member for Mvita, Chairman of the Public Investments Committee (PIC). Just like the Hon. Majority Whip has done, I will allow the Hon. Chairman of PIC to table some document so that we go to Order Nos. 5 and 6.

### PAPER LAID

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

The 24<sup>th</sup> Report of the Public Investments Committee on its consideration of the Auditor-General's Report on Financial Statements of State Corporations.

**Hon. Speaker:** Next Order.

### NOTICE OF MOTION

#### ADOPTION OF THE 24<sup>TH</sup> REPORT OF THE PIC

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the 24<sup>th</sup> Report of the Public Investments Committee on its consideration of the Auditor-General's Reports on Financial Statements of State Corporations, laid on the Table of the House on Tuesday, May 31<sup>st</sup> 2022.

**Hon. Speaker:** Very well. I hope now your two reports should be prioritised so that we debate all of them next week.

In the meantime, Hon. Wangwe can proceed. We had gone to Order No.11.

### BILL

*(Second Reading)*

#### THE SUPREME COURT (AMENDMENT) BILL

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Speaker, I beg to move that the Supreme Court (Amendment) Bill (National Assembly Bill No.15 of 2022) be now read a Second Time.

It is just slightly over 10 years since the constitution of our first Supreme Court as we know it today. As we would all appreciate, the institution of the Supreme Court came to reinforce the unique role of the Judiciary, especially in safeguarding the rule of law and constitutionalism.

Hon. Speaker, as Members of the House would appreciate, the pre-2010 era was marked by very difficult times where concepts such as “access to justice” or the “independence of the Judiciary” had very limited recognition. Thus in 2010 Kenyans adopted our current Constitution with optimism and renewed hope. The Supreme Court is now at its teenage stage – that stage in life when a number of changes are desirable in preparation for adulthood. It is in that sense that this amendment Bill comes before this August House for consideration.

Hon. Speaker, after 10 years of commendable service to the Kenyan people, the Supreme Court deserves to appreciate the distinct roles it has played in safeguarding constitutionalism and acting as a guide in respect to getting meaning to very complex constitutional aspirations such as the role of the two Houses of Parliament, the two-thirds gender rule and the place of the basic structure of our Constitution’s architecture viz-a-viz the need for constitutional reform in the foreseeable future.

Hon. Speaker, it is against that fair recognition that the Supreme Court has played in our constitutional democracy that I wish to urge this House to consider this Bill and even strengthen the Supreme Court to enable it discharge its mandate. I note that this Bill seeks to strengthen the role of the Supreme Court by streamlining its governance framework – the Supreme Court Act – in respect of certain critical aspects that touch on its operations.

Hon. Speaker, let me highlight three main proposals in this Bill aimed at strengthening and properly anchoring the Court’s role and operations.

Clause 11 of this Bill proposes to introduce a new Section 11A, which speaks to aspects of case management and promotion of use of technology aimed at ensuring efficient operations of the Court. As Members will appreciate, the Court of the future may not necessarily be physical where you will have to appear in person to file documents or make submissions. I have seen courts in advanced countries employ fully equipped digital services to allow for flexibility and, therefore, improving accessibility. I am aware that even our own Judiciary has employed modern technology to a great extent to allow accessibility of its services.

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

*[The Temporary Deputy Speaker (Hon. Patrick Mariru) took the Chair]*

Clause 13 of the Bill proposes to introduce a new Section 13A, which seeks to clearly spell out the adjudication processes and standards in respect to imposition or declaration of a state of emergency. This Section mandates the Court to come up with rules in respect to the adjudication process. I am of the view that this is a novel initiative to ensure that there is a channel for checks and balances in respect of declaration or imposition of a state of emergence.

Clause 13 of the Bill spells out instances in which the Court may exercise its advisory jurisdiction. It indicates the institutions that have power to seek an advisory opinion. It also provides for the standard that must be met to offer an advisory opinion – that is, a request for an advisory opinion shall clearly state the specific questions on which the opinion of the Court is being sought. This creates clarity and avoids litigants seeking an advisory opinion on abstract or hypothetical questions.

A detailed review of the Bill would reveal many other good proposals in it aimed at strengthening the functionality of the Supreme Court. Unfortunately, we are yet to benefit from

scrutinizing the Committee Report but I urge Members to read the Bill against the provisions of the Supreme Court Act to appreciate the overall intent of the Bill.

With those few remarks, I beg to move and request Hon. Musimba to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Musimba.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to second this monumental amendment Bill for the Supreme Court of Kenya. Indeed, we have seen, over the last ten years, the Supreme Court educating Kenyans in the various rulings they have given. We have seen them uphold the rule of law and there are many jurisprudences they have set. These amendment proposals have come up to strengthen the functionality of the Supreme Court. This is indeed a step in the right direction in continually keeping our constitutional dispensation alive.

I want to single out a couple of things. One is the fact that the Supreme Court is going to embrace technology in a superior way. During the COVID-19 times, this is one of the innovative things that helped keep Kenya safe and keep it moving as the courts adjudicated the many civil and criminal cases. We would now allow the Supreme Court to amend its rules in terms of usage of technology. There are pertinent things. They have been prone to things like cybercrime and cyber manipulation. They will now put in place systems that will be used by all lawyers and other participants. The Court will establish a portal they will own and control. This will drive us and the continent forward in terms of the way the rule of law will be exercised.

There are various petitions on declaration of state of emergency in accordance with Articles 58 and Article 96 (6) of the Constitution, which enables this House to adjudicate on state of emergency and anybody who has an issue with it is able to escalate it to the Supreme Court. In so doing, the Supreme Court will be guided in the way they look at infringement into any statute and the fundamental rights and freedoms guaranteed by the Constitution to ensure that we enjoy peace and tranquility forever.

I look forward to the day when the Supreme Court will be bold enough to mirror the system in the United States of America, where the Supreme Court is a life calling so that the jurisprudences are well set out by having permanent members. I know this is not canvassed here but these are just thoughts for the future – that, as we drive jurisprudence and continuity, it becomes something that lawyers and judges alike will see to it that there is consistence in the way rulings are made and upheld at the Supreme Court level.

With those few remarks, I beg to second and urge the House to pass this momentous amendment Bill.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We have one Member who has registered interest to speak to this Bill. Hon. Waweru Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me this early opportunity to contribute to this debate. First of all, I commend the Chief Whip of the Majority Party for moving this Bill.

Mine is going to be very brief. I recognize that 12 years after the promulgation of the current Constitution, Kenyans are appreciating the work that the Supreme Court is doing. So, even as we are here in Parliament trying to make the workings of the Supreme Court better, we are not doing so for ourselves but for the Kenyan population that appreciates the post-2010 Constitution epoch, during which things got streamlined to an extent that the Supreme Court can now boast of

landmark rulings in its very short life. Some of the landmark rulings that come to mind are the Supreme Court Ruling on the 2013 Presidential Election Petition, delivered by Justice Mutunga; and the Justice David Maraga ruling on the 2017 Presidential Election Petition. Most importantly, we have to remember that beyond the politics, the Supreme Court has actually been doing amazing work for Kenyans. So, as we try to streamline its workings, it is important for us to ensure that an attempt is made at modernising the processes for provision of justice and services to Kenyans. Technology is important. If we are attempting to bring the Supreme Court to the level of today's world of doing judicial business, where we know that date in itself is becoming currency, this is the way to go.

Hon. Temporary Deputy Speaker, I do not have much to say on this one. I just want to commend the work that has gone into preparing this Bill. This is a step in the right direction.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wanyonyi Kevin, Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I am an economist; I am not a lawyer. From the way the Mover has put it, the intent of the Bill is basically to strengthen the Supreme Court so that its functionality can be up to date. He made an observation that this has been done elsewhere. We should move with the rest of the world. We should not be in the third world. Technology is with us and we have to embrace it. As we have seen, during the COVID-19 period, which was very trying, most functions were done virtually. Therefore, it is for this House to embrace technology and pass this amendment Bill so that our Supreme Court can function properly. As it is, and from what I am told, we are still doing it the old way yet things are moving and technology is with us.

With those remarks, I support the amendment Bill hoping that we will pass it in order to modernise the operations of the Supreme Court.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There seems to be no further interest to speak on the Bill. Hon. Wangwe.

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

I commend my colleagues for their input to this Bill. Hon. Wanyonyi has put it very clearly. It is a Bill to reorganise the Judicial Service Commission (JSC). For the JSC to have an Act of Parliament, it is required by law that it is only this House that can do what they want done. Amendments to the law can only be done in this House so that they can reorganise themselves. It is a proposal which was forwarded to us from them. As a Member of the Departmental Committee on Justice and Legal Affairs, I have gone through it. This is purely what Members have seen happening.

I thank those who have spoken on the Bill—Hon. Wanyonyi, Hon. K.J. and the Seconder, who has really impressed me.

With those remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we will not put the Question at this moment. We will do so at a subsequent time.

*(Putting of the Question deferred)*

The next Order is by the Chairperson of the Public Accounts Committee (PAC). I heard the Deputy Speaker earlier on comment that it has been clearly evident that your Committee has done pretty well. Is he a good Chair or he is the Chair of a good Committee?

You have the Floor, Hon. Chair.

**Hon. Opiyo Wandayi** (Ugunja, ODM): It is both. Let me, first of all, move the Motion before I make further comments on the very wonderful words from the Deputy Speaker.

### MOTION

#### ADOPTION OF REPORT ON NATIONAL GOVERNMENT FINANCIAL STATEMENTS FOR 2018/2019

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker, I beg to move: 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 2018/2019, laid on the Table of the House on Tuesday, 17<sup>th</sup> May 2022.

*(Hon. Jimmy Angwenyi spoke off the record)*

I hear my colleague, Hon. Jimmy Angwenyi, saying that we are that far. Let me just give him the comfort that we are indeed not that far. This is the second-last Report of the Committee that we are moving this afternoon. Hopefully, we shall be tabling a final Report before we adjourn next week. That report is going to be the last that has been brought to the House by the Auditor-General, in which case it means this Committee has caught up with the Auditor-General in examining his reports that are before the House, the import of which is enormous if you look at it from the perspective of Article 203 (3) of the Constitution.

At the outset, let me say I am indeed extremely proud to have had the honour and privilege of chairing this wonderful Committee comprising of wonderful Hon. Members of this House. The tireless efforts of the Members has made it possible for this Report to be completed and to be tabled for debate in this House. The 2018/2019 Report, as I have indicated earlier on, is going to be the second-last report we are debating in this House in as far as the mandate of PAC is concerned. That means the succeeding Committee of the 13<sup>th</sup> Parliament will not be inheriting any backlog whatsoever of audit reports to be examined. They will be starting on a clean slate, picking up from where we have left—from the 2020/2021 Financial Year Audit Report, which we are almost quarter-way through. That means this House, through the Committee that I chair, has made it possible for our counties to receive the maximum possible revenue during revenue sharing with the national Government.

In this Report, a number of issues have been highlighted. The first and most important is that the total nationally collected revenue of Kshs1,587,589,959,877 is going to form the basis of sharing revenue between the national Government and the county governments as contemplated in Article 203 (3) of the Constitution of Kenya 2010. This is going to be a whopping 12 per cent increase over and above the allocation that has happened previously as a result of our last Report that we tabled. Of course, this is a very big step towards strengthening devolution and ensuring that our counties function and are in a position to provide essential services to the population in the countryside.

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As you know, counties depend on this revenue sharing to support most of their budgetary obligations. Most of our counties do not have well-streamlined revenue streams to support or finance their budgets. They rely almost entirely on the exchequer releases as a result of the revenue sharing that this House is going to approve, if at all it agrees with this Report.

Just as we have done in previous reports, the Committee has looked at the workings and operations of various state departments, independent offices, commissions and agencies. It has made several observations on the use or misuse of public resources. It has also gone a step further and made specific recommendations, in most cases calling upon relevant agencies and offices to take further action against specific offices or officers. It is our hope that the concerned offices or agencies will waste no time in taking the actions recommended by my Committee.

I will simply highlight one or two cases to demonstrate that public officers and accounting officers in a number of cases are still not applying public resources in a prudent and economical manner. That will come through quite clearly. It is a running thread across the Report that we, as a country, need to rethink what further measures to put in place to ensure that any public officer or state officer entrusted with the management of the very scarce public resources does their work responsibly knowing that he or she is a trustee of the Kenyan public and that those resources put under his or her charge are not personal resources.

The matter of the public land belonging to the Kenya Meteorological Department comes to mind. That land is somewhere in South C. I think it is in Industrial Area. That land was gazetted as public land and entrusted with the State Department of Kenya Meteorological Department under the Ministry of Environment and Forestry. Somehow along the way, certain private persons and/or entities found themselves encroaching onto this land, alienating it for themselves and acquiring ownership documents in respect of five entities. For avoidance of doubt, I want to mention them. They are M/s Beacon Towers Limited, M/s Hilbrow Properties Limited, M/s Brentwood Traders Limited, M/s Pamba Properties Limited, and M/s Varun Industrial Credit Limited. These five entities alienated for themselves five parcels of land whose current market value is estimated at least Kshs10 billion. They went ahead and started developing these parcels of land but luckily – I must commend the Ethics and Anti-Corruption Commission (EAC) in this particular instance – the EACC took up the matter and went to the High Court and sought to have the title deeds for the properties revoked. It is really fulfilling that the court went ahead, upon careful examination of the matter, and revoked the titles, reverting back these parcels of land to the public. However, one interesting thing is that even upon the revocation of these titles by the High Court, no further action has been taken to prefer criminal charges against the characters or faces behind these companies.

Therefore, the Committee, in its recommendation, suggests that the DCI takes up this matter and within three months of the adoption of this Report, undertakes thorough investigations with a view to determining culpability on the part of the public officers who were involved in these transactions. Now that the court has established that the titles were acquired irregularly, illegally and unlawfully, it is incumbent upon the law enforcement agencies to establish criminal culpability and take these characters to court, charge them accordingly and hopefully secure a conviction. That would act as a serious deterrence to other persons who might want to do a similar thing in future.

The second issue I want to highlight a little bit is the matter of land compensation being undertaken on behalf of acquiring entities by the National Land Commission (NLC). This process has in the past been thoroughly abused even though I must commend the current administration of NLC. It has really improved things under the current chairman and the chief executive. Previously, land compensation was an avenue for public funds to be siphoned out. A lot of money has been

lost. We never know as a country how much has exactly been lost but it is a whopping amount of money running into hundreds of billions of shillings, especially with regard to the Standard Gauge Railway (SGR) Project. The land acquired for purposes of the SGR has brought about compensations, some of which is fictitious, inflated and erroneous and so on. In a number of cases, there was no valuation. They were just handing out cash. The Committee was treated to a circus valuation reports were unsigned. As a lawyer, you know that such a report cannot pass. In reality, it is inadmissible even before a committee of Parliament. So, we may never know how much money has really been lost through this fictitious compensation scheme. In fact, it reminds me of the Goldenberg Scandal. Luckily, those avenues are being sealed by the current administration of the NLC.

Therefore, on account of this un-procedural and irregular land compensation scheme, we have recommended very far reaching recommendations. We have recommended that the former Chairman of the NLC, Professor Mohamed Swazuri; the former CEO of the NLC, Mr. Aziz Chavangi; and the former Director of Valuation, Madam Salome Munubi, be permanently barred from holding public office in the Republic of Kenya. That should, therefore, serve as an example to all other public and state officers who would in future be entrusted to manage public resources to never ever try to treat public resources in the casual manner in which these three officers treated public resources under their care.

Hon. Temporary Deputy Speaker, I can go on and on but the beauty of it is that all this is documented in our Report. Our Report is over 1,000 pages. I urge my colleagues to take their time and go through it with a toothcomb and establish for themselves what the Committee has come up with in terms of findings or observations and eventually recommendations.

Finally, it is about public expectations. I know the public would want to see us hanging people. We cannot do that because we have no powers to hang anyone. That has to go through a proper judicial process. The media should also bear with us because I have seen in the last two days the media stations speculating why we are not taking tough measures against people. We are a Committee created by the rules of the House. Under Standing Order No.205 of the National Assembly, we can only deal with what is documented in the Report of the Auditor-General. We cannot overstep or go beyond our mandate. Therefore, if what has been raised by the Auditor-General is brought before us and we examine it in the manner it is raised, we do not have any further mandate to dig any further beyond what we have recommended. Some of the things that the media are asking for can best be dealt with by the Departmental Committees of this House. Otherwise, as PAC, we remain proud. Even as the House goes on the *sine die* recess that we anticipate next week, we go home with our heads raised high as Members of PAC of the 12<sup>th</sup> Parliament.

With those very many remarks, I wish to move and Hon. Temporary Deputy Speaker, with those very many remarks, I beg to move and ask my colleague, Hon. (Prof.) Jacqueline Oduol, to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. (Prof.) Oduol.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to second this Motion.

Indeed, as it has been indicated by the Deputy Speaker earlier on, the PACPAC, under the leadership of Hon. Wandayi, has done more than what we expected. As I second this Motion, it is an honour that this is the way we are winding up, as we approach the end of the 12<sup>th</sup> Parliament. As Hon. Wandayi and Hon. Deputy Speaker indicated, as Parliament, we can confirm that we have undertaken the mandate of reviewing the financial statements of Ministries, State Departments,

commissions and independent offices as we perform our oversight role. We can see this in this Report. As Hon. Wandayi indicated, we will indeed catch up with the Reports of the Auditor-General.

I commend the Committee and ask the House to look at this Report. We can see that Article 229 (8) of the Constitution requires that, within three months of receiving audit reports, the PAC should debate and consider them and then report to the House the action that they consider appropriate. As we look through the Report, we will see the unwavering commitment, the fidelity to the constitutional mandate that is given to the Committee and its responsibility of holding individual officers to account for acts of commission and omission. This Report underlies that.

If I make it to the 13<sup>th</sup> Parliament, by God's grace, this is the Committee I will find myself in.

With those remarks, I second the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Prof. Oduol, that is your prayer, which comes straight from your mouth to God's ears.

*(Question proposed)*

We shall start with Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. First and foremost, allow me to thank the Chair of PAC. A vehicle is always as good as the driver. There has been Chairs who have not delivered to the level that he has delivered. The driver is a good one.

*(Applause)*

You can have a new car and you get a lazy driver who will definitely not get you to the destination at the time you deserve. Therefore, I appreciate you and the two sides of the House. They chose the right Members to support the Chair. We have luminaries of this House in PAC such as Hon. Aden Duale. The Vice-Chair of the Committee is such a serious Member, in terms of numbers. That is why you can see that the composition of the Committee is good. That is in line with what we passed here today in the Report of the Procedure and House Rules Committee. Selection is important. You take people who will be capable of supporting what the Committee wants to achieve.

I will go back to the Report. There is the issue of the Standard Gauge Railway (SGR), which has been raised. I want to take it from the perspective of compensation. The cost of compensation is even bigger than the cost of the project. It loses meaning that we borrow money from foreign investors but when it comes to our natural resources, which we need to lay the project on, they are more expensive than the cost of the project. It does not make sense. This comes with the contribution of Kenyans whom we have entrusted with the resources to manage. They take them as theirs, and not as a national cake to be share within the country.

I applaud the Committee. They have captured the spirit of many Kenyans. Those three people who have mishandled the project will be put to task. Those Kenyans who were given the mandate to manage the National Lands Commission (NLC) cannot get another public job elsewhere to go and mismanage other projects. This is the spirit of the late Hon. Mwai Kibaki. He said that you could not transfer a thief from a particular Ministry to another one just because you

wanted to play a game and say that you transferred him. If he has stolen and there is evidence, send him home or to prison so that he does not become an obstacle in managing public funds.

I commend the Committee. I wish those who are in the Executive can live up to the Report of PAC. People should remember that during vetting by the Public Appointments (Parliamentary Approval) Act, one of the elements we look at when somebody is nominated by the President for public appointment is whether he has ever been indicted in a parliamentary Report. That is a good thing we will live up to. God willing, if we come back here during the 13<sup>th</sup> Parliament and such person's name brought to this House for vetting, we will axe it. Let it be known that stealing is evil on earth and in heaven.

With those remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Waweru Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Temporary Deputy Speaker, I am blessed to have been in the House on the day the PAC tabled this Report. I want to join everyone else who has commended this Committee for the work that they have done not only in this Report but also in the life of this Parliament. I want to single out the Chairman of the Committee, Hon. Wandayi Opiyo. It is evident this afternoon why I always say out there, even in the constituency, that I have a special admiration for this particular Member. I have been following him even long before I got to this House, having seen how he conducts his business in Parliament.

Let me discuss the issue of the day. This Report is very damning. The Chairman decried what he knew would happen after the tabling of the Report. First, we know that Kenyans are baying for blood. They want to see action and heads rolling. However, the Chairman has referred us back to the law. He told us what powers Parliament has through PAC. It has already done what it needs to do. The tabling of this Report is actually a completion of a phase of the work that needs to be done for the issues that have been raised in the Report. Beyond that, the only thing that is left for the Committee that is in its power is to go to town with this Report. If we wait for the other wheels of justice to turn, they do it so slowly that by the time we highlight the issues in this Report, there will be already another mega scandal that will have occupied the heads of Kenyans and all the media space. It is an opportune moment for this Committee. The Chairman of a Committee is its spokesman. Even with the heavy duty of campaigning in his constituency, this would be a good time for this Committee to go on a road show and to the media houses. In the same way we get invited to media houses to do politics, we can also go there and give a report of what we have done in this Parliament. This is one of those reports that should be out there to showcase the work that Parliament does.

Hon. Temporary Deputy Speaker, the Chairman did whet our appetite to dig into that report and we will with a tooth comb. That way, we will pick up issues that were raised in the report. The Chair also highlighted two grave issues that he prosecuted and I shall not go back to that. The point I wanted to make is that this country is absolutely able to produce reports. We are talented and gifted in churning out reports. The action to be taken after a report has been written is the question. I would imagine that the in-tray of the Public Accounts Committee (PAC) of the 13<sup>th</sup> Parliament is already full. The 13<sup>th</sup> Parliament will have to open up a Pandora's Box. The 13<sup>th</sup> Parliament will have a PAC that will have to look into issues such as the Building Bridges Initiative (BBI) where billions of shillings were committed to do something that did not require a change of our Constitution. That matter has been ruled so by three esteemed courts. They have ruled that we did not require to go the way that we did with the BBI.

The 13<sup>th</sup> Parliament PAC will have to open up a Pandora's Box called Kenya Medical Supplies Authority (KEMSA). As we speak today, it is in public domain that there are individuals

constructing mega projects, including flats and buildings all over the place. It is even worse that such individuals are so bold. There is a case that I know of an individual who is putting up flats. The person does not even want to make payments through the legal way. This is an individual who buys materials and pays for services without requiring receipts in order to evade taxes.

So, these reports are good and the 13<sup>th</sup> Parliament will have its in-tray full with more of what is in this report. However, if we were to action as a country on the reports that we generate, then we would not even have talk about BBI, for example. This is because BBI was trying to cure some historical injustices, but there exists on the shelves of offices in this country, reports like the Ndung'u Land Report, the Truth Justice and Reconciliation Report and the Kriegler Report. I singled out these three reports because if we had implemented them we would not need the BBI.

Hon. Temporary Deputy Speaker, I will leave it at that point. I had started by commending the Committee. Indeed, there has been leadership in that Committee through the Chair, but also the Committee itself has stepped up to the plate and did the work that it is required of it by this House. Kenyans who sent us here might never get the opportunity to face people like those who were making the building of the SGR a gravy train. Since Kenyans are unable to come to this House to represent themselves, they have to depend on us.

A lot of good work has gone into this. I end by commending the Committee. I started by saying that they have whetted our appetite to dig into the report with a tooth comb. We need to know what it is that they have housed in that very good report.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There seems to be no further interest to speak to this on the Floor. In the circumstances, we shall have Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Temporary Deputy Speaker, once again. I take this chance to thank my colleagues who have made invaluable contributions to this report by way of comments this afternoon. I just wish and pray that when it comes to voting, this report goes through overwhelmingly.

Thank you and may God bless. I wish to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): On this particular item we shall not put the Question.

*(Putting of the Question deferred)*

Next Order.

## BILL

### *Second Reading*

#### THE KENYA ROADS BOARD (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The Hon. Speaker had spoken to Order No. 13 and so we will not have it. That had been stepped out.

Now we will have the Chairperson Departmental Committee on Transport Public Works and Housing. The Chair is not here. He was here at some point but seems to have stepped out without notice or even delegating. He is absent without leave. So we will have that stepped down.

*(Order Nos. 13 and 14 stood down)*

Next Order.

### MOTION

#### STUDY VISIT TO THE LEGISLATIVE ASSEMBLY OF ALBERTA, CANADA

THAT, this House adopts the Report of the Committee on Members' Services and Facilities on a Study Visit to the Legislative Assembly of Alberta, Canada undertaken from 14th to 18th October 2019, laid on the Table of the House on Tuesday, December 1, 2020.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): This is just to refresh us. The Hon. Temporary Deputy Speaker had spoken to Order No. 15 and 16. I can see the Member for Roysambu is here. So we will go on that direction. On Order No. 17, let us have the Chairperson Committee on Member's Services and Facilities.

That Chairperson is also absent without apology. He was in and left without delegating and so we will have that stepped down.

*(Order No.17 stood down)*

Next Order.

### BILL

#### *Second Reading*

#### THE PROMPT PAYMENT BILL (SENATE BILL NO. 16 OF 2021)

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Chairperson Departmental Committee on Finance and National Planning. Yes, Hon. Member for Roysambu. You have been very patient here this afternoon, or is it as always?

**Hon. Isaac Ndirangu** (Roysambu, JP): We have work to do. Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Prompt Payment Bill (National Assembly Bill, No. 16 of 2021) which is also a Senate Bill, be now read a Second Time.

Hon. Temporary Deputy Speaker, this Bill emanated from the Senate and we have held discussions on it as a Committee and we also tabled a report, which I urge all Members to get a copy from the Table office.

This is a very short Bill with 11 clauses. It seeks to set out the prescribed dates for payment of a supplier for goods and services both in the county and national governments. According to the Bill, a supplier will either be paid within the timelines set out in a contract, or within 90 days where the timelines are not provided for in the contract.

Additionally, the Bill provides that if a supplier is not paid within the stipulated timelines, then the amount due to the supplier should attract interest at a rate prescribed by the Central Bank of Kenya (CBK). Further, it provides for offences by procurement officers who fail to pay suppliers within timelines.

Hon. Temporary Deputy Speaker, it is known in this country that procurement officers, clerks and accountants will demand extra favours other than what is in an agreement to fast-track payments for suppliers or for contracts that have been already delivered. It is important that these officers should not be holding contractors and suppliers at ransom requiring them to pay something aside so that they can fast-track payments. It is in that spirit that sanctions have been mounted in this Bill so that they can suffer those consequences.

Most stakeholders supported the principal objective of the Bill, which is to ensure prompt payment of suppliers of goods and services to Ministries, Departments and Agencies (MDAs). Stakeholders observed that this proposal will increase the liquidity of companies, suppliers and contractors who are mostly small and medium enterprises (SMEs). It will make it possible for the businesses to expand and contribute to their credit worthiness. It will also reduce their cost of borrowing and the reputational risks associated with borrowing.

The National Treasury, of course, was opposed to the Bill on grounds that the amendments proposed were already covered in the Public Procurement and Assets Disposal Act, 2015 and the Public Procurement and Assets Disposal Regulations of 2020. However, the truth is that even as these public finance management laws exist, contractors and suppliers continue to suffer at the hands of procurement officers who hold their payments.

Stakeholders raised concern on the introduction of offences by accounting officers who may not be responsible for the delayed payment of bills owed to suppliers by MDAs. They argued that failure to pay suppliers promptly is occasioned by delays in Exchequer releases by the National Treasury. They also argued that payment of interest on the money owed to suppliers will strain the already strained public resources. I will give the details of the stakeholders' submissions later. All the stakeholders' comments were considered in the determination of the Committee's proposed amendments. Some of the stakeholders' proposals were adopted and form part of the Committee's amendments.

While considering the Bill, the Committee observed that the enactment of the Bill will ensure suppliers of goods and services to MDAs are paid on time hence making it easy for them to plan their work and to secure goods and services in good time and in a timely way which will result in the growth of the country's economy.

We have proposed a few amendments, which we will debate at the Committee Stage. I request our colleagues to support us when we go through the Bill clause by clause.

I wish to recognise the part played by our officers in the Office of the Clerk of the National Assembly and for the logistical and technical support accorded to us during our sittings. This Committee further wishes to thank all stakeholders who submitted their comments on the Bill.

Finally, I wish to express my appreciation to Hon. Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this Report. With those few remarks, I beg to move. I request, Hon. David Mboni to second.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mboni.

**Hon. David Mboni** (Kitui Rural, CCU): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to second the Bill.

Hon. Temporary Deputy Speaker, as you are aware, this country is facing massive pending bills held by public institutions which amount to almost over Kshs400 billion. These pending bills have become a big hindrance to growth of SMEs and, subsequently, economic growth.

This is a straight forward Bill. In summary, it is supposed to ensure that suppliers of goods to MDAs are paid on time. It will enhance growth of small scale enterprises and, subsequently, economic growth.

The Bill is also supposed to bring sanity in the use of public funds so that people can get their money when they supply to the Government. The Bill is also supposed to ensure MDAs stick to their projection plans. Most of the bills are as a result of most of the MDAs not sticking to their projection plans. They just procure without following projection plans and budgets. Therefore, at the end of the day we have pending bills.

With those few remarks, I beg to second. Thank you very much, Hon. Temporary Deputy Speaker.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall have Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Prompt Payment Bill (Senate Bill No.16 of 2021).

This is purely a Bill that creates an enabling environment for businesses to transact. It is a very disturbing issue that a Government, which is the largest buyer in the economy, cannot pay. The issue is not that the Government is not able to pay; rather it is Government officials who want to trade to make their money in between without doing any business. They are employed by a pen and they want to use that pen to make some millions of shillings in their favour. What happens in most of these situations is that a Government official creates future services by suggesting that he is making a commitment for a project which is not yet there. At the end of the day, the project is established lawfully, procurement is done but the subsequent engagement in terms of finances is not provided for. In other words, it is not in the budget line and that makes it very difficult for the payment to be made in the future. The supplier would have made a prior commitment and his own financial commitment. The financial commitments do not come forth. What is the implication? If the finances were from a bank, then the bank comes to auction the supplier. When he is auctioned many commercial entrepreneurs end up in depression just because of the wrong made by somebody who gave a Local Service Order (LSO) which is not paid in the subsequent period.

This commitment, through this Bill, that the payment is made within 90 days if it is not written... Normally, in the LSOs from the Government side, they never commit how long they will take to pay. It is just written: This is a Government LSO. There is no mandatory commitment and, therefore, since it is Government, we say it is perpetual. It will never die. I will die and leave the Government of Kenya. You commit and end up in shit. That makes it difficult. I am happy the Departmental Committee on Finance and National Planning has concurred with the Senate so that we pass this Bill. Where the provision is not guided, we use the 90 days and if not, there are mandatory conditions and penalties that are imposed on the consumer, which in this case is the Government. This is a good Bill. It will make Kenyans happy.

Earlier in the afternoon, we recommended to the Procedure and House Rules Committee's Report of the Deputy Speaker that we should have a Committee that will deal with the national

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debt. Once that Committee is established, through other committees on Special Funds and the rest, we will have to monitor and really understand that we are able to control debt. The Executive can be put to check so that pending bills do not rise to an alarming extent.

I support the Report and thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Prof. Oduol.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker.

From the outset, I support the Prompt Payment Bill (Senate Bill No. 16 of 2021). This Bill seeks to very specifically address a very urgent concern with regard to the frustration suppliers, contractors and all those who give their time to provide services go through. I particularly thank the Committee for how they have enabled specificity to the very issue that we are dealing with. A number of times we can have Bills and many pronouncements but we find that they become a big challenge in implementation when they are not so clearly specified. As I support this Bill, I do it because it is clear we can now see there will be very clear timelines that will be agreed upon in contracts. Should there have been some oversight, mischief or maybe just negligence in how the contract was drawn, there will be very specific indication that payments must be made within 90 days. I also see that there is clarity in providing punitive measures. We will not want a situation where people do not bother with payments because they do not think it will cost them. It is because we clearly see there will be proposed interest.

So, I support this Bill because the devolution that is celebrated and has brought a lot of joy to the citizens in Kenya has also tended to cause a lot of pain. That is especially with regards to how payments and how those who provide services have been treated. I thank you because this truly is a good indication that we as Parliament are ensuring there is a response to the concerns about problems that people experience—that the law then speaks to the problems, and has very clear ways of solving them. With that, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Duale Dahir.

**Hon. Mohamed Duale** (Dadaab, KANU): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute to this very important Bill.

Since the onset of devolution, many businessmen and suppliers at the county level and also at the national level have been impoverished. The citizens of this country who are in business are major taxpayers. If they are grounded because of non-payment for services or goods delivered, they cease to be taxpayers hence it affects our economy grossly. I think it is very important we have a law in place to compel all levels of Government—whether national or county, or State corporations—to pay for services and goods delivered to them within a period of 90 days.

When businessmen get a job, they sometimes borrow money from banks. The banks want their interest and principal even when they are not paid. Many times they lose their property, including residential houses, plots and so on. Some people have actually died because of this kind of stress. If passed, this Bill will contribute much in minimising stress, loss of life, loss of property, depression and failure to pay tax. People have been paying tax diligently yet they have, at once, been impoverished. They are not contributing to the national economy. The county governments, in my case Garissa County, are very notorious. It has not been paying debts incurred by previous county governments. This is very sad. It has impoverished many people.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Shaban.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Mhe. Naibu Spika wa Muda, asante sana kwa kunipatia fursa hii.

Hata mimi naunga mkono kuwa malipo ya wanakandarasi pamoja na wafanyabiashara wanaofanya biashara zao na kupatiwa kandarasi kupitia vitengo mbalimbali vya Serikali walipwe kwa wakati unaofaa. Kwenye kandarasi yoyote, kuna siku mtu ametarajia kulipwa. Wengi wa wafanyabiashara hao huchukua deni kupitia benki zao. Kunavyocheleweshwa, ndivyo wanavyoumia. Vilevile, wanakandarasi wengine kama wa ujenzi huchukua wafanyikazi kufanya vibarua ili wajimudu kimaisha. Huyu mwanakandarasi asipolipwa, wale vibarua pia huteseka. Faida kuwa mwanakandarasi alipata kazi ndiyo imfaidishe yeye na Wakenya wengine inakuwa ni shida. Bila kutatizika, ingewezekana Wakenya wanaopewa kandarasi walipwe kwa muda unaofaa. Hapa Kenya tungekuwa na wafanyabiashara na wanakandarasi ambao wamejimudu na kuwezesha wengine kujimudu kimaisha.

Sheria hii itasaidia. Vilevile, ningependa kutaja kuwa wakati nilikuwa waziri katika Baraza la Mawaziri la Mhe. Rais Kibaki—ambaye ni mwendazake na Mwenyezi Mungu, amweke pahali pema peponi—alitoa mwelekeo kwa Serikali yake kuwa watu wasipeane kazi kama pesa hazipo kwenye wizara. Vilevile, maanake siko katika Baraza la Mawaziri, ingekuwa hivyo. Hilo lingewezekana tusingekuwa na madeni yanayongojea kwa miaka mingi bila kulipwa. Watu watakuwa wamefanya kazi wakati pesa tayari zimefika kwa wizara ama idara ambazo zinastahili kuwa na pesa zile na kupeana kandarasi.

Naunga mkono. Sheria hii ikipita, itawezesha wanakandarasi kulipwa kwa wakati unaofaa. Asante sana, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There being no further interest to speak to this, Hon. Waihenya, you may reply.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. I thank the Members who have contributed.

It is true that pending bills are killing local enterprises in this country. Devolved units are not paying suppliers, particularly during this time of transition. There are governors who are going to lose their seats. The people who have supplied during this term might find it very difficult to get their payments simply because they are not connected to the next administration. It is important this law is put in place. I advise Government entities, that is, Ministries, Departments and Agencies to follow the good example and model of the National Government Constituencies Development Fund (NG-CDF) which has zero pending bills. Why? This is because NG-CDF projects are proposals from the public. They are people-driven. People are consulted and there is a lot of public participation. NG-CDF does not procure unless money in the budget has already been set aside and the project has been approved by the Board. It is important they follow this model so that services and supplies are procured for the money that is already in existence and for projects that are people-supported so that we avoid a lot of pending bills.

With those few remarks, I wish to reply. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Again, we shall put the Question on that at another time.

*(Putting of the Question deferred)*

Next Order!

**BILLS***Second Readings*

## THE MUNG BEANS BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have the chairperson of the Departmental Committee on Agriculture and Livestock. I saw the Chair walk in and out. In the circumstances, we will step that down.

*(Bill deferred)*

Next Order!

## THE COUNTY BOUNDARIES BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have the chairperson of the Departmental Committee on Justice and Legal Affairs. Hon. Oduol, are you holding the chairperson's brief? In the circumstances, that is stepped down.

*(Bill deferred)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, there being no other business, the time being 6.22 p.m., this House stands adjourned until Thursday, 2<sup>nd</sup> June 2022, at 2.30 p.m.

The House rose at 6.22 p.m.